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EXECUTIVE ORDERS

(a)

OFFICE OF THE GOVERNOR

Governor Philip D. Murphy

Executive Order No. 15 (2018)

**Declaration of Termination of State of Emergency
Declared in Executive Order 14 (Murphy) at 10:00
A.M., March 13, 2018**

Issued: March 13, 2018.

Effective: March 13, 2018.

WHEREAS, Executive Order No. 14 (2018), declaring a State of Emergency, was issued on March 6, 2018, because of severe weather events on March 2, 2018 and March 7, 2018; and

WHEREAS, the severity of the conditions necessitating the declaration of a State of Emergency has eased;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State of Emergency declared in Executive Order No. 14 (2018) is terminated effective at 10:00 a.m., Eastern Daylight Time, on March 13, 2018.

(b)

OFFICE OF THE GOVERNOR

Governor Philip D. Murphy

Executive Order No. 16 (2018)

**Continuation of Judicial Advisory Panel and
Modification of Executive Order No. 36 (Corzine)**

Issued: March 20, 2018.

Effective: March 20, 2018.

WHEREAS, the Constitution of the State of New Jersey assigns to the Governor, with the advice and consent of the Senate, responsibility for nominating judges to serve in our State Judiciary; and

WHEREAS, the Governor has historically relied on guidance and counsel from former judges and respected legal practitioners in the process of reviewing potential judicial nominees and making judicial appointments; and

WHEREAS, Executive Order No. 36 (2006), as amended by Executive Order No. 32 (2010), formalized this practice by establishing a Judicial Advisory Panel comprised of former jurists and practicing attorneys to evaluate candidates for positions on New Jersey's State courts and provide the Governor with recommendations regarding those candidates' qualifications and fitness to serve as judges; and

WHEREAS, the Governor will continue to rely on the Judicial Advisory Panel in considering candidates for judgeships on the Superior Court of New Jersey and the Supreme Court of New Jersey;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 36 (2006), as modified by Executive Order No. 32 (2010), which set forth the purpose and role that the Judicial Advisory Panel shall have in the Governor's process of evaluating candidates for appointment to the State Judiciary, is hereby continued and shall remain in full force and effect except as expressly provided by this Order.

2. Paragraph 9 of Executive Order No. 36 (2006), which provided that members of the Judicial Advisory Panel shall serve terms of five years,

is hereby rescinded. Members of the Judicial Advisory Panel shall serve at the pleasure of the Governor.

3. All other provisions of Executive Order No. 36 (2006), as modified by Executive Order No. 32 (2010), shall remain in full force and effect.

4. This Order shall take effect immediately.

(c)

OFFICE OF THE GOVERNOR

Governor Philip D. Murphy

Executive Order No. 17 (2018)

**Declaration of a State of Emergency Effective March
20, 2018, at 7:00 P.M.**

Issued: March 20, 2018.

Effective: March 20, 2018.

WHEREAS, the State of New Jersey is expected to experience a major winter storm causing severe weather conditions, including heavy and wet snow, sleet, rain, and high winds; and

WHEREAS, the National Weather Service has issued a Winter Storm Warning for the entire State of New Jersey, a Coastal Flood Warning for the coastal regions of Atlantic, Burlington, Cape May, Cumberland, and Ocean Counties, and a Coastal Flood Advisory for the coastal regions of Essex, Hudson, Middlesex, Monmouth, Salem, and Union Counties; and

WHEREAS, this major winter storm is expected to produce heavy snow accumulations, with rates as high as two to three inches per hour, and strong winds with gusts as high as 45 miles per hour; and

WHEREAS, this major winter storm is expected to produce hazardous travel conditions due to heavy snowfall and significant reductions in visibility; and

WHEREAS, this major winter storm may cause downed power lines and trees, resulting in power outages, and is expected to impede the normal operation of public and private entities; and

WHEREAS, these severe weather conditions may make it difficult or impossible for citizens to obtain the necessities of life, as well as essential services such as police, fire, and first aid; and

