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NEW JERSEY



REGISTER

*IN THIS ISSUE—
“INDEX OF PROPOSED RULES”*

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The New Jersey Register supplements the New Jersey Administrative Code. See the Index of Adopted Rules on Page 239 of the March 1 issue for the Registers that should be retained as an update to the Administrative Code.

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RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF REGULATORY SERVICES

Commercial Fertilizers and Soil Conditioners Slowly Available Plant Nutrients

Proposed Amendments: N.J.A.C. 2:69-1.6

Authorized By: State Board of Agriculture, Patricia Bowen
Atkins, Chief, Hearings and Administrative Practices.
Authority: N.J.S.A. 4:9-15.33.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert C. Fringer, Director
Division of Regulatory Services
New Jersey Department of Agriculture
CN 330
Trenton, New Jersey 08625

The Department of Agriculture thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-91.

The agency proposal follows:

Summary

This proposal will provide a better description of the materials classified as slowly released nitrogen products. In addition, the

proposed amendments will govern the approved method of analysis as established by the Association of Analytical Chemists.

Social Impact

Consumers of products containing water insoluble nitrogen materials will be better informed by the proper labeling of the compounds. Also, the manufacturers will be aware of the materials approved for the water insoluble nitrogen classification and the laboratory analysis used to determine compliance with the regulations.

Economic Impact

Consumers will be provided economic savings through the proper labeling of water insoluble nitrogen products. Manufacturers of water insoluble nitrogen products will benefit in marketing channels because they will be able to compete on an equitable basis.

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

2:69-1.6 Slowly available plant nutrients.

(a)-(c) (No change.)

(f) Further, the [above] phrases in [subsection (e) of this Section] **(e) above** may be allowed for any products than can show a testing program substantiating of the claim. (Testing under guidance of Experiment Station personnel, or a recognized reputable researcher, etc.) [Water insoluble] **Coated-slow release** nitrogen must be guaranteed at the 15 percent of total nitrogen level as in organic materials.

(g) [That AOAC method 2.074 be used initially to substantiate the fact that "Coated-Slow Release" materials are present. The determination need only be modified by elimination of sample grinding during preparation. When the AOAC Committee, working on this problem comes up with a more specific method it will, of course, be substituted.] **The types of slowly released nitrogen products recognized are:**

1. Water insoluble, such as natural organics, urea formaldehyde, oxamide, and insobutylidene diurea (IBDU);

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Thomas H. Kean, Governor. OFFICE OF ADMINISTRATIVE LAW—Howard H. Kestin, Director. Steven Lefelt, Deputy Director. Filings—Burton Weltman, Assistant Director. Richard Dana Krebs, Rules Analyst. Norman Olsson, Editor. Helen Jeffrey, Filing and Rules Information. Publications—G. Duncan Fletcher, Assistant Director. Circulation: Rae Van Kirk, Toni Harrison. Production: Ann Pustay, Lee Roberts, Daria Senyk, Sandra Smith, Velma Square.

2. Coated-slow release formulations, such as sulfur coated urea and other encapsulated soluble fertilizers; and

3. Occluded slowly released where fertilizers or fertilizer materials are mixed with waxes, resins, or other inert materials and formed into particles.

(h) The term "water insoluble nitrogen" is acceptable only when material in (g)1 above is used. Until more appropriate methods are developed, AOAC method 2.074 (13th ED) (including all further amendments and supplements thereto) is to be used to test coated-slow release and occluded slow release nutrients in (g)2 and 3 above. AOAC 2.072 (13th ED) (including all further amendments and supplements thereto) shall be used to determine the water insoluble nitrogen in (g)1 above.

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Examinations and Applications Make-up Examinations

Proposed Amendment: N.J.A.C. 4:1-8.21

Authorized By: Civil Service Commission, Peter J. Calderone, Director, Division of Administrative Practices and Labor Relations.

Authority: N.J.S.A. 11:1-7, 11:5-1 and 11:9-1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Calderone, Director
Division of Administrative Practices
and Labor Relations
CN 312
Trenton, New Jersey 08625

The Civil Service Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-96.

The agency proposal follows:

Summary

The Division of Examinations has vigorously urged that the proposed amendments be implemented in an effort to standardize the criteria which will be used in administering make-up examinations. The main concern, however, is test security to insure the integrity and validity of final test results. The current rule allows make-up tests under situations which may never have actually existed. There is increasing evidence that candidates are making use of the Department's liberal policy of granting make-up tests by simply submitting a signed affidavit which allows them ample time to gain knowledge of a test's contents before they take it. Candidates have increasingly used notarized statements which have become meaningless since they can be obtained free of charge and simply verify the candidate's signature without considering the document's contents and reasons for the make-up request. Furthermore, allowing candidates to take make-up tests after others have not only taken the test, but in many cases reviewed the answer booklet, violates the Department's policy of testing all candidates

fairly and equally. The Division of Examinations must also shoulder increased operating costs in administering make-up examination.

Social Impact

It is intended that these new procedures will lessen the number of make-up examinations given which may therefore require that examination candidates exercise honest and reasonable efforts to sit for these tests at the initial administration.

Economic Impact

With a reduced number of make-up examinations given, it is anticipated that the Division of Examinations will not only save time and personnel costs but will also be in a better position to administer a back-log of already announced examinations.

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

4:1-8.21 Make-up examinations

(a) Make up [promotional] examinations [for State and local government positions] shall be permitted for the following causes:

1. Administrative error by the Department of Civil Service [or its offices];

2. Administrative error by the appointing authority, **in promotional examinations**, provid[ing]ed [the authority notifies] the Department of Civil Service[,] **is notified** in writing[,] of the error;

[3. Failure of postal authorities to deliver either application or notice of examination, providing the candidate furnishes notarized statement to that effect;]

[4]**3**. Military assignments of a temporary or emergency nature occurring after the candidate files **an** application and on or before **the examination date**, provided **the candidate** [furnished] **furnishes** evidence of assignment;

[5]**4**. **Serious** [illness or disability of the candidate on the test date, provided [evidence and a sworn statement is furnished;] **a physician's certificate is supplied which specifies that the physician advised the candidate not to take the test for medical reasons;**

[6]**5**. Serious illness or death in the immediate family of the candidate provided [supporting] **the candidate furnishes** evidence **of the illness or death;**[and a sworn statement is furnished by the candidate;]

[7]**6**. (No change in text.)

[8]**7**. Vacation or travel plans **outside the state** which cannot be reasonably changed [or could not have been altered to accommodate the examination date as notified], **provided** a supportive sworn statement and appropriate evidence [must be] **are** furnished;

[9]**8**. Other valid cause as determined by the [c]Chief [e]Examiner and [s]Secretary.

[(b) Make-up open competitive examinations for State and local government positions shall be permitted for the following causes:

1. Administrative error by the Department of Civil Service or its offices;

2. Failure of the postal authorities to deliver notice of examination, providing the candidate furnishes a sworn statement;

3. Temporary or emergency military assignment occurring after the candidate files application on or before examination date, provided candidate furnishes evidence of assignment;

4. Natural disaster ("acts of God"): for example, flood, riot and so forth;

5. Any other valid cause as determined by the chief examiner and secretary.]

[(c)](b) Except in the case of administrative error, [the candidate must notify the Department of Civil Service **of a make-up request no later than five days after the examination date** [within a reasonable time of examination date (five days);] or, in the case of military assignment or vacation or travel, before the test date.

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[(d)](c) Make-up examinations, [except police and fire promotionals,] will be administered as far as possible under the same conditions as the original examination and, in the case of oral or performance examinations, [with] by the same personnel whenever possible. **The exceptions to this are:**

[(e)]1. Police and fire promotional written make-up examinations will be held with the next scheduled test and any resultant eligibles will be added to the [previous] original list.

2. Skilled trade performance tests and physical performance tests will be held with the next scheduled test and any resultant eligibles will be added to the original list.

3. For open competitive examinations which are held more than once a year and which may be scheduled again within six months, make-up tests may be held with the next regularly scheduled test for the same title and jurisdiction and any resultant eligibles will be added to the original list.

[(f)](d) All candidates taking make-up examinations, **except those specified in (c)1 and (c)3 above**, will be required to sign a statement attesting [they did not gain an advantage by information furnished by any other candidates who had participated in the original examination, except police and fire written promotional make-up candidates who, in all cases, will take a different test.] **to the fact that they have no knowledge of the content of the test as the result of information gained from or furnished by other candidates who participated in the original test as a precondition to taking the make-up test.**

[(g)] Candidates who are denied the opportunity for a make-up examination will be so notified and advised of their rights of appeal.]

[(h)](e) When a testing format is used that requires multiple assessments of a candidate, such as [A]assessment [C]centers or [T]targeted [S]selection, which result in a group consensus rating by a panel of specially trained subject matter experts, make-up examinations shall be deemed inappropriate and will not be held. The only exception to this will be documented error on the part of the Department of Civil Service. In this case, a make-up [shall] may be granted if practicable.

(a)

CIVIL SERVICE COMMISSION

Separations and Demotions
Request for Reemployment

Proposed Amendment: N.J.A.C. 4:1-16.13

Authorized By: Civil Service Commission, Peter J. Calderone, Director, Division of Administrative Practices and Labor Relations.

Authority: N.J.S.A. 11:1-7a, 11:5-1a and 11:10-1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Calderone, Director
Division of Administrative
Practices and Labor Relations
CN 312
Trenton, New Jersey 08625

The Civil Service Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-95.

The agency proposal follows:

Summary

Past Department of Civil Service policy has strictly interpreted the requirement that only employees who resigned in good standing were permitted reemployment rights. As a result of this strict interpretation, the department did not consider an employee who had retired on disability to be eligible for reemployment. Upon this matter being brought to the department's attention and a rereading of the rule in conjunction with actual department administrative policy, it was discovered that the present rule does not conform to actual practice. Since pension law allows reemployment of disabled retirees once the Pension Division determines that a retired individual is no longer disabled, there is no valid reason for Civil Service to preclude their return. This amendment to N.J.A.C. 4:1-16.13 will properly reflect current practice. Civil Service had also prohibited regular retirees reemployment rights. The Division of Pensions does not prohibit such reemployment, providing the retirees give up their current pension payments. Absent such prohibition, the Department of Civil Service also believes that an individual who seeks to return to work after he or she has retired should not be precluded from being placed on a reemployment list.

Social Impact

This amended rule will allow regular retirees and previously disabled retirees to be placed on regular reemployment lists giving them the opportunity to reenter State service after retirement. The State will thus be able to avail itself of highly trained employees.

Economic Impact

Presently, in order to utilize the knowledge and abilities of highly trained retirees, various departments hire such persons as consultants at considerable cost. In some cases it would make more economic sense to rehire these retirees. Thus, this revision could have an economic savings for appointing authorities.

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

4:1-16.13 Request for reemployment

(a) A permanent employee who has resigned in good standing or **who has retired** may within two years of his or her resignation or retirement request consideration of reemployment by indicating his or her availability for reemployment to the appointing authority from which [whose agency] s/he had resigned[.] or retired.

(b) **A permanent employee who had been placed on disability retirement by the Division of Pensions may, within two years from the date the Division of Pensions determines that the retiree is no longer disabled, request that his or her name be placed on the regular reemployment list.**

[(b)](c) Upon recommendation of the appointing authority, the employee shall have his or her name placed on a regular reemployment list for the class title from which s/he had resigned[.] or retired. No name shall remain on the regular reemployment list beyond two years from the date of resignation[.], **retirement or the date the Division of Pensions determines that a pensioner is no longer disabled.**

[(c)](d) (No change.)

[(d)](e) (No change.)

EDUCATION

(a)

STATE BOARD OF EDUCATION

Appeals Rules and Regulations

Proposed Amendments: N.J.A.C. 6:2-1.1, 1.2, and 1.7 through 1.12 Proposed New Rules: N.J.A.C. 6:2-1.13 through 1.19

Authorized By: New Jersey State Board of Education,
Fred G. Burke, Secretary.
Authority: N.J.S.A. 18A:4-1 through 18A:4-20, 18A:6-27
through 18A:6-29 and 18A:7A-25.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

The State Board of Education thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-97.

The agency proposal follows:

Summary

The proposed amendments simplify procedures to be used in appealing cases to the State Board of Education. A certain amount of confusion or misunderstanding exists among members of the bar and others who file appeals with the State Board from decisions of the commissioner, as to the procedure to follow. The adoption of clarifying regulations will guide potential appellants in filing appeals before the Board.

Social Impact

The major benefit will be that local districts, board attorneys, and others who might become involved in controversies and disputes arising under school laws, will be able to follow a clearly defined set of procedures. In all instances, due process is clearly established.

Economic Impact

N.J.S.A. 18A:6-27, 18A:6-28 and 18A:6-29 make no mention of any cost assessment. Any cost involved in the adjudication of controversies and disputes would be borne by the district board of education and/or its adversary.

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

SUBCHAPTER 1. RULES AND REGULATIONS

6:2-1.1 Filing and service of **notice of appeal[s] and cross-appeal**

[An appeal] **Notice of appeal and cross-appeal** to the State Board of Education in a controversy arising under the school laws must be taken within 30 days after the commissioner has filed his/her decision in said controversy. It shall be taken by filing with the commissioner and **the legal committee of the State Board and** serving by registered mail, or certified mail, or ordinary mail with affidavit of mailing, or personally upon the adverse party or his/her attorney a **notice of appeal or cross-appeal identifying the decision and stating that an appeal is taken to the Board from it, or from such part of it as may be specified.** Proof of service of **notice of appeal or cross-appeal** shall be filed promptly with the commissioner.

6:2-1.2 Filing of decisions of commissioner

The decision of the Commissioner of Education shall be deemed filed [by him/her] three days after the date of mailing to the parties.

6:2-1.7 Certification of record by commissioner

In every controversy in which the decision of the commissioner has been appealed to the Board, the commissioner shall certify the record to the Board **upon** [within 20 days after] the filing of [the] notice of appeal, and remit the record, so certified, together with the notice of appeal and proof of service thereof with [two extra] **15 copies of his/her decision to the chairperson of the legal committee of the Board.** Non-compliance with the provisions of this section shall not invalidate any proceedings.

6:2-1.8 [Filing and service of points of appeal] **Filing and service of briefs in support of appeal and answering briefs**

(a) Within 20 days after the appeal has been taken, the appellant shall file with the [Secretary of the State Board] **legal committee** 15 copies of the [points] **brief in support of the appeal** upon which [he/she] **appellant** relies, [which shall contain accurate references to the evidence and authorities, if any, in support of said points,] and shall serve upon the respondent or his/her counsel one copy thereof. Within 10 days thereafter, the respondent shall file 15 copies of his/her answering [points and references to the evidence and authorities] **brief** with the [Secretary of the Board] **legal committee** and shall serve one copy thereof upon the appellant or his/her counsel. [The Secretary of the Board shall forthwith transmit the copies of points so filed, but not as part of the record, to the legal committee. Further memoranda or briefs may be received by the legal committee if either party has, at the time of filing points of appeal and answering points, stated an intention to do so.] **Failure to meet the filing deadlines as set forth herein may be viewed as failure to perfect the appeal. Accordingly, on its own motion the State Board may move to dismiss such an appeal. The legal committee of the State Board shall forthwith transmit the copies of briefs so filed, but not as part of the record, to the State Board.**

(b) **The appellant may file a reply to the answering brief, which shall conform either to the requirements of N.J.A.C. 6:2-1.11 (formal brief or letter brief). Replies to answering brief shall not exceed 15 pages in length.**

6:2-1.9 [Functions of legal committee] **Filing and service of briefs in support of cross-appeals**

[(a) The legal committee shall supervise the preparation of and make available the entire record to the Board, which shall include:

1. Entire record before the commissioner;
2. Commissioner's decision;
3. Appellant's points, further memoranda and briefs; and
4. Respondent's answering points, further memoranda and briefs.

(b) The legal committee shall transmit to each member of the

Board the basic documents of the case file which shall include, but not be limited to, the following:

1. Report of conference of counsel;
2. Objections to hearing examiner's report;
3. Commissioner's decision;
4. Appellant's points, further memoranda and briefs;
5. Respondent's answering points, further memoranda and briefs; and
6. Report of legal committee, if any, and any exceptions, objections or replies to the report of the legal committee.]

Within 30 days after an appeal and cross-appeal has been taken, the appellant shall file with the legal committee 15 copies of the brief in support of the appeal upon which appellant relies, and shall serve upon the cross-appellant or his/her counsel one copy thereof. Within 40 days thereafter, the cross-appellant shall file 15 copies of his/her brief in support of appeal which shall include answer to appellant's brief with the legal committee and shall serve one copy thereof upon the appellant or his/her counsel. Within 10 days thereafter, the appellant shall serve 15 copies of his/her answering brief to the legal committee and shall serve one copy thereof upon the cross-appellant or his/her counsel. Filing deadlines as set forth herein are subject to the provisions as outlined in N.J.A.C. 6:2-1.8.

6:2-1.10 [Decision of State Board] Contents of briefs

(a) Oral argument, either before the legal committee or the Board, will be granted at the discretion of the committee or the Board only if the respective body is convinced that a party has sufficient reason or additional information not contained in the record to justify that this procedure is necessary for a fair determination of the case. Such reasons must be presented in writing by the party requesting oral argument. Even when reasons are proffered by a party, the committee and/or the Board can exercise its discretion to deny oral argument when not convinced of the necessity for this procedure to make a fair determination of the case.

(b) Whenever there is a written report of the legal committee, it shall be submitted to all Board members, and to all parties, and the parties may, concurrently within ten days of such delivery or mailing, file written exceptions, objections or replies thereto with the Board.

(c) Extensions of time for filing by the parties of points of appeal, answering points, and objections or exceptions to a report will not be granted unless acceptable reasons are presented by the parties to justify such a request.

(d) The entire Board shall make a final determination with respect to each controversy by resolution in open meeting.]

(a) Formal briefs of the appellant must be typed double-spaced and plainly legible and shall contain the following material under distinctive titles, arranged in the following order:

1. A table of contents, including the point headings to be argued. Any point not presented below must be so indicated by including in parenthesis a statement to that effect in the point heading. A concise and specific statement of the educational policies involved in the case.

2. A concise procedural history including a statement of the nature of the proceedings and a reference to the judgment, order, decision or action appealed from or sought to be reviewed or enforced. The petitioner and respondent shall be referred to as such and shall not, except where necessary, be referred to as appellant or appellee.

3. A concise statement of the facts material to the issues on appeal supported by references to the record and transcript. The statement shall be in the form of a narrative chronological summary incorporating all pertinent evidence and shall not be a summary of all the evidence adduced at hearing, witness by witness.

4. The legal argument for the appellant, under appropriate point headings, distinctively printed or typed, into as many parts as there are to be argued.

5. The legal argument contained within a formal brief shall not exceed 30 pages in length.

(b) Letter briefs, in lieu of filing a formal brief in accordance with (a) above, may be filed by any party. A letter brief shall not exceed 15 pages, single or double-spaced, and shall conform with the requirements of (a)2, 3, 4 and 5 above. Any point not presented below must have a statement to that effect included in parenthesis in the point heading. No cover need be annexed, provided the information required by N.J.A.C. 6:2-1.10 is included in the heading of the letter.

(c) The appellant or cross-appellant may file an appendix provided the appendix shall not include any document already contained in the record made before the Commissioner of Education. Moreover, appellant may not supplement the evidentiary record made before the commissioner unless specific application for inclusion of an item is made to and granted by the State Board of Education.

6:2-1.11 [Filing for stays from commissioner's decisions] Contents of answering brief

(a) After the filing of a notice of appeal to the State Board from a determination of the commissioner, a motion for stay shall be made first to the commissioner.

(b) A motion for stay to the commissioner shall be done by notice of motion with supporting affidavit, two copies of which shall be filed with the commissioner and a copy served on each party to the action.

(c) The motion and affidavit shall set forth fully that portion of the commissioner's decision with respect to which a stay is sought, the factual basis on which the application for stay is founded, and the reasons favoring the stay.

(d) Any party opposing the application for stay shall file and serve within ten days of receipt of such application an answering affidavit in the same manner, setting forth the reasons why the application for stay should be denied.

(e) Unless otherwise ordered by the commissioner there shall be no oral argument on an application for stay.

(f) If motion for stay is denied by the commissioner, it may be made again to the State Board; if motion is granted before the commissioner, a motion to dissolve the stay may be made to the State Board.

(g) A motion for stay to the State Board shall be done by notice of motion with supporting affidavit, 15 copies of which shall be filed with the Secretary of the State Board, and a copy served on each party to the action. A motion to dissolve a stay granted by the commissioner shall be made in the same manner.

(h) Unless otherwise ordered by the Board there shall be no oral argument on an application for stay.]

Answering briefs shall conform to the requirements of N.J.A.C. 6:2-1.10 (formal briefs or letter briefs), insofar as applicable, except that a counter-statement of facts need be included only if the respondent disagrees with such statements in the appellant's brief. Answering briefs shall not exceed 30 pages in length.

6:2-1.12 [Appeals from decisions of commissioner on school budget cap waiver applications] Covers of briefs and answering briefs

(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 filing of the Commissioner's 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.

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(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.]

(a) Except as otherwise provided, covers of briefs and answering briefs shall contain the following material:

1. The name of the State Board of Education and the docket number of the action;
2. The title of the action and the designation of the parties;
3. The title of the document and the designation of the party for whom it is filed;
4. The name and office address of the attorney of record and the names of any attorneys "of counsel" or "on the brief".

6:2-1.13 Extensions of time

Upon notice to the State Board, extensions of time for filing briefs may be obtained by consent of all parties for a period of time not to exceed an accumulative total of 30 days for all extensions in one case. Further extensions of time may be obtained only by leave of the State Board upon a showing of good cause.

6:2-1.14 Functions of legal committee

(a) The legal committee shall supervise the preparation of and make available the entire record to the Board, which shall include:

1. The entire record before the commissioner;
2. The commissioner's decision;
3. The appellant's briefs and further memoranda; and
4. The respondent's answering briefs and further memoranda.

(b) The legal committee shall transmit to each member of the Board the following:

1. The commissioner's decision;
2. The appellant's briefs and further memoranda;
3. The respondent's answering briefs and further memoranda; and
4. The report of the legal committee, if any, and any exceptions, objections or replies to the report of the legal committee.

6:2-1.15 Decision of State Board

(a) Oral argument, either before the legal committee or the Board, will be granted at the discretion of the committee or the Board only if the respective body is convinced that a party has sufficient reason or additional information not contained in the record to justify that this procedure is necessary for a fair determination of the case. Such reasons must be presented in writing by the party requesting oral argument. Even when reasons are proffered by a party, the committee and/or the Board can exercise its discretion to deny oral argument when not convinced of the necessity for this procedure to make a fair determination of the case.

(b) Whenever there is a written report of the legal committee, it shall be submitted to all Board members, and to all parties, and the parties may, concurrently within 10 days of such delivery or mailing, file written exceptions, objections or replies thereto with the Board.

(c) The entire Board shall make a final determination with respect to each controversy by resolution in open meeting.

6:2-1.16 Filing for stays from commissioner's decisions

(a) After the filing of a notice of appeal to the State Board from a determination of the commissioner, a motion for stay shall be made first to the commissioner.

(b) A motion for stay to the commissioner shall be done by notice of motion with supporting affidavit, two copies of which

shall be filed with the commissioner and a copy served on each party to the action.

(c) The motion and affidavit shall set forth fully that portion of the commissioner's decision with respect to which a stay is sought, the factual basis on which the application for stay is founded, and the reasons favoring the stay.

(d) Any party opposing the application for stay shall file and serve within 10 days of receipt of such application an answering affidavit in the same manner, setting forth the reasons why the application for stay should be denied.

(e) Unless otherwise ordered by the commissioner, there shall be no oral argument on an application for stay.

(f) If motion for stay is denied by the commissioner, it may be made again to the State Board. If motion is granted before the commissioner, a motion to dissolve the stay may be made to the State Board.

(g) A motion for stay to the State Board shall be done by notice of motion with supporting affidavit, 15 copies of which shall be filed with the legal committee of the State Board, and a copy served on each party to the action. A motion to dissolve a stay granted by the commissioner shall be made in the same manner.

(h) Unless otherwise ordered by the Board, there shall be no oral argument on an application for stay.

6:2-1.17 Motions for clarification of a State Board decision

(a) A motion for clarification shall be taken within 10 days after the State Board has filed its decision in said controversy. The decision of the State Board shall be deemed filed three days after the date of mailing to the parties.

(b) Motion for clarification shall state the grounds upon which it is made, and the relief or order sought and shall be supported by an affidavit. Answer or opposition to said motion shall be made within 10 days after the filing of said motion.

6:2-1.18 Notice of motion to appear as amicus curiae

An application for leave to appear as amicus curiae shall be made by motion stating with specificity, the identity of the applicant, the issue intended to be addressed, the nature of the public interest therein and the nature of the applicant's special interest, involvement or expertise in respect thereof. The State Board shall grant the motion if it is satisfied under all the circumstances that the motion is timely, the applicant's participation will assist in the resolution of an issue of public importance, and no party to the litigation will be unduly prejudiced thereby. The order granting the motion shall fix a briefing schedule. An amicus curiae who has been granted a leave to appeal in a case before the commissioner may, without seeking further leave, file a brief and appear in an appeal taken to the State Board from the judgment or order entered therein.

6:2-1.19 Appeal from decision 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 filing of the commissioner's decision. The appeal shall be taken by filing with the commissioner and the legal committee of the State Board a notice identifying the decision and stating that an appeal is taken to the State Board from it or 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 legal committee of the State Board

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15 copies of the arguments upon which the appellant will rely. The arguments may be presented in letter form and shall state the reasons that a thorough and efficient system of education cannot be provided without each of the line items from which the appeal is taken. If no 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.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

**Shellfisheries Council
Oyster Seed Beds**

Proposed Amendment: N.J.A.C. 7:25A-3.1

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 50:1-5 and 50:3-8.
DEP Docket No.: 002-82-02.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Gale Critchlow, Bureau Chief
Bureau of Shellfisheries
Division of Fish, Game and Wildlife
CN 400
Trenton, New Jersey 08625
(609) 292-1055

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-93.

The agency proposal follows:

Summary

The State's oyster seed beds in Delaware Bay are opened every year on the date set by the Delaware Bay Shellfish Council and the Division of Fish, Game and Wildlife with the advice of the Rutgers Oyster Research Laboratory staff. By law the beds cannot be opened before May 1, or remain open beyond June 30; in practice they are opened and closed as their condition is monitored as described in N.J.A.C. 7:25A-3.1. Because concerned oystermen attend the weekly meetings of the Shellfish Council during bay season, at which the advisory committee's findings are announced, communication between managers and users of the resource is direct, immediate and excellent. The method of setting opening and closing dates defined in this regulation has satisfied the needs of both the users and the managers of this delicate resource.

This amendment sets the date for the 1982 season. In addition, at the request of the Delaware Bay Shellfish Council hours for harvest are specified, as is the requirement that vessels display their license numbers on their top and sides. The Shellfish Council's recommendations were made at their regular monthly meeting, January 4, 1982.

Social Impact

The rule effects New Jersey's licensed oystermen, as the oyster industry depends on the annual planting of seed oysters for stock to grow to market size on the leased ground in Delaware Bay. The oyster industry is a major employer along the bay coast, and as such its existence is important to the welfare of residents of the area.

Economic Impact

There is no identifiable cost to the State in opening and closing harvest of seed oysters. The economic well being of the oyster industry would be adversely effected by uninformed or inflexible regulation of the beds.

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

7:25A-3.1 Oyster seed beds

(a) The season for the taking of seed oysters from the natural seed beds above the Southwest Line in Delaware Bay for [1981]1982 shall be scheduled for a period of time beginning 7:00 A.M. [May 11, 1981] **May 17, 1982** and shall close as determined by (b) below. **Daily harvest shall be from 7:00 A.M. to 3:30 P.M.**

(b)-(f) (No change.)

(g) The top and sides of licensed oyster vessels shall be marked with the license number, which numbers shall be at least 18 inches in size, clearly legible, in good repair and with no obstruction to view.

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(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Home Health Services Manual
Definitions; Covered Services; Prior
Authorization Requirements**

**Proposed Amendments: N.J.A.C. 10:60-1,
2.1, 2.2 and 2.3**

Authorized By: Thomas Blatner, Acting Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4D-6b(2) and 30:4D-7 and 7b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, New Jersey 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-99.

The agency proposal follows:

Summary

The Division of Medical Assistance and Health Services plans to amend the current text of the Home Health Services Manual as indicated below.

The revisions include elimination of levels of care, which will be replaced by classifications of either "acute" or "chronic". Prior authorizations for home health services is required and may be granted up to 60 days for "acute" cases, and up to six months for "chronic" cases, depending on medical necessity.

A service limitation may be imposed when the cost of home health care is equal to or in excess of the cost of institutional care over a period of six months.

Social Impact

There should be a positive social impact, since it is anticipated there will be a more effective delivery of home health care services.

Economic Impact

There will be no economic impact on Medicaid recipients, who will not be required to pay for these services.

The cost to the providers should remain constant. There is no change in the rate of reimbursement for the services that are provided.

There might be some cost containment for the Medicaid program as a result of the service limitation option mentioned above.

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

Delete the existing text of N.J.A.C. 10:60-1 in its entirety and replace with the following.

CHAPTER 60
HOME HEALTH SERVICES MANUAL

SUBCHAPTER 1. GENERAL PROVISIONS

10:60-1.1 Scope

(a) Home Health agencies must provide nursing services and homemaker-home health aide services. Medical supplies must be provided by the agency; equipment and appliances must be arranged for by the agency. Additional services may include the provision of physical therapy, occupational therapy, speech pathology, medical social services and other health care related services.

(b) Medicaid reimbursement is available for these services when provided to patients in their places of residence, such as a private home, residential hotel, residential health care facility, rooming house and boarding house, but not in a hospital, skilled nursing facility or intermediate care facility.

1. In residential health care facilities the services of a homemaker-home health aide are excluded.

(c) Home health services are provided or arranged by a participating home health agency based on the prescribed plan of care. All component services include instruction of the patient, the family, and/or interested persons toward the recipient's ultimate degree of self-care and independence, supportive care and maintenance. Supplementation of home health care may be necessary from a variety of other available community services in order to maintain the individual in the home environment.

(d) The provision of home health services can range from a complex concentrated professional program (for acute care cases) which could require the services of a public health nurse, registered professional nurse, a licensed practical nurse, physical therapist, speech pathologist, social worker, and homemaker-home health aide to a less complicated program (as in chronic care cases) involving a homemaker-home health aide and/or therapist and minimal visits by a registered nurse. The mixture of services provided and the duration of these services are determined by the needs of each patient.

10:60-1.2 Definitions

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

"Dietitian" means a person who is a graduate of an accredited college or university with courses meeting the academic standards of the American Dietetic Association, plus a dietetic internship of dietetic traineeship or master's degree plus six months experience. A registered dietitian is one who has met current requirements for registration.

"Discharge planning" means that component part of a total individualized plan of care formulated by all members of the health care team, together with the patient and/or his family or interested person which anticipates the continuity of care for a patient with health care needs. Such planning aims to provide humane and psychological preparation to enable the patient to adjust to his changing needs and circumstances.

1. As a significant part of the initial plan of care, a discharge plan is periodically reviewed and appropriately revised. These revisions should reflect changes in the medical, nursing, social and emotional needs of the patient, with attention to the economic factors when considering alternate methods of meeting these needs.

2. Discharge planning takes the patient's preferences into account when changing the intensity of care in his residence, arranging services with other community agencies, transferring to or from home health care providers. Discharge planning also provides for the transfer of appropriate information about the patient by the home health care team to the new providers to ensure continuity of health care.

"Homemaker-home health aide" means a person who has successfully completed a training program in personal care services approved by the New Jersey State Department of Health and who is assigned and supervised by a registered professional nurse of the home health agency.

"Levels of care" means the following:

1. Two levels of home health services are provided to Medicaid eligible patients, upon request of the attending physician, as it appropriately relates to the need for care at a higher or lower level as indicated by the changing condition of the recipient. The levels of care are as follows:

i. "Acute" home health care is concentrated and/or complex professional and non-professional service on a continuing basis where there is anticipated change in condition and services required. Request for authorization may be approved for up to a 60 day period.

ii. "Chronic" home health care is either a long or short term uncomplicated professional and/or non-professional care where there is no anticipated change in condition and services required. Request for authorization may be approved for up to a six month period.

"Licensed practical nurse" means a person who is licensed by the State of New Jersey as a practical nurse, pursuant to N.J.S.A. 45:11-27 et seq., having completed formal accredited nursing education programs.

"Local Medical Assistance Unit" means one of 16 Local Medicaid Offices located throughout the State administering the New Jersey Medicaid Program.

"Medical Consultant" means a duly licensed physician based in each Local Medical Assistance Unit whose responsibility is to review, evaluate and authorize a patient's medical need for services covered by the Medicaid Program. For Home Health Services the Medical Consultant may be assisted by a nurse and social worker in the review and evaluation process.

"Nutritionist" means a person who has graduated from an accredited college or university, with a major in foods or nutrition or the equivalent course work for a major in the subject area, and two years of full time professional experience in nutrition. Successful completion of a dietetic internship or traineeship in hospital or community nutrition approved by the American Dietetic Association, or completion of a master's degree in the subject area

may be substituted for the two years of full-time experience.

"Occupational therapist" means a person who is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, or is eligible for certification by the American Occupational Therapy Association as a Occupational Therapist, Registered; and has one year of experience as an occupational therapist.

"Participating home health agency" means a public or private agency or organization, either proprietary or non-profit, or a subdivision of such an agency or organization, which qualifies as follows:

1. Approval by the New Jersey State Department of Health including requirements for Certificate of Need and licensure when applicable.

2. Certification as a home health agency under Title XVIII (Medicare) Program, or a determination that the home health agency meets the requirements for such participation.

3. Approval for participation as a home health agency provider by the New Jersey Medicaid Program.

"Physical therapist" means a person who is licensed as a physical therapist by the state in which the physical therapist is practicing and who meets one of the following requirements:

1. Has graduated from a physical therapy curriculum approved by the American Physical Therapy Association, or by the Council on Medical Education and Hospitals of the American Medical Association and the American Physical Therapy Association; or

2. Prior to January 1, 1966, was admitted to membership by the American Physical Therapy Association, or was admitted to registration by the American Registry of Physical Therapists or has graduated from a physical therapy curriculum in a four year college or university approved by the State Department of Education; or

3. Has two years of appropriate experience as a physical therapist and has achieved a satisfactory grade on a proficiency examination approved by the Secretary except that such determinations of proficiency will not apply with respect to persons initially licensed by a state as a physical therapist after December 31, 1977, or seeking qualification as a physical therapist after that date; or

4. Was licensed or registered prior to January 1, 1966 and prior to January 1, 1970 had 15 years of full-time experience in the treatment of illness or injury through the practice of physical therapy in which services were rendered under the order and direction of attending and referring physicians; or

5. If trained outside the United States, was graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy, meets the requirements for membership in a member organization of the World Confederation for Physical Therapy, has one year of experience under the supervision of an active member of the American Physical Therapy Association, and has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.

"Plan of care" means the individualized and documented program of health care services to be provided by all members of the home-health care team involved in the delivery of health care services to a patient and includes short and long term goals for rehabilitation, restoration or maintenance made in cooperation with the patient and/or responsible family member or interested person. Appropriate instruction of patient, and/or the family or interested person as well as a plan for discharge are also essential components of the treatment plan. The plan is reviewed periodically and revised appropriately according to the observed changes in the patient's condition.

"Public health nurse" means a person licensed as a registered professional nurse, who has completed a baccalaureate degree program approved by the National League for Nursing for public health preparation, or post-baccalaureate study which includes

content approved by the National League for Nursing for public health nursing preparation.

"Registered professional nurse" means a person who is licensed by the State of New Jersey as a registered professional nurse, pursuant to N.J.S.A. 45:11-26 et seq.

"Social Worker" means a person who has a master's degree from a graduate school of social work accredited by the Council on Social Work Education, and has one year of social work experience in a health care setting.

"Social Work Assistant" means a social work assistant who has a baccalaureate degree in social work, psychology, sociology or other field related to social work and has had at least one year of social work experience in a health care setting.

"Speech pathologist" means a person who meets the education and experience requirements for a Certificate of Clinical Competence in speech pathology granted by the American Speech and Hearing Association or meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

10:60-1.3 Covered home health services

(a) Home health services covered by the New Jersey Medicaid Program are limited to those services provided directly by a home health agency approved to participate in the New Jersey Medicaid Program or through written contractual arrangements by that agency with other individuals or agencies.

(b) Covered home health services are those provided according to medical, nursing and other health care related needs as documented in the individual plan of care on the basis of medical necessity and on the goals to be obtained and/or retained.

(c) The type of home health agency services covered include professional nursing by a public health nurse, registered professional nurse, or licensed practical nurse; homemaker-home health aide services; physical therapy, occupational therapy, speech pathology, nutritional services, and medical social services; and certain medical supplies.

(d) The services may be directed toward rehabilitation and/or restoration of the patient to the optimal level of physical and/or mental functioning, self-care and independence or directed toward maintaining the present level of functioning, preventing further deterioration or providing supportive care in declining health situations.

1. Nursing services: The home health agency shall provide comprehensive nursing under the direction of a public health nurse supervisor/director as defined by the New Jersey State Department of Health. These services shall include but not be limited to the following:

i. Participating in the development of the plan of care with other health care team members; this includes discharge planning;

ii. Identifying the nursing needs of the patient through an initial assessment and periodic reassessment;

iii. Planning for management of the plan of care particularly as related to the coordination of other needed health care services;

iv. Skilled observations and monitoring of the patient's responses to care and treatment;

v. Teaching, supervising and consulting with the patient and family/interested persons involved with his/her care in methods of meeting the nursing care needs in the community setting;

vi. Implementing restorative nursing care measures involving all body systems including but not limited to:

(1) Maintaining good body alignment with proper positioning of bedfast/chairfast patients;

(2) Supervising and/or assisting with range of motion exercises;

(3) Developing the patient's independence in all activities of daily living by teaching self care including ambulation within the limits of the treatment plan;

(4) Evaluating nutritional needs including hydration and skin integrity; observing for obesity and malnutrition;

vii. Teaching and assisting the patient with practice in the use of prosthetic and orthotic devices as ordered;

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viii. Providing the patient and the family or interested persons support in dealing with the mental, emotional, behavioral, and social aspects of illness in the home;

ix. Preparing nursing documentation including nursing assessment, nursing histories, clinical nursing records and nursing progress notes;

x. Supervising and teaching other nursing service personnel.