WHEREAS, residents in areas that are expected to be impacted by this major winter storm are still recovering from the effects of a recent winter storm which produced a state of emergency lasting from March 6th until March 13th and brought severe weather conditions including snow, rain, high winds, tidal and coastal flooding, river flooding, and downed trees and power lines; and

WHEREAS, the impending major winter storm is expected to compound the effects of the storm that began on March 6th; and

WHEREAS, this impending major winter storm constitutes an imminent hazard that threatens and presently endangers the health, safety, and resources of the residents of the State; and

WHEREAS, this situation may become too large in scope to be handled in its entirety by the normal county and municipal operating services in some parts of this State, and this situation may spread to other parts of the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App.A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, in order to protect the health, safety, and welfare of the people of the State of New Jersey DO DECLARE and PROCLAIM that a State of Emergency exists throughout the State of New Jersey, effective at 7:00 p.m., Eastern Daylight Time, on March 20, 2018; and I hereby ORDER and DIRECT the following:

1. I authorize and empower the State Director of Emergency Management, who is the Superintendent of State Police, to implement

the State Emergency Operations Plan and to direct the activation of county and municipal emergency operations plan as necessary, and to coordinate the recovery effort from this emergency with all governmental agencies, volunteer organizations, and the private sector.

2. I authorize and empower, in accordance with N.J.S.A. App.A:9-33, et seq., as supplemented and amended, the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

3. I authorize and empower the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of State Police, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic, to prevent ingress or egress, and to determine the type of vehicles or vehicles to be operated on such roadways. I further authorize all law enforcement officers to enforce any such order of the Attorney General or Superintendent of State Police within their respective municipalities.

4. I authorize and empower the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety, or welfare because of the conditions created by this emergency.

5. I authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated, and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure, or vehicle during the course of this emergency.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule, where the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App.A:9-45.

7. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard who, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety, and welfare and to authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

8. In accordance with N.J.S.A. App.A:9-34 and N.J.S.A. App.A:9-51, I reserve the right to utilize and employ all available resources of the

State government and of each and every political subdivision of the State, whether of persons, properties, or instrumentalities, and to commandeer and utilize any personal services and any privately-owned property necessary to protect against this emergency.

9. In accordance with N.J.S.A. App.A:9-40, no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

10. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully with the State Director of Emergency Management in all matters concerning this state of emergency.

11. In accordance with N.J.S.A. App.A:9-34, N.J.S.A. App.A:9-40.6, and N.J.S.A. 40A:14-156.4, no municipality or public or semipublic agency shall send public works, fire, police, emergency medical, or other personnel or equipment into any non-contiguous disaster-stricken municipality within this State, nor to any disaster-stricken municipality outside this State, unless and until such aid has been directed by the county emergency management coordinator or his deputies in consultation with the State Director of Emergency Management.

12. This Order shall take effect at 7:00 p.m., Eastern Daylight Time, on March 20, 2018, and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

(a)

OFFICE OF THE GOVERNOR

Governor Philip D. Murphy

Executive Order No. 18 (2018)

Termination of State of Emergency Declared in
Executive Order No. 17 (Murphy)

Issued: March 26, 2018.

Effective: March 26, 2018.

WHEREAS, Executive Order No. 17 (2018), declaring a State of Emergency, was issued on March 20, 2018, because of severe weather events forecasted for March 21, 2018; and

WHEREAS, the severity of the conditions necessitating the declaration of a State of Emergency has eased;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State of Emergency declared in Executive Order No. 17 (2018) is terminated.

2. This Order shall take effect immediately.

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CHILDREN AND FAMILIES

(a)

DIVISION ON WOMEN

Standards for Shelters for Victims of Domestic Violence

Proposed Readoption with Amendments: N.J.A.C. 3A:57

Proposed Repeal: N.J.A.C. 3A:57-1.3

Authorized By: Christine Norbut Beyer, Commissioner Designate,
Department of Children and Families.

Authority: N.J.S.A. 9:3A-7.f, 30:14-1 et seq., 37:1-12.1 et seq., and 2C:25-29.2.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-034.