2. Homemaker-home health aide services: Homemaker-home health aide services are performed under the direction and supervision of a home health agency registered professional nurse by a New Jersey certified homemaker-home health aide. In all areas of service, the homemaker-home health aide shall encourage the well members of the family, if any, to carry their share of responsibility for the care of the patient.

i. Household duties are covered services only when combined with personal care and other health services. The determining factor for the authorization of household duties should be the degree of functional disability of the patient as well as the need for physician prescribed personal care and other health services, and not solely the individual's medical diagnosis.

ii. The registered professional nurse in accordance with the physician's plan of care prepares written instructions for the homemaker-home health aide, the amount and kind of supervision needed, the specific needs of the patient and the resources of the patient, the family, and other interested persons. Supervision of the homemaker-home health aide shall be provided by the registered professional nurse at a minimum of one visit every two weeks when in conjunction with skilled nursing, physical or speech therapy. In all other situations, supervision shall be provided as the home health agency feels necessary.

iii. The registered professional nurse, and other professional staff members shall make visits to the patient's residence, when the homemaker-home health aide is present to observe, supervise and assist or when the aide is absent, to assess relationships and determine whether goals are being met.

3. Special therapies:

i. Special therapies, include physical therapy, speech pathology, and occupational therapy. Special therapists must review the initial plan of care and any change in the plan of care with the attending physician and the professional nursing staff of the home health agency. The attending physician must be given an evaluation of the therapies provided as well as the patient's reaction to treatment and any change in the patient's condition. The attending physician must approve of any changes in the plan of care and delivery of therapy services.

ii. The attending physician must prescribe in writing the specific methods to be used by the therapist and the frequency of therapy services. "Physical therapy as needed", or similarly worded blanket order, by the attending physician is not acceptable.

iii. Special therapists shall provide instruction to the home health agency staff, the patient, the family and/or interested persons in follow-up supportive procedures to be carried out between the intermittent services of the therapists to produce the optimal and desired results.

(1) Physical therapy: When the agency provides or arranges for physical therapy services, they shall be provided by a licensed physical therapist. The duties of the physical therapist shall include but not be limited to the following:

(A) Evaluating and identifying the patient's physical therapy needs;

(B) Developing long and short term goals to meet the individualized needs of the patient and a treatment plan to meet these goals. Physical therapy orders must be related to the active treatment program designed by the attending physician to assist the recipient to his maximum level of function which has been lost or reduced by reason of illness or injury;

(C) Observing and reporting to the attending physician the patient's reaction to treatment as well as any changes in the patient's condition;

(D) Documenting clinical and progress notes reflecting restorative procedures needed by the patient, care provided and patient's response to therapy, along with the notification and approval received from the physician;

(E) Physical therapy services may include but not be limited to active and passive range of motion exercises, ambulation training, and prosthetic and orthotic services. Physical therapy does not include physical medicine procedures, administered directly by a physician or by a physical therapist which are purely palliative - e.g. applications of heat per se in any form, massage, routine and/or group exercises, assistance in any activity or in the use of simple mechanical devices not requiring the special skill of a qualified physical therapist.

(2) Speech pathology: When the agency provides or arranges for speech pathology services, they shall be provided by a certified speech pathologist. The duties of a speech pathologist shall include but not be limited to the following:

(A) Evaluating, identifying, and correcting the individualized problems of the communication impaired patient;

(B) Developing long and short term goals and applying speech pathology procedures to achieve identified goals;

(C) Coordinating activities with, and providing assistance to, an audiologist, when indicated;

(D) Observing and reporting to the attending physician the patient's reaction to treatment as well as any changes in the patient's condition;

(E) Documenting clinical and progress notes reflecting restorative procedures needed by the patient, care provided and the patient's response to therapy, along with the notification and approval received from the physician;

(3) Occupational therapy: When the agency provides or arranges for occupational therapy services, they shall be provided by a registered occupational therapist. The duties of an occupational therapist shall include, but not be limited to the following:

(A) Evaluating and identifying the patient's occupational therapy needs;

(B) Developing long and short term goals to meet the individualized needs of the patient and a treatment plan to achieve these goals;

(C) Observing and reporting to the attending physician the patient's reaction to treatment as well as any changes in the patient's condition;

(D) Documenting clinical progress notes reflecting restorative procedures needed by the patient, care provided, and patient's response to therapy, along with the notification and approval received from the physician;

(E) Occupational therapy services shall include but not be limited to activities of daily living, use of adaptive equipment, and home-making task oriented therapeutic activities.

4. Medical social services: When the agency provides or arranges for medical social services, they shall be provided by a qualified social worker, or by a qualified social work assistant under the supervision of a qualified social worker. These shall include but not be limited to the following:

i. Identifying the significant social and psychological factors related to the health problems of the patient and reporting any changes to the health care team;

ii. Participating in the development of the plan of care, including discharge planning, with other members of the health care team;

iii. Counseling the patient and family/interested persons in understanding and accepting the patient's health care needs, especially the emotional implications of the illness;

iv. Coordinating the utilization of appropriate supportive community resources, including the provision of information and referral services;

v. Preparing psychosocial histories, and clinical and progress notes.

5. Nutritional services: When the agency provides or arranges for dietary services, they shall be provided by a registered dietitian or

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nutritionist. These services shall include but are not limited to the following:

- i. Determining the priority of nutritional care needs and developing long and short term goals to meet those needs;
- ii. Evaluating the patient's home situation particularly the physical areas available for food storage and preparation;
- iii. Evaluating the role of the family/interested persons in relation to the patient's diet control requirements;
- iv. Evaluating the patient's nutritional needs as related to medical and socioeconomic status home and family resources;
- v. Developing a dietary plan to meet the goals and implementing the plan of care;
- vi. Instructing patient, other health team personnel and family/interested persons in dietary and nutritional therapy;
- vii. Preparing clinical and dietary progress notes.

6. Medical supplies and Equipment: Medical supplies (other than drugs and biologicals) essential to enable the home health agency to carry out the plan of care established by the attending physician and agency staff, are normally supplied by the home health agency, including but not limited to gauze, cotton bandages, surgical dressing, catheters, surgical gloves, irrigating solutions and rubbing alcohol. (Exception: prior authorization must be requested from the appropriate Local Medical Assistance Unit and requires a personally signed, legible prescription from the attending physician.)

i. When a patient requires an unusual or an excessive amount of first aid supplies (costing more than \$30.00), prior authorization must be requested from the appropriate Local Medical Assistance Unit by the medical supply dealer or pharmacy.

ii. When durable medical equipment is essential in enabling the home health agency to carry out the plan of care for a patient, a request for such equipment must be made by an approved medical supply dealer or pharmacy. Durable medical equipment either rented or owned by the home health agency cannot be billed to the Medicaid Program.

10:60-1.4 Policies and requirements for authorization of covered services

(a) Certification by attending physician: To qualify for payment of home health care benefits by the New Jersey Medicaid Program, the patient's need for services must be certified, in writing, to the Home Health Agency at least once every 60 days by the attending physician who must be licensed in the state in which he/she practices.

(b) Plan of care: The plan of care shall be developed by the attending physician in cooperation with agency personnel. It shall include, but not be limited to medical, nursing, and social care information. The following shall be part of the plan of care:

1. Patient's major and minor impairments and diagnoses;
2. Summary of case history, including medical, nursing, and social data;
3. Period covered by plan;
4. Number and nature of service visits to be provided by home health agency;
5. Additional health related services supplied by other providers;
6. Copy of physician's orders and their up-date;
7. Medications and treatments; personnel involved;
8. Equipment and supplies required;
9. Goals—long and short term;
10. Preventive, restorative, maintenance techniques to be provided, including the amount, frequency and duration;
11. Patient, family, and interested persons involvement (i.e. teaching);
12. Discharge planning in all areas of care (coordinated with short and long term goals);
13. The plan shall be re-evaluated at least every 60 days and revised as necessary.

(c) Medical Care:

1. Home health services must be performed pursuant to a licensed physician's orders and in accordance with a plan of care.

2. The attending physician shall review and approve any changes in the medical plan of care being recommended by agency personnel.

3. The physician's orders shall be revised as needed appropriate to the patient's condition, but shall be renewed in writing at least every 60 days.

4. The nurse or therapist shall immediately record and sign verbal orders and obtain the physician's counter signature, in conformance with written agency policy.

(d) Nursing Care:

1. The home health agency professional nursing staff shall evaluate the patient's needs, make a nursing diagnoses, develop a nursing plan of care, provide nursing services and coordinate other therapeutic services to implement the approved medical and nursing plan of care.

2. There shall be an assessment of patient's acceptance of his/her illness and patient's receptivity to home health services.

3. A determination shall be made of the patient's psychosocial needs in relation to the utilization of other community resources.

4. A plan describing the social services to be provided by the social worker, and any referrals that will be made to meet the needs of the patient shall be developed and implemented.

(e) Required records and reports: Federal requirements for clinical records and reports shall be met and include but not necessarily be limited to the following:

1. Clinical records containing pertinent past and current information according to accepted professional standards shall be maintained by the home health agency for each patient receiving home health care services. The clinical record shall include at least the following:

- i. A plan of care as described in N.J.A.C. 10:60-1.4(b);
- ii. Appropriate identifying information;
- iii. The name of physician and his/her address and telephone number.

2. Clinical notes by nurses, social workers, and special therapists shall be written, signed and dated on the day each service is provided.

3. Progress notes on a regular, periodic basis shall be written, signed and dated by each discipline providing services.

4. Summary reports of pertinent factors from the clinical and progress notes of the nurses, social workers, and special therapists providing services shall be submitted to the attending physician at least every 60 days.

5. Transfer of the patient to alternate health care shall include transfer of appropriate information from the recipient's record.

(f) Prior authorization:

1. The home health agency may bill the Medicaid contractor for the administrative cost of one initial evaluation visit to eligible patients without prior authorization. Prior authorization is required for all other visits and/or services.

2. In requesting authorization, a written plan of care on a completed form FD-139 must be submitted to the Local Medicaid Assistance Unit for approval by the Medical Consultant. If granted, such authorization may not exceed 60 days for acute cases and six months for chronic cases. Authorizations are renewable upon submission of an updated plan of care on a form FD-139. Additional information may be submitted to or be requested by the LMAU to support the plan of care.

3. While an authorization for home health services is in effect and the condition of the patient changes, indicating a need for additional services, the home health agency, after consultation with the attending physician, may request authorization for these additional services. If the need is urgent, the request may be made and granted by telephone for no more than three additional visits and/or treatments. A new written plan of care on a completed Form FD-139 shall be submitted to the Local Medical Assistance Unit for written authorization.

(g) Service limitations: When the cost of home health care is equal to or in excess of the cost of institutional care over a period of six

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months, the Medical Consultant may opt to limit home health services.

10:60-2.1 Prior authorization

- (a) (No change.)
- (b) Following the initial visit, prior authorization is required for all persons not covered under Medicare. A claim for the initial visit must be submitted on the home health claim form [(MC-3A)] (MC-3C) with the comment in the remarks section "initial visit only".
- (c)-(e) (No change.)
- (f) If the request for home health care authorization or reauthorization has been approved, the contractor copy must be submitted to the proper contractor for reimbursement of services provided with the home health claim form [(MC-3A)] MC-3C.
- (g) An approval request for home health care authorization or reauthorization will be valid for a maximum of [30 days for intensive care and a maximum of 60 days for intermediate or basic care.] **60 days or six months dependent upon approved level of care.** Dates of authorization will be included on the FD-139.
- (h) (No change.)

10:60-2.2 Billing procedures

- (a) A fully completed home health claim form [MC-3A] (MC-3C) **must be submitted to the appropriate contractor within 12 months from the [last] earliest** date of service. Claims not submitted timely will not be approved for payment in those instances where it is demonstrated that the claim could have been submitted or resubmitted within the time limitation as defined.
- (b) When the patient is covered under both programs, only a Medicare form (SSA-1487) should be completed. Item 14 of the Medicare form should show the health services program case and person number. When level of care is noncovered under the Medicare program or when Medicare benefits are exhausted, a Medicaid home health claim form [(MC-3A)] (MC-3C) must be completed and prior authorization is required. In such cases, the agency must complete item 14 on the FD-139 form. (See [section 1 of this subchapter] N.J.A.C. 10:60-2.1.)

10:60-2.3 Completing the home health claim form [(MC-3A)] (MC-3C)

- (a) (No change.)

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Long Term Care Services Manual Appeals Process for Long Term Care Facilities

Proposed Amendment: N.J.A.C. 10:63-3.20

Authorized By: Timothy Carden, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4D-7(b).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, New Jersey 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-98.

The agency proposal follows:

Summary

This proposal pertains to long term care (LTC) facilities participating in the Medicaid (Title XIX) program who may wish to appeal their rate of reimbursement.

The Level I appeals process remains essentially unchanged. The appeal is filed with the Department of Health, and heard by representatives of this Department and the Department of Human Services. Level I appeals will endeavor to reach equitable resolutions of matters peculiar to an individual LTC facility. The Director, Division of Medical Assistance and Health Services, has final approval.

An LTC facility that is not satisfied with the results may request a Level II appeal, which will now be conducted by the Office of Administrative Law (OAL). A formal Attorney General's opinion (Number 10-1979) indicated that a rate dispute concerning a specific LTC facility constituted a "contested case" that should be heard by an Administrative Law Judge. The opinion also stated that the OAL hearing could be "superimposed upon an informal administrative scheme for voluntary resolution of the dispute and may be substituted for both or either one of the existing appeal levels".

Previously Level II appeals were heard by a panel of designated representatives from the Department of Health, and the Department of Human Services. However, this step is no longer necessary. If the Level I informal appeal process cannot resolve the matter, the case should be certified as contested and sent directly to OAL.

Social Impact

There will be no social impact on Medicaid recipients, who will continue to receive services.

If there is any social impact on providers, it should be positive, since the appeals process will be streamlined.

Economic Impact

There will be no economic impact on Medicaid recipients, because their obligation to contribute towards the cost of their care does not depend on the Medicaid per diem rate.

The economic impact on LTC facilities will vary, depending on which facilities decide to file an appeal, and the results obtained during the appeal process. LTC facilities will still continue to be reimbursed at their prevailing rates while their appeal is pending.

This proposal should cause no appreciable increase or decrease in expenditures for the Medicaid program. There might be some saving of administrative expenses as one level of review has been eliminated.

Level II appeals are already being heard by the Office of Administrative Law. No additional costs are anticipated as long as the number of appeals remains constant.

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

10:63-3.20 Appeals process

[(a) Where a LTCF believes that, owing to an unusual situation, the application of these guidelines results in an inequity, the home may appeal the rate component(s) affected by the unusual

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situation(s). Appeals should be submitted in writing to the Department of Health, Health Economics Services within 30 days of the notification of rates. (For rates issued during 1977, this period will be extended to 60 days.) Two levels of appeals are available to LTCF's.

1. Level I: The first level of appeals will be heard by analysts from the Department of Health. LTCF's should be prepared to provide such substantiating material as may be required for our informal discussion of the subject matter. Level I appeals will endeavor to reach equitable resolutions of matters peculiar to individual LTCF's. They will not be expected to resolve items which have policy implications or broad applicability. Analysts will submit their recommended resolutions to the Director, Division of Medical Assistance and Health Services.]

(a) When a LTCF believes that, owing to an unusual situation, the application of these guidelines results in an inequity two levels of appeals are available: a Level I Appeal heard by representatives from the Department of Health and Department of Human Services; and a Level II Appeal heard before an Administrative Law Judge. In such instances, the LTCF may appeal the rate component(s) by submitting a written request for an appeal.

1. Level I Appeal: A request for a Level I Appeal should be submitted to the Department of Health, Health Economics Services, Health and Agriculture Building, Room 600, John Fitch Plaza, CN-360, Trenton, New Jersey, 08625. Requests for Level I appeals will be considered timely filed if they are submitted within 30 days of receipt of the notification of rates.

i. The first level of appeal will be heard by analysts from the Department of Health, and supervisory-level representatives from both the Department of Health and the Department of Human Services, as required. LTCF's should be prepared to provide such substantiating material as may be required for an informal discussion of the subject matter.

ii. Level I appeals will endeavor to reach equitable resolutions of matters peculiar to individual LTCF's. They will not be expected to resolve items which have policy implications or broad applicability.

iii. The analysts' recommended resolutions will first be reviewed at appropriate levels within the Department of Health, Health Economics Services, and will then be forwarded to the Director, Division of Medical Assistance and Health Services for his approval.

iv. Adjustments resulting from the Level I appeal will be effective as follows:

(1) At the beginning of the prospective reimbursement period if an error in computation was made by the Department or if the appeal was submitted within the specified period.

(2) On the first of the month following the date of appeal for non-computational matters if the appeal is submitted after the specified period.

v. The date of submission is defined as the date received by the Department of Health.

[2. Level II: If a LTCF is not satisfied with the results of the level I appeal, (the LTCF must demonstrate that the level I ruling resulted in gross inequities), a level II appeal may be heard by a panel of designated representatives from the departments. The level II appeal will be chaired by the senior panel member from the Department of Health. The departments may elect to consolidate level II appeals dealing with the same subject matter. Requests for level II appeals must be submitted in writing to the Department of Health. The Department of Health will schedule a meeting of the panel with the Division of Medical Assistance and Health Services. The panel will submit their recommended resolutions to the Director, Division of Medical Assistance and Health Services.

3. Adjustments resulting from the appeals will be effective:

i. The beginning of the prospective reimbursement period if an error in computation was made by the department or if the appeal was submitted within the specified period.

ii. The first of the month following the date of appeal for non-computational matters if the appeal is submitted after the specified period.

4. The date of submission is defined as the date received by the department.

Editor's Note: The accounting and reporting system for long-term care facilities, including Schedules 1 and A through H, was adopted with these rules but is not reproduced herein. Further information on these schedules may be obtained from the Division of Medical Assistance and Health Services, P.O. Box 2486, Trenton, New Jersey 08625.]

2. Level II Appeal (Administrative Law Appeal): If a LTCF is not satisfied with the results of the Level I Appeal, it may request a hearing before an Administrative Law Judge.

i. Requests for an Administrative hearing must be submitted in writing to the New Jersey State Department of Health, Health Economics Services, Health and Agriculture Building, Room 600, John Fitch Plaza, CN-360, Trenton, New Jersey, 08625.

ii. In accordance with N.J.A.C. 10:49-5.3 (a), requests for an Administrative hearing will be considered timely filed if they are submitted within 20 days from the mailing of the ruling in the Level I appeal.

iii. The Administrative hearing will be scheduled by the Office of Administrative Law and the facility will be notified accordingly.

iv. In order to be successful at the Administrative hearing, the LTCF must demonstrate that the Level I ruling resulted in a gross inequity.

(a)

DIVISION OF PUBLIC WELFARE**General Assistance Manual
Unearned Income/Cash Contribution****Proposed Amendment: N.J.A.C. 10:85-3.3**

Authorized By: Timothy Carden, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:8-111(d).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

G. Thomas Riti, Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-94.

The agency proposal follows:

Summary

This proposal requires that, when a cash contribution is made directly to a provider on behalf of a General Assistance recipient or applicant, the dollar amount of the contribution be deducted from the amount of the assistance standard in the calculation of eligibility and grant entitlement. The proposal is not applicable to cases where shelter is a part of wages.

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Social Impact

An unknown number of persons, believed to be few, will have assistance reduced or will become ineligible for assistance. Some relocations to less costly shelter arrangements or other adjustments may result.

Economic Impact

An unknown number of persons will have assistance reduced, terminated or denied. Since relatively few General Assistance recipients receive contributions and an even smaller number receive contributions in the form of a direct payment to a landlord, it is not expected that this change will produce any significant reduction in total program payments.

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

10:85-3.3 Financial eligibility

(a)-(d) (No change.)

(e) Rules concerning unearned income are:

1.-3. (No change.)

4. Income-in-kind: **Contributions provided in the form of goods or services rather than cash are to be considered in accordance with the provisions below. Cash contributions made for or on behalf of a client and which if paid to the client directly would be considered as countable income are to be treated as though they were actually received by the client. Such payments are not recognized as in-kind income.**

i. Shelter: When shelter is provided without charge to an applicant/recipient but is not part of his/her wages as described in N.J.A.C. 10:85-3.3(c)3, it shall be recognized as income-in-kind. An amount equal to 25 [per cent] **percent** of the applicable allowance standard shall be deducted as unearned income. When utilities are included, the amount shall be 30 [per cent] **percent** of the allowance standard. [These percentage deductions apply even though an in-kind payment by an LRR (N.J.A.C. 10:85-9.5(c)) and/or the dollar credit to the LRR's contribution may be in a different amount.]

ii.-iii. (No change.)

5. (No change.)

(f)-(g) (No change.)

Jack Silverstein
Chief Tax Counselor
Division of Taxation
West State and Willow Streets
Trenton, New Jersey 08646

The Division of Taxation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-92.

The agency proposal follows:

Summary

This proposal will clarify the application of the New Jersey Gross Income Tax Act to payments received by employees on account of personal injury or sickness and states the qualifications for the exclusion of such payments from taxable gross income.

The proposal sets forth the criteria by which payments to employees for personal injury or sickness qualify for eligibility for exclusion from taxable gross income under an accident or health insurance plan. The rule also describes the kind of payments which will not be subject to the withholding of gross income tax.

Social Impact

This proposal, in general, will affect taxpayers in the State of New Jersey who have wage and salary income, and whose employers provide them with health or accident insurance as part of their compensation package.

Economic Impact

This proposal will have economic impact upon employees who are absent from work because of personal injury or sickness by providing them with the criteria for determining whether payments received by them qualify as accident or health insurance plan payments to employees which can be excluded from gross income on an individual tax return (form NJ-1040). In addition, it also clarifies the withholding requirements with respect to such payments so that employers may properly satisfy their withholding obligations under the Gross Income Tax Act.

Full text of the proposed new rule follows.

18:35-1.15 Employee accident or health insurance exclusion from taxable gross income

(a) Amounts received by an employee through an accident or health insurance plan for personal injuries or sickness are not subject to tax under the New Jersey Gross Income Tax Act.

(b) Amounts received by an employee on account of personal injury or sickness qualify for exclusion from taxable gross income when received under the provisions of an employee accident or health insurance plan which satisfies the following requirements:

1. The payments must be compensation for wage loss which results from absence due to injury or sickness of the employee; and

2. The payments must have a requisite certainty under an enforceable contractual obligation under the plan (see N.J.A.C. 18:35-1.15(e)); and

3. The payments must not relate to sick leave wage continuation, the taking of which is largely discretionary and the payments are made regardless of the reason for absence from work.

(c) The exclusion from taxable gross income applies to payments to employees under a health or accident insurance plan regardless of whether insurance coverage is with a commercial insurance company to which premiums are paid by both employees and employer or solely by the employer; or whether insurance coverage is provided by an employer's self-insured plan for which no insurance premiums are paid by the employees.

(d) The exclusion from taxable gross income applies to payments required to be made to employees under the State mandated temporary disability benefit plan pursuant to the New Jersey

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Gross Income Tax Employee Accident or Health Insurance Exclusion

Proposed New Rule: N.J.A.C. 18:35-1.15

Authorized By: Sidney Glaser, Director, Division of Taxation.

Authority: N.J.S.A. 54A:10-9.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Temporary Disability Law (N.J.S.A. 43:21-25, et seq.). Payments which are excludable from taxable gross income include temporary disability benefit payments required to be made under the State Plan which is administered by the Bureau of State Plan Disability Benefits under the New Jersey Disability Law. Exclusion from taxable gross income also includes payments required to be made to employees under a company's private plan established pursuant to New Jersey law in lieu of the State Plan described in the preceding sentence and which has been approved by the Bureau of Private Plan Disability Benefits, Division of Unemployment Insurance and Disability Insurance.

(e) Where payment to employees under the health or accident insurance plan is largely discretionary with the employer, such as during the initial period (for example, first seven days), the exclusion from taxable gross income does not apply. Such payments to the employee are subject to tax as wages and salaries. In order for a wage loss payment made under an accident or health insurance plan to be excludable from taxable gross income, the payment to the employee must have a requisite certainty under an enforceable contractual obligation.

(f) Effective June 1, 1982, withholding of the gross income tax shall be required on all payments of wages and salaries made to an employee by an employer. The withholding of the tax is required even though such payments meet all the conditions for exclusion from taxable gross income as made through an accident or health insurance plan for personal injuries or sickness under this section. The only exceptions for the withholding of tax shall be for the following:

1. Temporary disability benefit payments required to be made under the State Plan which is administered by the Bureau of State Plan Disability Benefits under the New Jersey Disability Law;

2. Temporary disability benefit payments required to be made to employees under a company's private plan established pursuant to New Jersey law in lieu of the State Plan described in (f)1 above and which has been approved by the Bureau of Private Plan Disability Benefits, Division of Unemployment Insurance and Disability Insurance; and

3. Payments made to employees for personal injuries or sickness under a health or accident insurance policy by a commercial insurance company.

(g) All taxpayers will be required to file with their annual New Jersey Gross Income Tax Return a claim form furnished by the director for the exclusion of any amounts received by them as an employee through an accident or health insurance plan for personal injuries or sickness which meet all the conditions for exclusion from taxable gross income under paragraphs 1, 2 and 3 above.

1. Examples:

i. An employee of Company X is allowed 12 vacation days and 15 sick days for the year 1982. The employee uses 12 vacation days and 10 sick days in 1982 for which he receives his regular wage payment, regardless of the cause for his absence. The amounts received by the employee in 1982 for the 12 vacation days and 10 sick days are subject to tax as wage and salary income to the employee and the employer must also withhold gross income tax on such payments.

ii. Company Y has a self-insured disability plan for its employees who are absent from work because of accident or sickness. The plan is fully funded by the employer company and the employees make no contribution to the plan. Payment for the full amount of wages is made to disabled employees absent from work, on the eighth calendar day. Payment for the initial seven days to the covered employee is discretionary with the company employer under the plan. The amount received by the absent employee because of his disability is excludable from taxable gross income as health or accident insurance after the initial seven days of absence but is subject to withholding tax. Any amount received by the employee as payment for the seven initial days is subject to tax as wage and salary income to the employee and is also subject to withholding tax.

iii. Employee C receives a payment in 1982 from the New Jersey Disability Benefit Fund during an absence from work because of temporary disability resulting from illness. Both the employee and employer have contributed to the disability benefit fund. The total amount received by the employee from the New Jersey Disability Benefit Fund is excludable from taxable gross income as a payment for health or accident insurance and is not subject to withholding tax.

iv. Employee D is absent from work in 1982 because of illness and receives from the X Insurance Company the full amount of his wages during the period of his absence from work. The payment was made from a health or accident insurance policy to which only the employer has contributed. The amounts received by the employee are excludable from taxable gross income as health or accident insurance and are not subject to withholding tax.

OTHER AGENCIES

(a)

ATLANTIC COUNTY TRANSPORTATION AUTHORITY

Rules of Operation

Proposed New Rules: N.J.A.C. 19:75

Authorized By: Atlantic County Transportation Authority,
Hil Hornung, Executive Director.
Authority: N.J.S.A. 40:35B-15(h).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before April 14, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Hil Hornung, Executive Director
Atlantic County Transportation Authority
19 South New York Avenue
Atlantic City, New Jersey 08401

The Atlantic County Transportation Authority thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-104.

The agency proposal follows:

Summary

With the advent of casino gaming in Atlantic City, Atlantic County has experienced a substantial influx of motorized traffic. A major component of this growth is derived from the large volume of daily visitors that arrive by bus. Delays in dispatching buses at the casinos have caused traffic congestion to extend onto local streets. Bus congestion problems have occurred in other areas of Atlantic County.

Pursuant to the authority in N.J.S.A. 40:35B-15(h), ACTA is committed to the development of a comprehensive Bus Management Program. This program is aimed primarily, but not exclusively, at the casino market, and is consistent with the objectives and strategies adopted in the ACTA Master Plan. The subchapters of these rules cover the general provisions, the responsibilities of ACTA in administering the program, the required involvement of Atlantic City activity centers in the program, restrictions covering bus operations, passenger discharging and loading, bus parking, intercepting and routes of

travel. In addition, provisions for variances, fines and penalties are discussed.

Social Impact

These rules will affect Atlantic County residents, Atlantic City businesses and Atlantic County visitors. The results will include improved management and operation of this portion of the transportation system in Atlantic County. The social benefits will include reduced traffic congestion, improved levels of air, noise and visual pollution, increased traffic safety, improved emergency vehicle access, the ability to evacuate bus patrons in the occurrence of regional emergency and overall improvements in accessibility for visitors and local residents. These rules are necessary to mitigate the above social impacts and provide continued accessibility to the growing recreational industry in Atlantic County.

Economic Impact

These rules will result in a per bus management fee charged to the operator, solely based upon the costs of the program cooperatively developed between ACTA and individual activity centers. These costs may be borne by the bus operator, the bus passenger (in increased fares) or the casinos, or a combination of each.

These rules will reduce travel time in Atlantic City resulting in full savings to bus operators and other motorized traffic that must queue for periods caused by bus traffic congestion. Improved casino bus management will allow casinos to handle more people thus generating more revenue to casinos, bus operators and related businesses. Reduced congestion and improved bus parking facilities are expected to result in reduced bus related accident and therefore cost savings to vehicle owners.

CHAPTER 75 RULES OF THE ATLANTIC COUNTY TRANSPORTATION AUTHORITY

SUBCHAPTER 1. GENERAL PROVISIONS

19:75-1.1 Requirement of a permit

(a) No bus entering Atlantic City for the purpose of discharging passengers may do so unless a permit designating approved discharge sites for that purpose has been obtained from the Atlantic County Transportation Authority (ACTA).

(b) No bus entering Atlantic City for the purpose of loading passengers may do so unless a permit designating approved loading sites for that purpose has obtained from ACTA.

19:75-1.2 Definitions

"Bus" or "autobus" means those vehicles:

1. Capable of holding 15 or more passengers; and
2. Whose passengers originate outside of Atlantic County.

SUBCHAPTER 2. ACTA RESPONSIBILITIES

19:75-2.1 ACTA responsibilities

(a) ACTA, consistent with N.J.S.A. 40:35B-15(h), shall have the authority to monitor bus travel patterns, determine on-site bus handling capabilities and capacities, identify problems, establish specific bus management programs and levy fees and fines.

(b) ACTA will develop a site-specific bus management program for Atlantic City. These programs will allow for an orderly flow of bus traffic to and from an activity center. By an orderly flow based on on-site discharging/loading capabilities, buses will not queue on city streets unnecessarily, buses will use routes capable of handling these vehicles, running and idling time will be reduced, unnecessary travel will be eliminated, and the danger of pedestrian and vehicular accidents will be reduced. Each designated activity center will develop a response to this management program by June 1, 1982, committing to involvement in the options outlined in the

program. These improvements may take the form of improved scheduling of arrivals and departures, increased or improved on-site handling capabilities and/or involvement in the ACTA bus intercept procedure. ACTA will review these activity center proposals and determine their compatibility with the overall program. ACTA may require proposal amendments.

SUBCHAPTER 3. ACTIVITY CENTER INVOLVEMENT IN PROGRAM

19:75-3.1 Requirements for receipt of permit

(a) No bus shall receive a permit to discharge or load passengers at any casino, hotel, convention facility, or other activity center designated by ACTA unless that facility shall have complied with the following:

1. Serve as an information source for buses coming to its place of business by providing the bus drivers route and parking information supplied by ACTA for this purpose;

2. Provide a sufficient number of employees available at each activity center to promptly greet and usher passengers to and from their buses based on anticipated volume and activity center bus capacity;

3. Schedule buses to arrive and depart taking into consideration activity center bus capacity and the time necessary to handle each bus;

4. Record daily information regarding bus activity as specified on a manifest to be developed by ACTA;

5. Notify ACTA at the beginning of each month of the projected number of line and charter buses expected by day during the month, including specific companies and anticipated arrival/departure times, and at the end of each month, prior to the 10th day of the following month, provide ACTA an actual record, by day of all buses that arrived at and departed from that location;

6. Comply with the responsibilities allocated to activity centers under a forthcoming ACTA Emergency Bus Evacuation Plan;

7. In the case of all new development projects within Atlantic City that will be bus activity centers, prepare and submit a transportation plan for ACTA approval prior to construction. This plan must indicate provisions made by the developer to adequately discharge and load passengers on off-street locations.

(b) No bus shall receive a permit to load or discharge passengers at any casino/hotel facility unless that facility shall faithfully execute the provisions of these regulations.

SUBCHAPTER 4. BUS OPERATIONS

19:75-4.1 General operating requirements

(a) Buses will at all times within Atlantic County operate with prescribed speeds and obey all rules and regulations for safe operation.

(b) Bus operators will also use normal prudence in all operations for the safety and welfare of all people.

(c) Operating speeds in parking lots will not exceed five mph.

(d) Buses will not be operated just to transport the operator for his personal convenience to restaurants, motels/hotels, or businesses within Atlantic County.

19:75-4.2 Disposal of refuse waste

Buses within the boundaries of Atlantic County will dispose of refuse waste only in approved containers at the bus parking lots, garages, and terminal facilities. Human waste disposal will only take place at dumping stations approved in writing by ACTA.

19:75-4.3 Bus maintenance

Bus maintenance performed in Atlantic County will only be performed at licensed repair facilities. Maintenance will not be performed in bus parking lots or along any city or county roadways except for emergency service necessary to move a bus to an appropriate repair facility.

19:75-4.4 Engine "running" requirements

(a) Buses within the boundaries of Atlantic County will not be stopped with their engines running in excess of five minutes except to load or discharge passengers at a designated loading/discharging site or at a maintenance facility when the bus is undergoing repair or as stipulated below. At such time as the bus reaches its parking destination, the engine shall be shut off.

(b) During times when the ambient air temperature is less than 55 degrees F or greater than 75 degrees F, buses may not be parked with engines running until 30 minutes prior to estimated departure time from the parking site.

(c) During times when the ambient air temperature is between 55 degrees F and 75 degrees F, buses may not be parked with engines running until 15 minutes prior to estimated departure time from the parking site.

19:75-4.5 Parking

- (a) All buses shall notify ACTA of the lot in which they shall park.
- (b) No bus shall park except in a lot approved by ACTA.

19:75-4.6 Specified routes

All buses shall travel directly to their destinations utilizing the routes specified in N.J.A.C. 19:75-8.1 and 8.2.

19:75-4.7 Payment of fees

All buses as defined in N.J.A.C. 19:75-1.1 and 1.2 shall pay a fee for entry into Atlantic County and participation in the Bus Management Program. Payments shall be made to ACTA as prescribed by ACTA in accordance with the costs associated with this Bus Management Program.

SUBCHAPTER 5. DISCHARGING AND LOADING

19:75-5.1 Discharging and loading; generally

All buses shall discharge and load passengers on sites designated by ACTA.

19:75-5.2 Approved sites for casino facilities

(a) The following sites have been and are hereby approved for each designated hotel/casino facility provided that no more buses than the designated capacity are engaged in loading and/or discharging at any one time:

CASINO	DISCHARGING/ LOADING SITE	CAPACITY
Harrah's Resorts	West side of loop Private lot bordering Pennsylvania Ave.	eight buses 10 buses
Sands	Under portico east side Indiana Avenue	two buses
Claridge	In Claridge garage/ Ohio Avenue- Park Place	six buses and two bus capacity under portico on Pop Lloyd
Bally	Under cover on Pop Lloyd Boulevard	South side three buses North side two buses
Caesars	Under cover on east side of Arkansas Avenue	two buses
Playboy	Under cover on west side of Florida Avenue	three buses
Tropicana	On Deauville lot on west side of Brighton Avenue	six buses
Golden Nugget	In garage between Providence and	eight buses

Boston Avenues

19:75-5.3 Sites for non-casino activity

Specific site capacities for non-casino activity centers will be developed and reviewed by ACTA.

19:75-5.4 Sites for non-specific Atlantic City destinations

ACTA will also designate appropriate locations for discharging and loading for those buses with a non-specific Atlantic City destination.

19:75-5.5 Additional site approval

(a) Additional sites may be approved on an individual basis by ACTA upon written application which shall specify the site sought to be approved, the time for which approval is sought and the reason for the request.

1. In making a determination, ACTA shall consider the availability of other sites, anticipated traffic conditions, the impact of the request (if granted) on traffic flow and the necessity to the applicant for the additional site.

(b) All casino/hotel projects in Atlantic County constructed subsequent to the effective date of this chapter must provide adequate offstreet bus discharging and loading capacity.

SUBCHAPTER 6. PARKING

19:75-6.1 General

No bus shall park in any lot except those approved by ACTA.

19:75-6.2 "Emergency" or "high activity" days

On occasions designated by ACTA as "emergency" or "high activity" days, bus operators will be required to seek parking in the corridor of the City in which their final destination is located.

19:75-6.3 Approved parking lots

(a) The following lots have been, and are hereby approved for the parking of buses.

1. ACTA lots located at:

- i. New Jersey Avenue and the Boardwalk;
- ii. Maryland Avenue and the Boardwalk;
- iii. Maryland Avenue behind Fire Station;
- iv. Virginia Avenue at the Boardwalk;
- v. Missouri and Baltic Avenues.

2. Those lots which, as of January 16, 1982, held an Atlantic City Mercantile License for the parking of buses.

3. Those lots which, after January 16, 1982, obtained an Atlantic City Mercantile License (for the period stated in that license only) for the parking of buses and after application, obtain ACTA approval. ACTA approval shall be granted only if the proposed lot:

- i. Is within a one-way driving distance of five miles of that portion of Atlantic Avenue contained within the corporate limits of Atlantic City;
- ii. Has a minimum of 25 bus parking spaces each no less than 42' x 12';
- iii. Segregates bus and car parking, which shall require at a minimum separate exits and entrances and a physical barrier separation;
- iv. Conforms to all local zoning and planning requirements;
- v. Is lighted and attended during all hours of operation;
- vi. Contains signs conforming to ACTA, City and County requirements;
- vii. Does not materially impair the intent and purpose of the administrative scheme; and
- viii. Possesses communication equipment approved by ACTA sufficient to participate in the Bus Management Program.