Submit written comments by June 15, 2018, to:

Debra A. Hayes
Department of Children and Families
PO Box 717
Trenton, NJ 08625
rules@dcf.state.nj.us

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 3A:57, Standards for Shelters for Victims of Domestic Violence, was scheduled to expire on March 3, 2018. Pursuant to N.J.S.A. 52:14B-5.1.c(2), this date is extended 180 days to August 30, 2018, as the Division on Women (Division) submitted this notice of proposal to the Office of Administrative Law (OAL) on March 6, 2018, which is a legally timely filing pursuant to N.J.A.C. 1:30-6.4(g). The Division has reviewed these rules and has determined that, as changed, they continue to be necessary, proper, and reasonable for the purpose which they were originally promulgated, as required by Executive Order No. 66 (1978).

As the Division has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Shelters for Victims of Domestic Violence Act (the Act), N.J.S.A. 30:14-1 et seq., became effective in 1980. Under the Act, the Department of Human Services was directed to establish standards to be met by shelters to assure the availability of necessary specialized personnel, resources, and equipment. Subsequently, the enactment in 1981 of N.J.S.A. 37:1-12.1 et seq., provided funds for the development

and maintenance of such shelters from an additional \$5.00 fee for marriage licenses.

In 1989, the New Jersey Department of Community Affairs (DCA) was given statutory authority (N.J.S.A. 55:13C-1 et seq.) for licensing emergency shelters for the homeless, which included shelters for victims of domestic violence. On May 1, 1989, DCA adopted official licensing rules at N.J.A.C. 5:15, pursuant to N.J.S.A. 55:13C-1 et seq. Discussions involving DCA, the Division of Youth and Family Services (now Division of Child Protection and Permanency), and the Attorney General's Office resulted in the determination that the standards previously promulgated by the Division and allowed to expire on September 19, 1988, by operation of Executive Order No. 66 (1978), were still necessary and should be re-promulgated to reflect the Division's continuing role in implementing the Act and the marriage license fee fund distribution.

Subsequent enactments included the 1993 amendments to N.J.S.A. 37:1-21.1 et seq., which increased the fee charged for marriage licenses from \$5.00 to \$25.00. Additionally, non-profit coalitions, such as the New Jersey Coalition to End Domestic Violence, became eligible to receive grants from the trust funds in which the fees are deposited. In August 2001, legislation was passed that supplemented Titles 2C and 30 by imposing civil penalties on domestic violence offenses, establishing the "Domestic Violence Victims' Fund," and authorizing the Division of Youth and Family Services to distribute revenues from the penalty collections to agencies serving victims of domestic violence.

The rules were subsequently adopted in 1990, and readopted, without change, in 1995, 2000, and 2005. There were amendments in 2004 and the chapter was readopted with amendments in 2011. The rules are currently promulgated by the Division on Women, pursuant to N.J.S.A. 52:27D-43.9a, which transferred the Division on Women to the Department of Children and Families. This transfer included all appropriations and other monies to be available for the purposes for which these monies are appropriated. In January 2017, this chapter was recodified from Title 10 to Title 3A. (See 49 N.J.R. 98(a))

The following is a summary of the rules proposed for readoption with amendments and a repeal.

Subchapter 1 details the purpose and scope for shelters for victims of domestic violence.

Subchapter 2 outlines the standards for shelters including 24-hour access, site, physical plant, staff requirements, service provisions, confidentiality, and non-discriminatory practice for clients and employees of the shelters. This subchapter prohibits the release of a minor to anyone other than the custodial parent and requires the identity and location of a service recipient to be kept confidential. This subchapter also describes that all staff and job applicants disclose any criminal convictions.

Subchapter 3 provides the legal basis, scope, and purpose of the rules governing the use of marriage and civil union license fees, sets funding

priorities and requirements for existing and new programs, and provides for program fiscal responsibility.

The Division proposes to repeal N.J.A.C. 3A:57-1.3 as the legal authority of chapter is stated at the beginning of the chapter historical notes and makes for redundancy in the chapter material.