19:75-6.4 "Conditional use" approval for lots

All lots approved by ACTA for bus parking will be approved as conditional uses, whose approval shall terminate when and if the use ceases.

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19:75-6.5 Retention of approval for lots
 (a) No lot shall retain its approval unless its operator:
 1. Submits to ACTA proposed routes of travel to and from its lot for ACTA approval. Bus parking lot operators must advise those bus drivers parking at their lots of these routes after approval;
 2. Advises ACTA of hours of operation;
 3. Advises ACTA of security measures in force and whether buses can park overnight;
 4. Submits to ACTA evidence of on-site radio and or telephone communication facilities;
 5. Advises ACTA of its current rates and any change to them, notification within 15 days;
 6. Reports its location capacity, and extent of compliance to those requirements to ACTA within 30 days from the effective date of this chapter.

19:75-6.6 ACTA intercept procedure
 ACTA may, as and when necessary, require buses departing from private lots to be dispatched through the ACTA intercept procedure (see N.J.A.C. 19:75-7).

SUBCHAPTER 7. INTERCEPT

19:75-7.1 Intercept procedures
 (a) All buses entering Atlantic City shall proceed to an ACTA designated intercept station prior to proceeding to the activity center destination unless informed by ACTA controlled signs that they may go directly to their destination.
 (b) After dispatch at the ACTA intercept station, buses shall proceed, by the routes shown in N.J.A.C. 19:75-8, to the hotel/casino destination. After discharging passengers, buses shall proceed by routes shown in N.J.A.C. 19:75-8.1 and 8.2.
 (c) Prior to returning to the hotel/casino facility for loading passengers, buses will proceed from the lot on which they are parked to the ACTA intercept station for dispatch to the destination. Routes of travel from parking lot to intercept station are shown in N.J.A.C. 19:75-8.
 (d) Any bus operator, who together with the owner of any bus which operates in violation of this Article, shall be subject to a fine of \$500.00 for the first violation and \$750.00 for the second violation. A third violation shall result in suspension of the permit to load and offload passengers. Continued violations shall result in a suspension or revocation of permits to all buses owned or operated by the owner of the continued violator.
 (e) Each bus loading or discharging passengers shall display a permit (issued by ACTA) to load and discharge passengers.

SUBCHAPTER 8. ROUTES OF TRAVEL

19:75-8.1 Routes of travel; generally
 (a) Buses entering or leaving Atlantic City will enter or exit the city, utilize intercept stations and park in locations determined by the location of the final destination as follows:

DESTINATION	ENTRY/EXIT
Harrah's	U.S. 30
Resorts	U.S. 30 or Atlantic City Expressway
Sands	Atlantic City Expressway
Claridge	Atlantic City Expressway
Bally	Atlantic City Expressway
Caesars	Atlantic City Expressway
Playboy	Atlantic City Expressway
Tropicana	U.S. 40
Golden Nugget	U.S. 40

 (b) To transfer to or from entry/exit route for buses entering Atlantic County on the Garden State Parkway, buses will utilize the Garden State Parkway, except as follows:
 1. Northbound on Parkway going to Route 30 casinos—exit Tilton Road north to Delilah Road, Delilah Road to Route 30 east;

2. Southbound on Parkway going to Route 40 casinos—exit south on Expressway to Exit 2, east on Route 40.
 (c) Entering Atlantic City, buses will look for ACTA signs directing them to the intercept station or advising them to continue directly to their destination. Routes of travel within the city will be designated primary routes published by ACTA unless closed or under construction, when designated published secondary routes are to be utilized. Primary routes are to be used unless ACTA signs on entering the city advise otherwise.
 (d) From the discharge destination, buses shall proceed to an approved lot from the casino exit routes designated according to routes approved by ACTA.
 (e) From the parking lot to the intercept station buses shall proceed by routes as approved by ACTA.

19:75-8.2 Routes of travel for particular casino hotels
 (a) Harrah's:
 1. Primary: US Route 30 - North Brigantine Blvd. to NJ Route 87 - U-turn after crossing the Brigantine Bridge - South Brigantine Blvd. to Harrah's exit - right past Harrah's garage around loop and discharge passengers on the east side of the loop.
 2. Secondary Route: US Route 30 - east on Huron Avenue - north on Brigantine Blvd. to NJ Rt. 87 - U-turn south on Brigantine Blvd. to Harrah's exit - right past Harrah's garage - around loop and discharge passengers on the east side of the loop.
 (b) Resorts - Expressway Routing:
 1. Primary: Atlantic City Expressway to Missouri Avenue, south to Atlantic Avenue - east to States Avenue - south to intercept station. Discharge passengers on Resorts' property exit north onto Pennsylvania Avenue.
 2. Secondary: Atlantic City Expressway - south on Missouri Avenue - east on Arctic Avenue - south on Delaware Avenue - west on Atlantic Avenue - south on States Avenue to intercept station. Discharge passengers on Resorts' property. Exit north onto Pennsylvania Avenue.
 (c) Resorts - US Route 30 routing:
 1. Primary - US Route 30 to North Carolina Avenue - south to Atlantic Avenue - east to States Avenue - south to intercept station. Discharge passengers on Resorts' property. Exit north onto Pennsylvania Avenue.
 2. Secondary: US Route 30 to Virginia Avenue - south to Atlantic Avenue - east to States Avenue - south to intercept station. Discharge passengers on Resorts' property. Exit north onto Pennsylvania Avenue.
 (d) Sands:
 1. Primary: Atlantic City Expressway - south on Missouri Avenue - east on Atlantic Avenue - south on Illinois Avenue - west on Pop Lloyd - south on Indiana Avenue. Discharge passengers on Sands' property. Exit north onto Indiana Avenue.
 2. Secondary: Atlantic City Expressway - south on Missouri Avenue - east on Arctic Avenue - south on Ohio Avenue - north on Indiana Avenue. Discharge passengers on Sands' Property. Exit north onto Indiana Avenue.
 (e) Claridge:
 1. Primary: Atlantic City Expressway - south on Missouri Avenue - east on Atlantic Avenue - south on Ohio Avenue - enter Claridge garage for passenger discharge. Exit south on Park Place. Note: Buses with overnight guests will exit the garage south on Park Place - north on Indiana Avenue - west on Pop Lloyd for passenger discharge.
 2. Secondary: Atlantic City Expressway - south on Missouri Avenue - east on Arctic Avenue - south on Indiana Avenue - north on Park Place - west on Pop Lloyd - north on Ohio Avenue - enter Claridge garage for passenger discharge. Exit north on Park Place. Note: Buses with overnight guests will exit the garage south on Park Place - north on Indiana Avenue - west on Pop Lloyd for passenger discharge.
 (f) Bally:
 1. Primary: Atlantic City Expressway - south on Missouri Avenue

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- east on Atlantic Avenue - south on Ohio Avenue. Discharge passengers under cover on Pop Lloyd. Exit north onto Michigan Avenue.

2. Secondary: Atlantic City Expressway - south on Missouri Avenue - east on Arctic Avenue - south on Illinois Avenue - west on Pop Lloyd - south on Indiana Avenue - north on Park Place. Discharge passengers - exit west on Pop Lloyd - north onto Michigan Avenue.

(g) Caesar's:

1. Primary: Atlantic City Expressway - south on Missouri - east on Pacific - south on Arkansas - U-turn - discharge passengers east side of Arkansas Avenue under drive-through-exit onto Arkansas Avenue.

2. Secondary: Atlantic City Expressway - south on Missouri Avenue - west on Atlantic Avenue - south on Mississippi Avenue - east on Pacific Avenue - south on Arkansas Avenue - U-turn - discharge passengers east side of Arkansas under drive-through-exit onto Arkansas Avenue.

(h) Playboy:

1. Primary: Atlantic City Expressway - south on Missouri Avenue - west on Atlantic Avenue - south on Florida Avenue - discharge passengers under cover - exit onto Florida Avenue.

2. Secondary: Atlantic City Expressway - south on Missouri Avenue - west on Baltic Avenue - south on Texas Avenue - east on Pacific Avenue - south on Florida Avenue. Discharge passengers - exit onto Florida Avenue.

(i) Tropicana:

1. Primary: US Route 40 - south on Albany Avenue - east on Atlantic Avenue - south on Brighton Avenue. Discharge passengers on Deauville lot - exit onto Brighton Avenue.

2. Secondary: US Route 40 - south on Albany Avenue - east on Atlantic Avenue - south on Iowa Avenue - west on Pacific Avenue - south on Brighton Avenue. Discharge passengers on Deauville lot - exit onto Brighton Avenue.

(j) Golden Nugget:

1. Primary: US Route 40 - south on Albany Avenue - east on Atlantic Avenue - south on Boston Avenue. Discharge passengers in garage - exit north onto Providence Avenue.

2. Secondary: US Route 40 - south on Albany Avenue - east on Pacific Avenue - north on Providence Avenue. Discharge passengers in garage - exit north onto Boston Avenue.

19:75-8.3 Bus routes for other public gatherings

Bus routes for other public gatherings to include motels/hotels, restaurants and convention centers must be approved by ACTA in advance. If advance approval and route designation are not approved, buses entering Atlantic City must stop at ACTA intercept stations on US Route 40 or Missouri Avenue for directions and approvals. Buses will use the "all others" indicated lanes at these locations. Any other routes and future casino routes must be approved by ACTA.

SUBCHAPTER 9. VARIANCES

19:75-9.1 Variances

Variances from the strict enforcement of this chapter may be granted upon written application after such notice as ACTA shall direct. Variances may be granted in special cases and for special reasons, which may include undue hardship resulting from the strict enforcement of this chapter, provided, however, no relief may be granted if to do so would materially impair the intent and plan of the regulatory scheme described in these regulations.

SUBCHAPTER 10. FINES AND PENALTIES

19:75-10.1 Fines and penalties

(a) In addition to any penalties previously set forth, violations of any of the provisions of this chapter shall subject the violator to a penalty of:

- 1. \$500.00 for a first offense;

- 2. \$750.00 for a second or subsequent offense; and/or

3. Revocation of permission to load or offload passengers in Atlantic City.

(b) Fines and penalties shall be collected by ACTA in a civil action instituted in the Superior Court of New Jersey.

SUBCHAPTER 11. SEVERABILITY

19:75-11.1 Severability

If any section or provision of this chapter shall be adjudged invalid, such adjudication shall apply only to that section or provision so adjudged, and the remainder of the chapter shall continue in full force and effect, and is hereby declared severable.

OFFICE OF ADMINISTRATIVE LAW NOTE: Pursuant to its statutory obligation to review proposed rules (N.J.S.A. 52:14B-5(c)(1), and N.J.S.A. 52:14F-5f), and to assist and advise agencies concerning their obligations under the Administrative Procedure Act (N.J.S.A. 52:14F-5h and N.J.S.A. 52:14F-5i), the Office of Administrative Law raises the following questions with respect to the specific legal authority of the Atlantic County Transportation Authority (ACTA) to adopt the proposed sections N.J.A.C. 19:75 et seq.

In N.J.A.C. 19:75 et seq., the ACTA proposes using its statutory mandate to plan and develop transportation facilities in order to regulate, by permits and fines, bus traffic into Atlantic City. The ACTA cites its general rulemaking provision, N.J.S.A. 40:35B-15h, as authority for this proposal.

How does the ACTA justify using its rulemaking authority to regulate matters beyond the specific scope of its enabling Statute? See, for example, *New Jersey Guild of Hearing Aid Dispensers v. Long*, 75 NJ 544 (1978); *GATX Terminals Corp v. New Jersey Dept. of Environmental Protection*, 1973 NJ Super 531 (1980), and *Gladden v. Board of Trustees of Pub. Emp. Retirement System*, 171 NJ Super 363 (1979).

Specifically, how does the ACTA justify establishing a system of fines in proposed N.J.A.C. 19:75-2.1, 7.1(d) and 10.1? The ACTA enabling statute contains no specific provision for fines, or any other punitive sanctions. How does the ACTA distinguish case law which establishes that a fine is "punitive" (*State v. De Bonis*, 58 N 182, 192 (1971)), and that absent a specific provision in the criminal code or a specific statutory authorization, an agency may not impose a punitive sanction, such as a fine? See, for example, *State v. Hubschman*, 81 NJ Super 452, 455-7 (law Div. 1963).

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF REGULATORY SERVICES

Grades and Standards Charges

Adopted Amendments: N.J.A.C. 2:71-2.28, 2.29 and 2.31

Proposed: January 18, 1982 at 14 N.J.R. 66(a).
 Adopted: February 25, 1982 by Phillip Alampi, Secretary,
 Department of Agriculture.
 Filed: March 1, 1982 as R.1982 d.75, **without change**.

Authority: N.J.S.A. 4:10-6 and 4:10-13.

Effective Date: March 15, 1982.
 Operative Date: April 25, 1982.

BANKING

(b)

CONSUMER CREDIT BUREAU

License Fees Adopted Emergency New Rules and Concurrent Proposal: N.J.A.C. 3:23

Emergency New Rules Adopted: February 9, 1982 by
 Michael M. Horn, Commissioner of Banking.
 Emergency New Rules Filed: March 1, 1982 as R.1982
 d.76.

Authority: N.J.S.A. 17:1-8.1; 17:10-3, 9 and 23; 17:11A-38
 and 54; 17:15-1; 17:15A-4 and 6; 17:15B-7 and 17;
 17:16C-7, 8, 82(a), 82(b) and 82(c); 17:16D-4 and 8
 and N.J.S.A. 45:22-4 and 11. (see P.L. 1981 c.321).

Emergency New Rules Effective Date: March 1, 1982.
 Emergency New Rules Expiration Date: April 30, 1982.

Interested persons may submit in writing, data, views or
 arguments relevant to the proposal on or before April 14, 1982.
 These submissions, and any inquiries about submissions and
 responses, should be addressed to:

Roger F. Wagner, Deputy Commissioner
 Department of Banking
 CN 040
 Trenton, New Jersey

The Department of Banking thereafter may adopt the proposal

without further notice (see: N.J.A.C. 1:30-3.5). The readopted rule
 becomes effective upon acceptance for filing by the Office of
 Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The proposal is known as PRN 1982-107.

The agency emergency adoption and concurrent proposal
 follows:

Summary

The Legislature, in P.L. 1981, c.321, has given the
 Commissioner of Banking the authority to establish license fees for
 certain persons conducting business pursuant to statutes
 administered and supervised by the Department of Banking.

Social Impact

These proposed new rules impact only upon new applicants and
 licensees who are regulated by the statutes cited in the authorities.
 There is no direct impact on consumers who deal with licensees.

Economic Impact

The fees collected shall offset part of the administrative costs
 connected with statutorily mandated supervision, examination and
 investigation of new applicants and licensees. The economic impact
 to the public, if any, should be minimal.

Full text of the emergency adoption and concurrent proposal
 follows.

CHAPTER 23 LICENSE FEES

SUBCHAPTER 1. GENERAL PROVISIONS

3:23-1.1 Purpose and authority

This chapter shall implement the Provisions of P.L. 1981, c.321
 which permits the Commissioner of Banking to establish license
 fees for new and renewal licenses issued by the Commissioner of
 Banking for annual and biennial license periods. The license fees
 established by the Commissioner of Banking shall be subject to the
 limitations imposed by the provisions of P.L. 1981, c.321.

SUBCHAPTER 2. BIENNIAL AND ANNUAL LICENSE FEES

3:23-2.1 Licensees

The following subsections indicate the license fees established
 by the Commissioner of Banking for annual and biennial license
 periods, the maximum biennial license fees permitted by law and
 the specific statutory sections affected by the establishment of such
 biennial and annual license fees.

LICENSEES	STATUTORY		
	MAXIMUM BIENNIAL FEE	CURRENT BIENNIAL FEE	CURRENT ANNUAL FEE
Small Loan (N.J.S.A. 17:10-3 & 9)	\$1,000.00	\$ 400.00	\$200.00
Secondary Mortgage (N.J.S.A. 17:11A-38)	\$1,000.00	\$ 400.00	\$200.00
Foreign Money Remitter (N.J.S.A. 17:15-1)	\$1,000.00	\$ 200.00	\$100.00
Check Casher (N.J.S.A. 17:15A-4)	\$1,000.00	\$ 400.00	\$200.00
Check Seller (N.J.S.A. 17:15B-7)	\$1,200.00	\$1,000.00	\$500.00
Retail Installment Sales			

COMMUNITY AFFAIRS

ADOPTIONS

(a) Sales Finance Company (N.J.S.A. 17:16C-7)	\$1,000.00	\$ 400.00	\$200.00
(b) Motor Vehicle Installment Seller (N.J.S.A. 17:16C-8)	\$ 300.00	\$ 50.00	\$ 25.00
(c) Home Financing Agency (N.J.S.A. 17:16C-82(a).)	\$ 600.00	\$ 200.00	\$100.00
(d) Home Repair Contractor (N.J.S.A. 17:16C-82(b).)	\$ 300.00	\$ 50.00	\$ 25.00
(e) Home Repair Salesman (N.J.S.A. 17:16C-82(c).)	\$ 60.00	\$ 20.00	\$ 10.00
Insurance Premium Finance Company (N.J.S.A. 17:16D-4)	\$1,000.00	\$ 400.00	\$200.00
Pawnbroker (N.J.S.A. 45:22-4)	\$ 800.00	\$ 300.00	\$150.00

(b)

DIVISION OF HOUSING

DIVISION OF TAXATION

Tax Exemptions for Multiple Dwelling Improvements and Conversions Supplemental Procedural Rules for Assessors

Adopted New Rule: N.J.A.C. 5:22-2.6 (Division of Housing, Department of Community Affairs)

Adopted New Rule: N.J.A.C. 18:12-6A.8 (Division of Taxation, Department of the Treasury)

Proposed: January 18, 1982 at 14 N.J.R. 72(b).
Adopted: February 26, 1982 by Edward M. Cornell, Jr., Assistant Commissioner, Department of Community Affairs.

March 2, 1982 by Sidney Glaser, Director, Division of Taxation.

Filed: March 2, 1982 as R.1982 d.78, **without change**.

Authority: N.J.S.A. 54:4-3.123 and 54:50-1.

Effective Date: March 15, 1982.

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING

Relocation Assistance Elimination of Double Subsidies

Adopted Amendment: N.J.A.C. 5:11-3.2

Proposed: January 18, 1982 at 14 N.J.R. 72(a).
Adopted: February 26, 1982 by Edward M. Cornell, Jr., Assistant Commissioner, Department of Community Affairs.
Filed: February 26, 1982 as R.1982 d.71, **with substantive changes** not requiring additional public notice and comment.

Authority: N.J.S.A. 52:31B-10 and 20:4-10.

Effective Date: March 15, 1982.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

5:11-3.2 Rental assistance payments

(a)-(e) (No change from proposal.)

(f) A tenant who relocates into a dwelling unit which is subsidized by any governmental program *on the basis of the tenant's income* shall not receive any rental assistance payment in any year *[except to the extent that the rental assistance payable pursuant to this section exceeds the amount of the governmental subsidy to the dwelling unit]*.

HUMAN SERVICES

(c)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Hospital and Special Hospital Services Manual and Physicians Services Manual Elective Surgical Procedures Requiring Second Opinion

Adopted Amendments: N.J.A.C. 10:52-1.3, 10:53-1.3, 10:54-1.2 and 10:54-3

Proposed: May 7, 1981 at 13 N.J.R. 292(a).
Adopted: April 1, 1982 by Timothy Carden, Commissioner, Department of Human Services.

Filed: February 26, 1982 as R.1982 d.73, **with substantive changes** not requiring additional public notice and comment.

Authority: N.J.S.A. 30:4D-6a(1)(2)(5) and 30:4D-7b.

Effective Date: March 15, 1982.

Operative Date: April 1, 1982.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

10:52-1.3 Noncovered inpatient hospital service
 (a) (No change from proposal.)
 1.-15. (No change from proposal.)
16. Elective surgical procedures listed under a second opinion has been rendered by a board certified specialist:
 i. (No change from proposal.)
 ii. **Cholecystectomy. Number Code: 3515, *3516*, 3517;**
 iii. **Hernia Repair. Number Code: 3631, 3632, 3633, 3634, 3635, 3646, 3651, 3661, 3662, 3663, 3664, 3665, 3666, *[1495, 1496]*;**
 iv. (No change from proposal.)
 ***[v. Urinary Tract Endoscopy. Number Code: 3933, 3934, 3935, 3936, 3937, 3940, 3942, 3949;**
vi. Laparoscopy. Number Code: 3595, 3596.]*
 Renumber vii and viii as v and vi.

10:53-1.3 Noncovered inpatient special hospital services
 (a) (No change from proposal.)
 1.-14. (No change from proposal.)
15. Elective surgical procedures listed unless a second opinion has been rendered by a board certified specialist:
 i. (No change from proposal.)
 ii. **Cholecystectomy. Number Code: 3515, *3516*, 3517;**
 iii. **Hernia Repair. Number Code: 3631, 3632, 3633, 3634, 3635, 3646, 3651, 3661, 3662, 3663, 3664, 3665, 3666, *[1495, 1496]*;**
 iv. (No change from proposal.)
 ***[v. Urinary Tract Endoscopy. Number Code: 3933, 3934, 3935, 3936, 3937, 3940, 3942, 3949;**
vi. Laparoscopy. Number Code: 3595, 3596.]*
 Renumber vii and viii as v and vi.

10:54-1.2 Scope of service
 (a) (No change from proposal.)
 1.-2. (No change from proposal.)
 3. Physician services provided in the hospital setting; inpatient:
 i. (No change from proposal.)
 ii. **Neither the physician nor the hospital will be paid for the following elective surgical procedures unless a second opinion has been rendered by a board certified specialist:**
 (1) (No change from proposal.)
 (2) **Cholecystectomy. Number Code: 3515, *3516*, 3517;**
 (3) **Hernia Repair. Number Code: 3631, 3632, 3633, 3634, 3635, 3646, 3651, 3661, 3662, 3663, 3664, 3665, 3666, *[1495, 1496]***
 ***[(5) Urinary Tract Endoscopy. Number Code: 3933, 3934, 3935, 3936, 3937, 3940, 3942, 3949;**
(6) Laparoscopy. Number Code: 3595, 3596.]*
 Renumber (7) and (8) as (5) and (6).

CHAPTER 54
 MANUAL FOR PHYSICIAN SERVICES

SUBCHAPTER 3. PROCEDURE CODE MANUAL

A dagger symbol (†) preceding the following procedures codes indicate a second opinion is required by a board certified specialist before reimbursement is made for elective surgery:

†0634	†0635	†0636	†0637	†0638
†0639	†0640	†0641	†0642	†0643
†0644	†0645	*[†1495]*	*[†1496]*	†2992
†2993	†2994	†3000	†03515	*[†3516]*
†3517	*[†3595]*	*[†3596]*	†3631	†3632
†3633	†3634	†3635	†3646	†3651
†3661	†3662	†3663	†3664	†3665
†3666	*[†3933]*	*[†3934]*	*[3935]*	*[†3936]*
[†3937]	*[†3940]*	*[†3942]*	*[3949]*	†4614
†4618	†4631	†4632	†4634	†5190
†5208	†5209	†5210	†5211	†5225

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Long Term Care Services Manual
 Inspection of Care in LTC Facilities**

Adopted Amendments: N.J.A.C. 10:63-1.5

Proposed: January 18, 1982 at 14 N.J.R. 81(a).
 Adopted: March 15, 1982 by Timothy Carden,
 Commissioner, Department of Human Services.
 Filed: February 26, 1982 as R.1982 d.72, **without change.**

Authority: N.J.S.A. 30:4D-6a(4)(a) and 4D-7.

Effective Date: March 15, 1982.

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Hearing Aid Services Manual

Adopted Amendments: N.J.A.C. 10:64

Proposed: January 4, 1982 at 14 N.J.R. 29(a).
 Adopted: April 1, 1982 by Timothy Carden, Commissioner,
 Department of Human Services.
 Filed: March 1, 1982 as R.1982 d.74, **with substantive changes** not requiring additional public notice and comment.

Authority: N.J.S.A. 30:4D-6b(16) and 30:4D-7 and 7b.

Effective Date: March 15, 1982.

Operative Date: April 1, 1982.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

10:64-1.2 Definitions

“Otologist” for purposes of this chapter refers to either a physician who specializes in diseases of the ear or a physician who specialized in diseases of the ear, nose and throat and who qualifies as a specialist according to the definition and conditions in the *[Physicians Manual]* *N.J.A.C. (10:64-1.1 Manual for Physician Services)*.

10:64-1.3 Hearing aid program; policies and procedures

(a) (No change from proposal.)

1. Otolgic examinations consist of a history and physical examination of the ear, *nose and throat* with a relevant diagnosis supporting the need for audiologic and hearing aid examinations, with such examination signed and dated by the otologist and forwarded to the individual providing the audiologic and hearing aid examinations.
2. Audiologic examinations performed by an audiologist or

otologist shall include the following (data other than that in this section are acceptable for infants and non-verbal children):

- i.-v. (No change from proposal.)
 - vi. Uncomfortable loudness levels or thresholds of discomfort (UCL)*[.]* and
 - *vii. Middle ear measurements and reflex thresholds when indicated.*
3. (No change from proposal.)
4. Nursing home hearing aid screening, for nursing home residents, consists of an evaluation of the patient's desire and ability to use a hearing aid, the nursing staff's willingness to assist in caring for the aid, the status of the patient's previous hearing aid, if any, and an assessment of whether an aid will significantly improve the patient's quality of life by increased socialization or increased involvement in activities. Form FD-257 to record results of the screening, which is signed by the nursing director *[or]* *,* social worker and the treating physician. Then it is forwarded to the otologist, who will provide the otologic examination.

(b) (No change from proposal.)

10:64-1.5 Repairs and replacement of parts

- (a)-(b) (No change from proposal.)
- (c) When a reconditioned hearing aid is delivered, the dispenser shall:
 - 1.-2. (No change from proposal.)
 - 3. *[Submit]* *Retain in the recipient's file* a dated performance chart (e.g. B and K chart) *[with the claim form when requesting prior authorization;]* *for the hearing aid dispensed, showing that the aid is functioning as per the manufacturer's specifications*;
 - 4. Submit an invoice or sales document showing the acquisition cost of the aid, if any, and/or the factory or laboratory invoice showing the cost of reconditioning, with the claim form when requesting *[prior authorization and when billing]* *reimbursement from* the contractor.
 - 5.-9. (No change from proposal.)
- 10. Explain the need for a follow-up visit and *complete* a copy of the Notice of Requirement for Hearing Aid Follow-Up Visit (See Subchapter 3, Exhibit III), unless the aid is a replacement aid and no hearing aid examination was performed.

10:64-1.6 *[Dispensers]* *Dispenser's* responsibilities

- (a) (No change from proposal.)
- 1. Guarantee that all instruments and earmolds provided conform to the prescription as set forth in *[N.J.A.C. 10:64-1.3(b) (Form FD-36)]* *Form FD-36, Section C, Audiologic and Hearing Aid Examinations* and fit comfortably and adequately to the extent that the recipient's condition permits.

10:64-1.8 Hearing aid follow-up visit

- (a) (No change from proposal.)
- (b) For nursing home residents follow-up visits shall consist of the personal visit to the patient by member of the Medicaid staff (Local Medical Consultant, Regional Consultant, Nurse, or Social Worker) within 21 days of the date the aid was provided to assess whether the aid has *[significantly]* *noticeably* improved the patient's quality of life by increased socialization or increased involvement in activities.

10:64-2.3 Billing for services and materials

- (a) Billing for services and materials in the event that an aid is returned in accordance with section 10:64-1.6 *[e)]* shall be as follows:
 - 1.-2. (No change from proposal.)

10:64-3.1 Completion of "Nursing Home Hearing Aid Screening" (Form FD-257)

- (a) (No change from proposal.)

- 1.-8. (No change from proposal.)
- *[9. Item 13. Upon delivery of the aid to the patient, the Local Medical Assistance Unit is to be notified.]*

10:64-3.2 Completion of the "Audiologic and Hearing Aid Examinations" (Form FD-36)

- (a) (No change from proposal.)
- 1. Information relative to the patient's hearing aid candidacy, including:
 - i. Patient's occupation and whether currently employed; *also whether patient has applied for vocational assistance*;
 - ii.-vi. (No change from proposal.)
- 2.-4. (No change from proposal.)

10:64-3.4 Completion of "Follow-up to Hearing Aid Examination or Notice of Missed Appointment" (Form FD-244)

- (a) Results of the follow-up visit shall be reported on Form FD-244 in triplicate and shall include *recipient information and* the following information relative to the amplification provided:
 - 1.-6. (No change from proposal.)

10:64-3.5 Instructions for completion of "medical supplies and equipment claim" (Form MC-11)

- (a) (No change from proposal.)
- 1.-2. (No change from proposal.)
- 3. (No change from proposal.)
- i.-ii. (No change from proposal.)
- iii. When the recipient is covered by both Medicare and Medicaid, see *[Section 304]* *Subchapter 2, 2.6,* of your Medicaid Medical Supplier Manual:
- 4.-6. (No change from proposal.)
- 7. Item 11: Indicate whether a *hearing aid* prescription accompanies the claim when submitted for prior authorization;
- 8.-9. (No change from proposal.)
- 10. (No change from proposal.)
- i. (No change from proposal.)
- ii. (No change from proposal.)
- (1) (No change from proposal.)
- (A)-(B) (No change from proposal.)
- (C) If a reconditioned aid; the notation "Recon" and the notation "six month warranty"; and attach to the claim form, an invoice or sales document showing the acquisition cost of the aid, if any, and/or the factory or laboratory invoice showing the cost of reconditioning *[, and a dated performance chart (e.g. "B & K chart") showing that the aid is functioning as per the manufacturer's specifications]* * * *
- (D)-(F) (No change from proposal.)
- (2)-(4) (No change from proposal.)
- 11. Item 15: Authorization signature (for hearing aids only): Forward claim to the *[local medical assistance unit]* *Local Medical Assistance Unit* to obtain prior authorization before dispensing the aid. The Local Medical Assistance Unit will sign this item if the claim is authorized and will return the claim to the provider.
- 12.-15. (No change from proposal.)

(a)

DIVISION OF PUBLIC WELFARE

**Assistance Standards Handbook
Amendments Required by the Federal
Omnibus Reconciliation Act of 1981**

**Notice of Correction: N.J.A.C. 10:82-2.9 (13
N.J.R. 763(a), Emergency Adoption; 14
N.J.R. 102(d), Readoption)**

TAKE NOTICE THAT an error appears in the notice of adoption at 14 N.J.R. 102(d). Due to a printing error in the notice of proposal (concurrently-filed as an emergency adoption) at 13 N.J.R. 763(a), the notice of adoption should have indicated that the proposed rules were adopted with the following substantive change not in violation of N.J.A.C. 1:30-3.5.

(Additions to proposal and adoption indicated in boldface with asterisks ***thus***.)

10:82-2.9(d)2. Add the result to the stepparent's *unearned* income.

(b)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
Amendments to Comport with Faulkner Act
Adopted Amendments: N.J.A.C. 10:85-1.2,
1.5, 2.2 and 7.3**

Proposed: May 7, 1981 at 13 N.J.R. 301(a).
Adopted: February 17, 1982 by Thomas Blatner, Acting
Commissioner, Department of Human Services.
Filed: February 17, 1982 as R.1982 d.61, **with substantive
changes** not requiring additional public notice and
comment.

Authority: N.J.S.A. 44:8-111(d).

Effective Date: March 15, 1982.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

10:85-1.2 Administration of municipal welfare
(a) ***Local assistance board:** Each municipality shall have a legally constituted local assistance board (LAB) [, consisting] **unless such board has been discontinued or abolished.** (See N.J.A.C. 10:85-2.2(a)1.) **When an LAB exists, it shall consist** of unsalaried citizens appointed by the chief executive of the municipality with the approval of the governing body. The Board shall meet at regular intervals, not less than four times a year, and shall oversee the municipality's General Assistance program, as administered by the Director of Welfare. (See also N.J.A.C. 10:85-2.2.)
(b)-(e) (No change from proposal.)

10:85-2.2 Establishment of local assistance board
(a) ***Statutory requirements:** The law stipulates that each municipality shall appoint a local assistance board (LAB); specifies the composition of the board and the terms of office; empowers the LAB to appoint a director of welfare; and authorizes the municipality to appoint any other necessary employees. These requirements are mandatory upon every municipality regardless of whether or not State aid is requested for the administration of [g]General [a]Assistance.

1. (No change from proposal.)

(b) (No change from proposal.)

***Certification to the Bureau of Local Operations (DPW/BLO):** Each municipality, whether or not applying for State aid, shall submit annually a certification form, Status Report and Request for State Aid for Calendar Year (Form GA-15), to the DPW/BLO signed by the municipal clerk and attesting to the appointment of the board members, **if any**, and the Director of Welfare.

(d) (No change from proposal.)

1.-5. (No change from proposal.)

6. Prohibition to engage in political activities – The Director of Welfare or any employee of the municipal welfare department shall not:

i. Hold any elective ***governmental*** office, be a member of a county committee of any political party, serve on a local election board, or hold office in a political club;

[(These limitations are not relevant to elections or positions which are clearly devoid of political party affiliations, such as local school board elections or offices or candidacy for a non-partisan office);]

(These limitations are not relevant to elections or positions which are clearly outside of the political process, such as local school board elections);

ii.-viii. (No change from proposal.)

(e)-(f) (No change from proposal.)

(g) ***Duties of the LAB:** The LAB shall act as a body in discharging its duties. A Board member shall not individually take upon him/herself the responsibility for creation of policy, investigation of a client or disclosure of data contained in a case record. Actions taken by the LAB on all matters pertaining to the administration of [g]General [a]Assistance shall be discharged by the Board at regular or special meetings and recorded in the secretary's minutes. Functions and activities of the LAB include the study of employment possibilities in local industry, health, housing, and social conditions of the community. Analysis of municipal financial needs, insofar as they are related to [g]General [a]Assistance, shall also be a matter of concern to the LAB.

1.-2. (No change from proposal.)

(h)-(i) (No change from proposal.)

(c)

DIVISION OF PUBLIC WELFARE

Home Energy Assistance Handbook

Readopted Amendments: N.J.A.C. 10:89

Proposed: December 7, 1981 at 13 N.J.R. 888(a).
Adopted: February 17, 1982 by Thomas Blatner, Acting
Commissioner, Department of Human Services.
Filed: February 17, 1982 as R.1982 d.62, **with substantive
and technical changes** not requiring additional public
notice and comment.

Authority: N.J.S.A. 30:4B-2 and P.L. 97-35.

Effective Date: February 17, 1982.

HUMAN SERVICES

ADOPTIONS

Full text of the changes between proposal and readoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

10:89-2.1 General

In order to receive Home Energy Assistance benefits, the household must meet the eligibility requirements **f*o*und** in this chapter and must make application [for special energy assistance, emergency energy assistance, or cooling assistance] in accordance with N.J.A.C. 10:89-4 (Application Process) **or be entitled to automatic payments in accordance with N.J.A.C. 10:89-3.1.**

10:89-2.2 Eligibility requirements

- (a)–(b) (No change from proposal.)
- (c) [Except for automatic payments] **For all households including those receiving automatic payments** (N.J.A.C. 10:89-3.1), the household's income must be less than or equal to the allowable gross monthly income eligibility limits for the applicable household size (N.J.A.C. 10:8*[0]****9***-2.3(g)). **Those denied can apply for special assistance again if their income is reduced.**
- (d) (No change from proposal.)

10:89-2.3 Income eligibility

- (a)–(d) (No change from proposal.)
- (e) (No change from proposal.)
- 1.–6. (No change from proposal.)
- [7.]**5.** Benefits provided under the State Lifeline Program **including supple*[I]***m***ental payments under the Tenants Lifeline Assistance program which are included in the SSI check; [and]**
- [8.]**6.** (No change from proposal.)
- 7. (No change from proposal.)
- (f)–(g) (No change from proposal.)

10:89-3.1 Automatic payments to certain households

(a) [Aid to Families with Dependent Children (AFDC)] Recipient [H]households:

1. Certain households eligible for and receiving AFDC[,*]* **or SSI** (with the exceptions noted in (a)ii[i] below) during [the months of December, January, February, and/or March]* **October** will receive [an automatic \$50.00 payment for each of those months for which they receive an AFDC payment] **the first of two payments based on [household] eligible unit size, income and responsibility for heating costs in November. The second payment will be made in January.** A notice explaining that the [\$50.00] automatic payment is a supplement to assist the household [in meeting] **meet** its heating costs will be included with the payment.

i. Automatic payments [to each eligible AFDC family shall not exceed a total of \$200.00] **will only be made between Novem*[v]* *b*er and January. Households which do not receive automatic payments by January 31, must submit an application by February 15th to receive HEA.**

ii.–iv. (No change from proposal.)

2.–3. (No change from proposal.)

4. Residents of Residential Health Care Facilities (RHCF): Automatic payments will be made to eligible SSI recipients who reside in residential health care facilities (RHCFs). The Division of Public Welfare will de*[te]*termine** eligibility for automatic payments to RHCF residents based on information contained in the SDX computer tape and supplementary computer records assembled by the Division. RHCF residents are identified by Federal living arrangement A, State living arrange*[g]***m***ent A.**

(b) (No change from proposal.)

10:89-3.2 Special energy assistance

- (a)–(g) (No change from proposal.)
- [(h)](f) Households responsible for heating costs:
- 1. (No change from proposal.)

2. For program purposes a household's [is considered directly responsible for fuel costs associated with residential heat if] **benefit will be determined as follows:**

- i. (No change from proposal.)
- ii. **If [T]the household is *otherwise* directly responsible for payment of the fuel charge (e.g., the landlord bills the household as a separate charge from rent for fuel use although the landlord remains responsible to the fuel vendor) the benefit will be based on Schedule C of this chapter [.] ; or**
- iii. (No change from proposal.)
- 3. (No change from proposal.)
- 4. A household directly responsible to a public utility for payment of heating costs will receive the special energy benefit in the form of a two party check in the name of the head of household and the utility. The check will be mailed to the household which will be responsible for endorsing and for*[e]***warding to the utility.****

[4]5. (No change from proposal.)

(i) (No change from proposal.)

10:89-3.6 Payment schedule

(No change from proposal concerning deleted material.)

(a) Schedule A: Fuel oil:

HOUSEHOLD SIZE Region Designation Monthly Income	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
\$0–\$417.00	428	372	572	496	684	596
\$417.01–\$667.00	356	312	476	412	572	496
\$667.01–\$917.00			380	332	456	396
\$917.01–\$1167.00			*284*	*248*	344	296
\$1167.01–\$1583.00					228	200

“Blue” means Sussex and Warren counties.

“Red” means all other counties.

(b) Schedule B: All other fuel:

HOUSEHOLD SIZE Region Designation Monthly Income	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
\$0–\$417.00	268	232	356	312	428	372
\$417.01–\$667.00	224	192	296	260	356	312
\$667.01–\$917.00			240	208	284	248
\$917.01–\$1167.00			*180*	*156*	216	188
\$1167.01–\$1583.00					144	124

“Blue” means Sussex and Warren counties.

“Red” means all other counties.

(c) Schedule C: Renters and SSI or RHCF automatic payments:

HOUSEHOLD SIZE Region Designation Monthly Income	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
\$0–\$417.00	216	188	284	248	344	296
\$417.01–\$667.00	180	156	236	208	284	248
\$667.01–\$917.00			192	164	228	200
\$917.01–\$1167.00			*144*	*124*	172	148
\$1167.01–\$1583.00					116	100

“Blue” means Sussex and Warren counties.

“Red” means all other counties.

10:89-4.1 Opportunity and decision to apply

- (a)–(c) (No change from proposal.)
- [(c)](d) (No change from proposal.)
- [(d)](e) At the time of application, the CWA shall advise the household of all program eligibility requirements and the method by which assistance will be provided. Additionally, the CWA shall assist the household in completing the application and explain what ele*[I]***m***ents of eligibility must be verified. The CWA must advise the household what verification is required and explain that the case will be denied if verification is not provided.
- 1. (No change from proposal.)
- [(e)](f) The CWA shall forward the original of Form EP-1 *

ADOPTIONS

(Home Energy Assistance Application)* to DPW within four working days of receipt of the completed application and retain a copy in the case record.

1. Form EP-1 is completed by all applicants for the Home Energy Assistance (HEA) program. It is the application for both heating and cooling assistance. The form is also completed by SSI eligibles who have received an automatic payment but who pay for their heating costs directly and are therefore entitled to a supplemental payment. Some of the information which the client will be asked to provide will be name, address, heating/living arrangement, income and resources of all household members.

*[1.]**2.* (No change from proposal.)

*[2.]**3.* [Form EP-1 will also be returned to the CWA if it does not pass the computer edit because of coding error, possible duplicate payment or an indication that the household is ineligible.] **Each CWA will receive a listing of its cases which were rejected upon data entry. The CWA must review the listed cases for the reason for rejection and submit a corrected page one of Form EP*. *1 for each listed case.**

*[3.]**4.* (No change from proposal.)

[(f)](g) (No change from proposal.)

(h) CWA *[R]r*esponsibility for eligibility determinations: Generally, applications will be processed through the *[C]**D* PW computer system to a decision. However *,* the CWA will be responsible for screening each HEA application to determine the following:**

1-5. (No change from proposal.)

(i)-(k) (No change from proposal.)

10:89-5.2 Notice requirements

(a) (No change from proposal.)

(b) **The Division of Public Welfare or the CWA, as appropriate,** will generate notices (Notice of Home Energy Assistance Action, Form EP-2) informing the household of the action taken on its application. The CWA is responsible for promptly mailing Form EP-2 to the household.

1. This notice of eligibility or denial (Form EP-2) is sent to applicants for the Home Energy Assistance program.

*[1.]**2.* (No change from proposal.)

*[2.]**3.* (No change from proposal.)

(c) Households receiving automatic payments shall receive a notice, (Notice of Eligibility for Home Energy Assistance, Form EP-3) included with the energy payment explaining that it is a supplement to assist the household to meet its rising heating costs and of the availability of [special energy assistance, cooling assistance and] emergency assistance.

1. This notice of eligibility or ineligibility for automatic payment (Form EP-3) is sent to AFDC and SSI recipients. If eligible, the notice will advise the client of the entitlement amount. If ineligible for automatic payment, the notice will specify the reason for ineligibility and will advise the client of his/her right to apply for benefits if he/she wishes.

*[1.]**2.* (No change from proposal.)

*[2.]**3.* (No change from proposal.)

10:89-5.3 [Reporting changes] **Recoupment of overpayments** (No change from proposal concerning deleted material.)

(a) **Households which receive more than \$750.00 in HEA benefits shall be considered to have been overpaid and will be required to repay the excess benefit. Upon discovery of an overpayment the CWA shall take action in accordance with the procedures in this section. The CWA shall seek recovery of all overpayments regardless of fault including overpayments caused by administrative error.**

1.-3. (No change from proposal.)

4. If the household refuses to repay, does not respond to the repayment request or fails to make scheduled repayments i*[s]* *t* shall be advised that the amount will be recovered from any future HEA benefits to which the household may be entitled.

5.-6. (No change from proposal.)

LAW AND PUBLIC SAFETY

10:89-5.6 Outreach requirements

(a)-(e) (No change from proposal.)

(f) **CWAs *[msut]**must* submit a report describing all outreach efforts undertaken to the Outreach Coordinator, Home Energy Assistance Unit, Division of Public Welfare, by December 1, [1980.] of the appropriate program year.**

LAW AND PUBLIC SAFETY

(a)

BOARD OF BEAUTY CULTURE CONTROL

**Beauty Culture Schools
Beauty Schools Saturday Classes**

**Adopted Amendments: N.J.A.C. 13:28-2.10,
2.14, 2.15 and 2.16**

Proposed: December 21, 1981 at 13 N.J.R. 930(b).
Adopted: January 27, 1982 by Board of Beauty Culture Control, Marie Nowiak, Chairman.
Filed: February 26, 1982 as R.1982 d.70, **without change.**

Authority: N.J.S.A. 45:4A-13.

Effective Date: March 15, 1982.

(b)

BOARD OF BEAUTY CULTURE CONTROL

**Beauty Culture Schools
Student Standards and Requirements**

Adopted Amendment: N.J.A.C. 13:28-2.24

Proposed: December 21, 1981 at 13 N.J.R. 931(a).
Adopted: January 27, 1982, by Board of Beauty Culture Control, Marie Nowiak, Chairman.
Filed: February 26, 1982 as R.1982 d.69, **without change.**

Authority: N.J.S.A. 45:4A-13.

Effective Date: March 15, 1982.

TRANSPORTATION

(a)

LOCAL AID

Urban Revitalization Urban Revitalization, Special Demonstration and Emergency Projects

Adopted Amendments: N.J.A.C. 16:22-1.1, 1.2 and 1.4

Proposed: January 18, 1982 at 14 N.J.R. 97(a).
Adopted: February 22, 1982 by Melvin R. Lehr, Assistant
Commissioner for Transportation Services.
Filed: February 26, 1982 as R.1982 d.68, **without
change.**

Authority: N.J.S.A. 27:1A-5 and 27:1A-6.

Effective Date: March 15, 1982.

(b)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes 35 and 439

Adopted New Rules: N.J.A.C. 16:28A-1.70 Adopted Amendments: N.J.A.C. 16:28A-1.25

Proposed: January 4, 1982 at 14 N.J.R. 35(a).
Adopted: February 10, 1982 by David W. Gwynn, Chief
Engineer, Transportation Operations and Local Aid.
Filed: February 17, 1982 as R.1982 d.60, **without
change.**

Authority: N.J.S.A. 27:1A-5, 27:-A-6, 39:4-183.1 and
39:4-199.

Effective Date: March 15, 1982.

TREASURY-GENERAL

(c)

POLICE AND FIREMEN'S RETIREMENT SYSTEM

Administration Dates of Board's Meetings

Adopted Amendments: N.J.A.C. 17:4-1.1

Proposed: December 21, 1981 at 13 N.J.R. 938(a).

Adopted: January 25, 1982 by Board of Trustees of the
Police and Firemen's Retirement System, Anthony P.
Ferrazza, Secretary.
Filed: February 24, 1982 as R.1982 d.64, **without
change.**

Authority: N.J.S.A. 43:16A-13(7).

Effective Date: March 15, 1982.

(d)

STATE POLICE RETIREMENT SYSTEM

Insurance and Death Benefits Leave for Illness and Insurance

Adopted New Rule: N.J.A.C. 17:5-2.5

Proposed: December 21, 1981 at 13 N.J.R. 938(b).
Adopted: January 27, 1982 by Board of Trustees State
Police Retirement System, Anthony P. Ferrazza,
Secretary.
Filed: February 24, 1982 as R.1982 d.65, **without
change.**

Authority: N.J.S.A. 53:5A-30h.

Effective Date: March 15, 1982.

(e)

STATE POLICE RETIREMENT SYSTEM

Purchases and Eligible Service

Adopted Amendment: N.J.A.C. 17:5-4.1 Adopted New Rules: N.J.A.C. 17:5-4.2 and 4.3

Proposed: December 21, 1981 at 13 N.J.R. 939(a).
Adopted: January 27, 1982 by Board of Trustees, State
Police Retirement System, Anthony P. Ferrazza,
Secretary.
Filed: February 24, 1982 as R.1982 d.66, **without
change.**

Authority: N.J.S.A. 53:5A-30h.

Effective Date: March 15, 1982.

ADOPTIONS

OTHER AGENCIES

(a)

STATE POLICE RETIREMENT SYSTEM

**Retirement
Imminent Death Situations**

Adopted Amendment: N.J.A.C. 17:5-5.15

Proposed: December 21, 1981 at 13 N.J.R. 939(b).
Adopted: January 27, 1982, by Board of Trustees of the
State Police Retirement System, Anthony P. Ferrazza,
Secretary.

Filed: February 24, 1982 as R.1982 d.67, **without
change.**

Authority: N.J.S.A. 53:5A-30h.

Effective Date: March 15, 1982.

(b)

**NEW JERSEY SPILL COMPENSATION
FUND**

**Regulations Governing New Jersey Spill
Compensation Fund
Expenditures in Light of Federal Super Fund**

Adopted New Rules: N.J.A.C. 17:26-2

Proposed: January 4, 1982 at 14 N.J.R. 36(b).
Adopted: February 13, 1982 by Kenneth R. Biederman,
State Treasurer.

Filed: March 3, 1982 as R.1982 d.79, **without change.**

Authority: N.J.S.A. 58:10-23.11j, o, and t.

Effective Date: March 15, 1982.

TREASURY-TAXATION

(c)

DIVISION OF TAXATION

**Motor Fuels Tax
Retail Sales of Motor Fuels; Gallon and Liter
Conversions**

**Adopted New Rules: N.J.A.C. 18:19-2.10
and 18:19-3.3.**

**Adopted Amendments: N.J.A.C. 18:19-1.1,
2.1, 2.2, 2.6 and 3.1**

Proposed: November 16, 1981 at 13 N.J.R. 855(a).
Adopted: March 1, 1982 by Sidney Glaser, Director,
Division of Taxation.
Filed: March 1, 1982 as R.1982 d.77, **without change.**

Authority: N.J.S.A. 56:6-6 and P.L. 1981 c.230.

Effective Date: March 15, 1982.

OTHER AGENCIES

(d)

CASINO CONTROL COMMISSION

**Applications
Durational Residency Requirement**

Adopted Amendments: N.J.A.C. 19:41-4.3

Proposed: January 4, 1982 at 14 N.J.R. 37(a).
Adopted: February 16, 1982 by Casino Control
Commission, Theron G. Schmidt, Executive
Secretary.

Filed: February 19, 1982 as R.1982 d.63, **without
change.**

Authority: N.J.S.A. 5:12-63(c), 5:12-89(b)(4), 5:12-90(c)
and 5:12-91(c).

Effective Date: March 15, 1982.

MISCELLANEOUS NOTICES

EDUCATION

(a)

THE COMMISSIONER

Notice: Public Hearing on Interscholastic Athletics

Pursuant to authority granted to him by c. 172 of the Laws of 1979 (N.J.S.A. 18A:11-3 et seq.), Fred G. Burke, Commissioner of Education, directed the New Jersey State Interscholastic Athletic Association (NJSIAA) to develop a plan which would allow schools who are members of that Association, and who had heretofore been precluded from participating in certain interscholastic athletic contests, to be considered for membership in various interscholastic conferences and leagues. Thereafter, the NJSIAA adopted such a plan which included a scheduling procedure, an application procedure for league and conference membership and an internal appeals procedure within the NJSIAA. The scheduling procedure was approved by the Commissioner on May 15, 1981.

After approval of this scheduling procedure, applications were made by a number of schools to various leagues and conferences, resulting in reports of hearing officers appointed by the NJSIAA, and appeals to the Executive Committee of the NJSIAA, which made final determinations on January 20, 1982 and submitted those determinations to the Commissioner on that date.

The Commissioner has decided to afford all Association members, conferences and leagues, who have exhausted the internal hearing procedures of the NJSIAA, and all other interested parties, an opportunity to be publicly heard with respect to the decisions of the Executive Committee. This public hearing is not a contested case proceeding. It is a public hearing to assist the Commissioner in making an administrative determination on these matters. Towards this end, the Honorable Eric G. Errickson has been assigned by the Office of Administrative Law, pursuant to N.J.S.A. 52:14F-5o., to conduct these hearings, develop a record of comments received, and prepare recommendations for the Commissioner.

Association members or their representatives and other interested parties are hereby notified of the following times, dates and places at which oral presentations will be made before the Honorable Eric G. Errickson, A.L.J.:

March 25, 1982, 9:00 A.M.
Office of Administrative Law
88 East State Street
Trenton, New Jersey 08625

March 26, 1982, 9:00 A.M.
Camden County Court House
Court Room 6C
6th and Market Street
Camden, New Jersey 08101

March 31, 1982, 9:00 A.M.
Office of Administrative Law
185 Washington Street
Newark, New Jersey 07102

Association members and other interested parties wishing to

make oral presentations are urged to attend the hearing in closest geographic proximity to their own location in order to facilitate the development of an orderly record.

Association members and other interested parties may submit written comments, supplemental to any materials originally presented before the NJSIAA Executive Committee, in lieu of or in addition to oral presentations. Written comments must be submitted on or before April 1, 1982. These submissions should be addressed to:

The Honorable Eric G. Errickson
Administrative Law Judge
Office of Administrative Law
88 East State Street
CN 049
Trenton, New Jersey 08625

On or before April 1, 1982, the NJSIAA will submit to Judge Errickson the entire record of proceedings below, including hearing transcripts, along with a copy of any briefs, affidavits or supplemental materials.

Any inquiries about these public hearings should be addressed to:

Dr. Seymour Weiss
Bureau of Controversies
and Disputes
Department of Education
225 West State Street
CN 500
Trenton, New Jersey 08625

ENVIRONMENTAL PROTECTION

(b)

THE COMMISSIONER

State Certifications of Draft NPDES Permits

Public Notice

Robert E. Hughey, Commissioner of the Department of Environmental Protection, pursuant to the "New Jersey Water Pollution Control Act," N.J.S.A. 58:10A-1 et seq., is authorized to assess compliance of a surface water discharge with State law pertaining to discharges to the waters of the State. The Department is requested by the United States Environmental Protection Agency, as required by section 401 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., to certify that a discharge, as described in a draft National Pollutant Discharge Elimination System permit, will not violate the requirements of State law.

The Department publishes public notice of certifications in the DEP Bulletin. Copies of the Bulletin may be obtained by calling (609) 292-3178 or writing to the Documents Distribution Center, P.O. Box 1390, Trenton, New Jersey 08625.

HUMAN SERVICES

LABOR

(a)

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

THE COMMISSIONER

Personal Needs Allowance for Health Care Facilities and Boarding Homes

Public Notice: Availability of Current Prevailing Wage Rates

Public Notice: Public Comment Period Extended

Roger A. Bodman, Commissioner of Labor, pursuant to the "New Jersey Prevailing Wage Act", N.J.S.A. 34:11-56.25 et seq., wishes to advise the public of the availability of current prevailing wage rates for public works as defined in the cited act.

Take notice that the Superior Court of New Jersey, Appellate Division in N.J. Association of Health Care Facilities v. Ann Klein (A-546-80 T4 decided December 15, 1981) has upheld the Department of Human Services regulations N.J.A.C. 10:123-3.1 and 3.2 (emergency adoption concerning Personal Needs Allowances in Residential Health Care Facilities and Boarding Homes), which established the residents' personal needs allowance in the amount of at least \$40.00 per month.

Copies of current prevailing wage rates for all New Jersey counties may be obtained by writing to the Department of Labor, Division of Workplace Standards, CN 389, Trenton, N.J. 08625, or by calling on the telephone to 609-292-2259.

The regulations became effective on August 27, 1980 (see 12 N.J.R. 536(e)) and was in effect until amended, effective November 2, 1981 (see 13 N.J.R. 774(b)).

In accordance with the decision of the Appellate Division, this notice is published as a matter of public information, and the public may be heard by submitting in writing data, views, or arguments relevant to the regulation to:

Lawrence Hatton
Boarding Home Coordinator
Department of Human Services
Division of Youth and Family Services
One South Montgomery Street
CN 717
Trenton, New Jersey 08625

LATE FILINGS

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Shellfisheries

Preservation of Sea Clam Resource

Adopted Emergency Amendment: N.J.A.C. 7:25-12.1

Emergency Amendment Adopted: March 1, 1982, by Robert E. Hughey, Commissioner, Department of Environmental Protection
Emergency Amendment Filed: March 4, 1982 as R.1981 d.80.

Authority: N.J.S.A. 50:2-6.2 and 50:2-6.3.

Emergency Amendment Effective Date: March 4, 1982.
Emergency Amendment Expiration Date: May 3, 1982.
DEP Docket No.: 004-82-04.

The agency emergency adoption follows:

Summary

The emergency adoption raises the harvest limit of sea clams to extend the New Jersey inshore season. The original total of 500,000 bushels of clams will have been exhausted by the close of the first week of March, according to projections based on this week's current catch rate. After consultation with the Sea Clam Advisory Panel, convened by the Marine Fishery Council pursuant to 23:2B-5g., and with Dr. Harold Haskin of the Department of Zoology, Rutgers University, it was agreed at a January 22 meeting that the State's resource of sea clams could support the additional harvest of 100,000 bushels without detrimental effect.

The additional clam harvest, prolonging the inshore season, will respond to the imminent peril of economic disaster faced by New Jersey's licensed sea clammers if they are unable to harvest in New Jersey's relatively protected territorial waters during the stormy months of March and early April.

Social Impact

This adoption will favorably affect the New Jersey licensed sea clammers and sea clam processing plants by providing a continuing supply of harvestable sea clams during a time when market conditions are favorable. It will have little or no effect on the general public.

Economic Impact

If there were no change in the harvest quota allowed, the New Jersey sea clam industry would be shut down in the middle of one of its most successful seasons in recent history. Cessation of harvest in the first week of March would have a serious economic impact on New Jersey clammers, which this adoption will obviate. There will be no additional expense to the State as a result of this adoption.

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

7:25-12.1 Preservation of the sea clam resource in New Jersey

(a)-(c) (No change.)

(d)1.-2. (No change.)

3. When at anytime during the period November 1, 1981 through May 31, 1982 the Department has determined that [500,000] **600,000** bushels have been harvested from the waters of this State, the Department shall close the State's waters to any further harvesting upon two days public notice. Said notice may be accomplished by publications in newspapers circulating in Monmouth, Ocean, Salem, Cumberland, Burlington, Atlantic and Cape May counties and by certified mail to each licensee.

4.-5. (No change.)

(e)-(k) (No change.)

LAW AND PUBLIC SAFETY

(b)

BOARD OF OPTOMETRISTS

General Rules of Practice

Minimum Examination

Notice of Public Hearing: N.J.A.C. 13:38-2.1 (Proposed on June 4, 1981 at 13 N.J.R. 370(b))

TAKE NOTICE THAT the Board of Optometrists, pursuant to a duly adopted Board motion, will hold a public hearing on March 31, 1982 at 744 Broad Street, Sixth Floor, Newark, New Jersey at 10:00 A.M. for the purpose of receiving data, views and testimony regarding the question of whether the Board's current regulation, N.J.A.C. 13:38-2.1 dealing with minimum equipment requirements should be amended to allow for the delegation of the performance on non-contact tonometry by ancillary personnel under the supervision of a licensed optometrist.

Thereafter, the Board will consider and decide in public session at a regularly convened meeting whether further amendment should be proposed to its current regulation. At present, the Board has proposed for adoption an amendment to the cited regulation which would permit the delegation of certain limited and defined functions to be performed by ancillary personnel under the supervision of an optometrist. The original proposal is set forth at 13 N.J.R. 370(b), June 4, 1981.

Interested persons may submit written statements to the Board at any time prior to March 31, 1982. Any person desiring to submit oral comment or testimony on the question shall give notice not later than March 20, 1982 and secure permission therefor from the Board. All written comments and requests to present oral views shall be sent to:

Board of Optometrists
Attn: Jan C. Flanagan, Executive Secretary
1100 Raymond Boulevard, Room 501
Newark, New Jersey 07102

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between March 5, 1981 and March 1, 1982, and which have not been adopted and filed by March 1, 1982. The index does not contain rules proposed in this Register and listed in the *Table of Rules in This Issue*. These proposals will appear in the next *Index of Proposed Rules*.

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* will appear in the second issue of each month, complementing the *Index of Adopted Rules* which will

appear in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, and the date and Register citation of its publication.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings
CN 301
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW--TITLE 1			
1:1-1.1	Uncontested cases	1-4-82	14 N.J.R. 2(a)
1:1-3.8	Agency litigation staff and final decisions	1-4-82	14 N.J.R. 4(a)
1:1-9.1	Relief motions	1-4-82	14 N.J.R. 2(a)
1:1-9.7	Motion and agency review	4-9-81	13 N.J.R. 181(a)
1:1-12.6	Participation motions	1-4-82	14 N.J.R. 2(a)
1:1-16.3	Record inventories	1-4-82	14 N.J.R. 2(a)
1:1-17.1, 17.2, 17.3	Settlement, withdrawal, and return of cases	1-4-82	14 N.J.R. 4(b)
AGRICULTURE--TITLE 2			
BANKING--TITLE 3			
3:1-2.20	Savings and loan branch facilities	11-2-81	13 N.J.R. 714(a)
3:6-7,-9	Repeal interest rate authority over certain loans	2-16-82	14 N.J.R. 182(a)
3:8-3,-4	Nonmember commercial banks: Standardization of reserves	2-16-82	14 N.J.R. 183(a)
CIVIL SERVICE--TITLE 4			
4:1-6.5,6.5A	Classifications and appeals	1-4-82	14 N.J.R. 5(a)
4:1-12.8	Certification of veterans and nonveterans	2-1-82	14 N.J.R. 114(a)
4:1-13.4	Working test period for police and firemen	2-1-82	14 N.J.R. 115(a)
4:1-16.1-16.5	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:1-16.1A	Pre-layoff actions	12-7-81	13 N.J.R. 862(a)
4:1-16.15, 16.17	Benefit information to next of kin	2-1-82	14 N.J.R. 117(a)
4:1-24.1, 24.3-24.12	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:2-6.4	Classifications and appeals	1-4-82	14 N.J.R. 5(a)
4:2-7.1	Compensation for NL4 designated titles	1-18-82	14 N.J.R. 67(a)
4:2-7.1A, 7.2-7.7, 7.9	Compensation plans; anniversary dates	1-18-82	14 N.J.R. 68(a)
4:2-12.4	Certification of veterans and nonveterans	2-1-82	14 N.J.R. 114(a)
4:2-16.1, 16.2	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:2-16.3	Repeal Job Bank program	2-1-82	14 N.J.R. 117(a)
4:3-6.6	Classifications and appeals	1-4-82	14 N.J.R. 5(a)
4:3-12.5	Certification of veterans and nonveterans	2-1-82	14 N.J.R. 114(a)
4:3-13.1	Working test period for police and firemen	2-1-82	14 N.J.R. 115(a)
4:3-16.1, 16.3	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
COMMUNITY AFFAIRS--TITLE 5			
5:10-2.2, 25.3	Standards for hotels and multiple dwellings	2-1-82	14 N.J.R. 119(a)
5:12	Repeal plain language review of residential leases	3-1-82	14 N.J.R. 222(a)
5:23-3.3	Uniform Construction Code	7-9-81	13 N.J.R. 391(a)
5:30-18	Local funds in interest hearing accounts	8-6-81	13 N.J.R. 477(a)
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6:11-3.7	Revocation of teaching certificate	1-18-82	14 N.J.R. 73(a)

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6:21-10.4	Private auto use for pupil transportation	12-21-81	13 N.J.R. 914(a)
6:22-1.14, 1.19	Inspection fees for school facilities	1-18-82	14 N.J.R. 74(a)
6:29-4.2	Tuberculosis testing	12-21-81	13 N.J.R. 914(b)
6:29-8.1, 8.2	Hearing screening of pupils	1-18-82	14 N.J.R. 108(a)
6:46-1.1	"Technical education" in local area districts	1-4-82	14 N.J.R. 9(b)
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7:1A	Water Supply Bond Act loans	1-4-82	14 N.J.R. 10(a)
7:1G-4.1	Water rationing plan	6-4-81	13 N.J.R. 335(a)
7:7E	Coastal resources and development	9-10-81	13 N.J.R. 565(a)
7:8	Storm water management	12-21-81	13 N.J.R. 916(a)
7:13-1.11	Flood Plain delineation	4-9-81	13 N.J.R. 191(c)
7:13-1.11	Flood hazard areas	7-9-81	13 N.J.R. 402(b)
7:13-1.11	Delaware Basin floodway delineations	11-16-81	13 N.J.R. 805(a)
7:13-1.11	Floodway delineations along Woodbridge and Rahway rivers	12-21-81	13 N.J.R. 920(a)
7:13-1.11	Floodway delineations along Tuckahoe River	12-21-81	13 N.J.R. 921(a)
7:13-1.11	Notice of Flood hazard delineations	12-21-81	13 N.J.R. 950(a)
7:13-1.11	Floodway designations in Hackensack basin	1-4-82	14 N.J.R. 19(a)
7:14-2	Construction of wastewater treatment facilities	1-18-82	14 N.J.R. 75(a)
7:14-5	Statewide management of septage disposal	3-5-81	13 N.J.R. 124(a)
7:14-8.4	Water pollution control	3-5-81	13 N.J.R. 124(b)
7:14-8.4	Correction: Water pollution control	3-5-81	13 N.J.R. 261(a)
7:14A-1.9	Petition to amend 1981 NJPDES Fee Schedule	12-21-81	13 N.J.R. 922(a)
7:14A-11, 13.1	Hazardous waste management	11-2-81	13 N.J.R. 724(a)
7:25-12.1	Sea clam fishery (early opening)	11-16-81	13 N.J.R. 843(a)
7:25-14.8-14.10	Harvest of crabs	10-8-81	13 N.J.R. 645(a)
7:25-15.1	Hard clam relay	10-8-81	13 N.J.R. 645(b)
7:26-1.8	Hazardous waste management	11-2-81	13 N.J.R. 724(a)
7:26-7.4, 7.5, 8.15	Waste oil management as hazardous material	1-4-82	14 N.J.R. 20(a)
7:26-10	Hazardous waste facilities	9-10-81	13 N.J.R. 567(a)
7:26-12.2	Hazardous waste management	11-2-81	13 N.J.R. 724(a)
7:26-15	Correction: Grants and loans for solid waste recycling	12-21-81	13 N.J.R. 950(b)
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8:31-23.1	Parking garage standards	11-16-81	13 N.J.R. 807(b)
8:31-24.1	Hospital personnel housing	11-16-81	13 N.J.R. 808(a)
8:31B-4	Financial elements and reporting regulation	8-6-81	13 N.J.R. 487(a)
8:33F-1.1-1.4, 1.6, 1.7	Need review: Regional end-stage renal services	12-21-81	13 N.J.R. 922(b)
8:33H-3.3	Medicare and Medicaid beds in long-term care	2-16-82	14 N.J.R. 191(a)
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8:39-1.33	Long-term care facilities: Construction standards	11-16-81	13 N.J.R. 809(a)
8:39-1.34	Long-term care facilities: Additional standards	11-16-81	13 N.J.R. 809(b)
8:43-3.22	Fire safety in residential care homes	2-16-82	14 N.J.R. 194(a)
8:43A-2.1, 2.2	Ambulatory care facilities: Construction standards	11-16-81	13 N.J.R. 810(a)
8:43B-3.1, 3.1A	Hospital construction standards	11-16-81	13 N.J.R. 811(a)
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8:65-7.14, 7.18, 10.1, 10.3, 10.4	Controlled dangerous substances: Schedules I, III, IV, V	2-16-82	14 N.J.R. 195(a)
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9:1-1.7	Baccalaureate teacher preparation	1-4-82	14 N.J.R. 24(a)
9:2-2.12	Faculty promotion at four-year colleges	2-1-82	14 N.J.R. 121(b)
9:2-4.1	Eligible employees for Alternate Benefit Program	1-4-82	14 N.J.R. 26(a)
9:4-1.2	Branch campuses and off-campus facilities	1-4-82	14 N.J.R. 23(a)
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9:4-2.14	Branch campuses and off-campus facilities	1-4-82	14 N.J.R. 23(a)
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N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
9:7-3.1	Tuition Aid Grants: 1982-83 Award Table	2-1-82	14 N.J.R. 122(a)
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10:49-1.3	Changes in provider status	5-7-81	13 N.J.R. 271(b)
10:49-1.9	Pre-approval on out-of-State services	6-4-81	13 N.J.R. 355(b)
10:49-1.23	Documentation of services by Medicaid providers	11-2-81	13 N.J.R. 738(b)
10:49-1.27	Definition of "field audit"	7-9-81	13 N.J.R. 414(a)
10:49-6.5	Medicaid and PAA: Payment recovery from estates	1-18-82	14 N.J.R. 80(a)
10:50-3	Van service for Medicaid recipients	6-4-81	13 N.J.R. 356(a)
10:51-1.17, 1.18	Legend drug reimbursement options	9-10-81	13 N.J.R. 576(a)
10:51-2	Billing procedures for Pharmacy Manual	5-7-81	13 N.J.R. 274(b)
10:51-5.28-5.33	Pharmaceutical Assistance to the Aged	5-7-81	13 N.J.R. 289(a)
10:52-1.3	Same day surgery	6-4-81	13 N.J.R. 357(a)
10:52-1.3	Pre-admission testing for elective surgery	6-4-81	13 N.J.R. 358(a)
10:53-1.3	Same day surgery	6-4-81	13 N.J.R. 357(a)
10:53-1.3	Pre-admission testing for elective surgery	6-4-81	13 N.J.R. 358(a)
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10:54-3	Procedure code for nerve study test	7-9-81	13 N.J.R. 418(b)
10:56-1.14, 1.15, 3.4	Limitation on diagnostic dental services	12-7-81	13 N.J.R. 875(a)
10:63-1.4	Long-term care consultation and services	11-2-81	13 N.J.R. 740(a)
10:63-1.4	Special medical equipment in long-term care	12-7-81	13 N.J.R. 877(a)
10:63-1.16	Long-term care of psychiatric patients	11-16-81	13 N.J.R. 813(a)
10:64	Hearing aid services revisions	10-8-81	13 N.J.R. 656(a)
10:64-1.9	Hearing aid reimbursement	6-4-81	13 N.J.R. 361(b)
10:66-1.2, 1.3, 1.6, 1.7	Ambulatory surgical center changes	8-6-81	13 N.J.R. 498(b)
10:66-3.3	Independent Clinic Service Manual	4-9-81	13 N.J.R. 224(a)
10:66-3.3	Family planning services revisions	10-8-81	13 N.J.R. 663(a)
10:69A-7.1	Medicaid and PAA: Payment recovery from estates	1-18-82	14 N.J.R. 80(a)
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10:82-3.2	Amend ASH: Exempt resources	4-9-81	13 N.J.R. 224(b)
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10:85-3.1	GAM: Common living quarters and household status	12-21-81	13 N.J.R. 927(a)
10:85-3.2	GAM: Clarification of "unemployable"	12-21-81	13 N.J.R. 927(b)
10:85-3.2	GAM: "Workfare" requirements and compliance	12-21-81	13 N.J.R. 929(a)
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10:85-3.4	GAM: AFDC ineligible	12-21-81	13 N.J.R. 926(a)
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10:122-4.2	Standards for child care centers	1-18-82	14 N.J.R. 82(a)
10:122-4.3-4.5	Staffing of child care centers	8-6-81	13 N.J.R. 516(b)
10:122-4.3-4.6	Head and group teachers in child care centers	3-1-82	14 N.J.R. 223(a)
10:122-5.1-5.4, 7.1-7.7	Standards for child care centers	1-18-82	14 N.J.R. 82(a)
10:123-3.1-3.3	Changes in residential care allowances	7-9-81	13 N.J.R. 434(a)
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10A:70-8	Certificate of Good Conduct	9-10-81	13 N.J.R. 596(b)
10A:71-1.5	Parole Board revisions	9-10-81	13 N.J.R. 597(b)
10A:71-9	Parole Board clemency rules	9-10-81	13 N.J.R. 598(b)
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11:1-13	Sale of auto club service contracts	12-7-81	13 N.J.R. 879(b)

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12:194	New safety rules for model rocketry	8-6-81	13 N.J.R. 518(a)
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13:19-6	Repeal motor vehicle reciprocity rule with Delaware	1-18-82	14 N.J.R. 87(a)
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13:21-8.18	Repeal nonresident driver legend	1-18-82	14 N.J.R. 88(a)
13:30-6.2	Dental hygienists and hygiene school directorships	1-18-82	14 N.J.R. 89(a)
13:30-6.3	Oral hygiene schools and advisory council provision	2-1-82	14 N.J.R. 135(a)
13:30-6.6	Repeal dormitory requirement for oral hygiene schools	2-1-82	14 N.J.R. 136(a)
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13:30-8.7	Dental personnel law test requirement	1-18-82	14 N.J.R. 89(b)
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13:33-2.2	Required ophthalmic equipment	4-9-81	13 N.J.R. 232(a)
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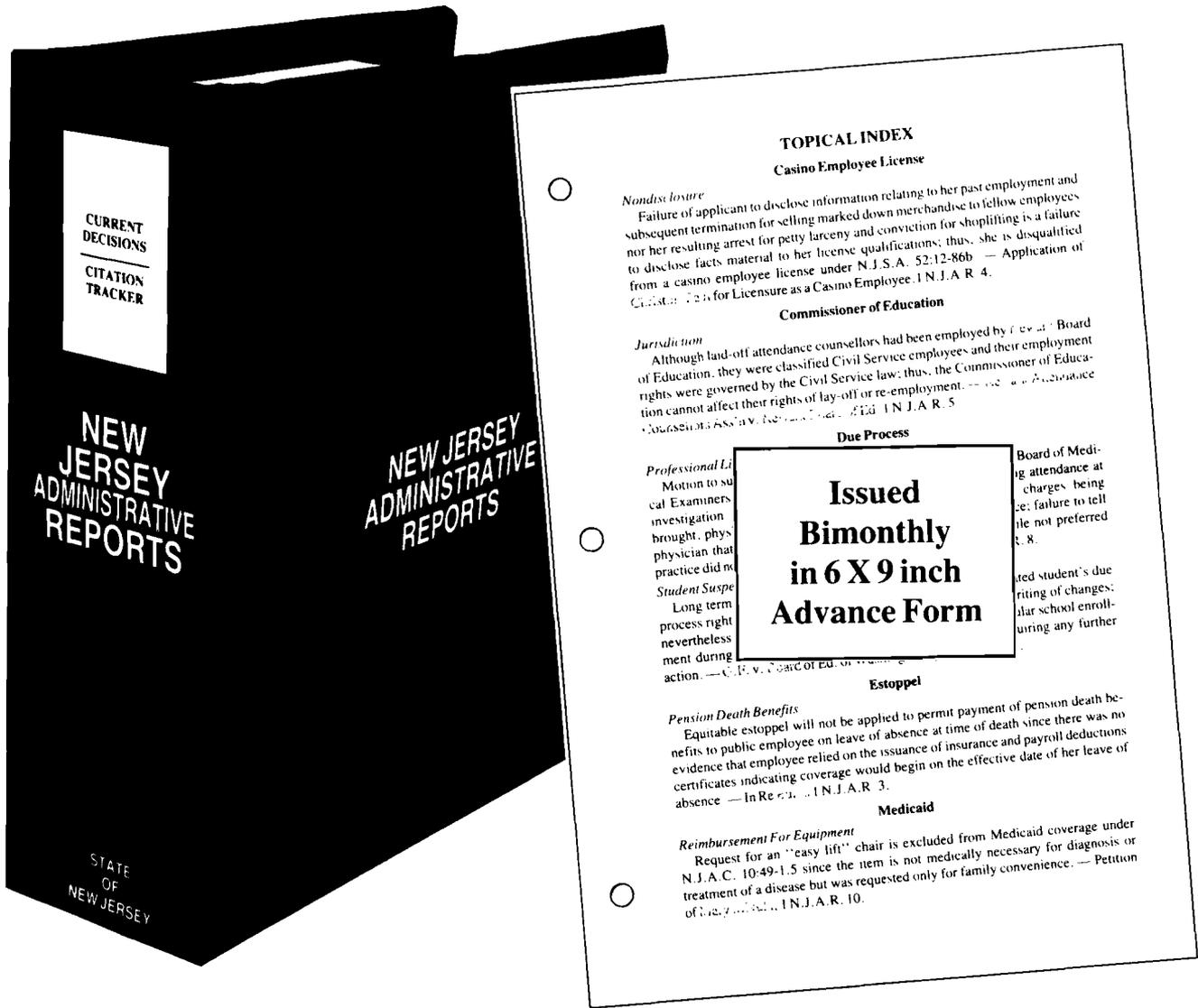
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