The Division proposes to amend N.J.A.C. 3A:57-2.2 by removing irrelevant language and replacing it with language that addresses the current services provided by domestic violence shelters.

The Division proposes to amend N.J.A.C. 3A:57-2.5(b), (c), (d), and (f) by proposing minor grammatical changes and updating language that addresses the services provided by domestic violence shelters.

The Division proposes to amend N.J.A.C. 3A:57-2.8 by adding a comma between the final two statutory cross-references, consistent with existing OAL practice.

The Division proposes to amend N.J.A.C. 3A:57-2.9 by adding "civil union" as an additional status shelters cannot discriminate against, whether the person be an employee or client.

The Division proposes to amend the heading of Subchapter 3 by adding "civil union" and "civil penalties" to encompass the full scope of the subchapter.

The Division proposes to amend the heading of N.J.A.C. 3A:57-3.1 to "Receipt of revenue by Department" and to delete subsection (a), for the same reason N.J.A.C. 3A:57-1.3 is proposed for repeal. The Division proposes to amend recodified N.J.A.C. 3A:57-3.1(a) by removing old statutory citations and adding the current and appropriate citation and language.

The Division proposes to amend N.J.S.A. 3A:57-3.2 by adding the applicable statutory cross-reference.

The Division proposes to amend N.J.A.C. 3A:57-3.3 by removing unnecessary language and cross-references and updating language for clarity.

The Division proposes to amend N.J.A.C. 3A:57-3.4 by removing the public law citation and replacing it with the N.J.S.A. citation.

The Division proposes to amend N.J.A.C. 3A:57-3.5 and 3.6, by removing language and agency names no longer essential in the funding process.

The Division proposes to amend N.J.A.C. 3A:57-3.7(c) by removing redundant language.

Social Impact

This chapter applies to all shelters whether they receive funding through the Department or not. The rules proposed for re adoption with amendments and a repeal continue to provide standards under which shelters for victims of domestic violence will continue to receive funding and the methods in which the shelters operate. The rules proposed for re adoption with amendments and a repeal will have a positive social impact in protecting the health, safety, and well-being of the shelter residents seeking temporary refuge from their batterers.

Economic Impact

For fiscal year 2017, the State provided funds in the amount of \$19,376,537 to domestic violence agencies and domestic violence shelters. In calendar year 2017, approximately 1,479 women, 1,571 children, and nine men received temporary refuge in emergency shelter for domestic violence.

The proposed amendments and repeal make no substantive change to the existing rules and will have no economic impact.

Federal Standards Statement

The rules proposed for re adoption with amendments and a repeal are not subject to Federal standards or requirements, and a Federal standards analysis is not applicable to the rulemaking.

Jobs Impact

The rules proposed for re adoption with amendments and a repeal may have a minimal positive impact on jobs generated in the State of New Jersey. Any jobs that may be generated as a result of the rules proposed for re adoption with amendments and a repeal will be in the private sector relative to shelter operations and 24-hour staff coverage. The Division does not anticipate any loss of jobs as a result of the rules proposed for re adoption with amendments and a repeal.

Agriculture Industry Impact

The rules proposed for re adoption with amendments and a repeal has no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for re adoption with amendments and a repeal maintain the established reporting, recordkeeping, and program requirements for shelters for victims of domestic violence in the State of New Jersey. The rules also affect New Jersey shelters for victims of domestic violence that receive funds from the trust fund established pursuant to N.J.S.A. 37:1-12.2, into which is deposited an additional fee of \$25.00 for each marriage or civil union license issued in New Jersey.

Domestic violence shelters are required to provide services to their clientele. Shelter services include, but are not limited to: 24-hour shelter entry, hotline and information referral; legal, financial, and housing advocacy; supportive counseling; community education, training, and awareness; community networking; and children's services. Domestic violence shelter services are essential and vital to the clientele of the shelters.

All shelters that apply for and receive funding for shelter programs are subject to fiscal and program reviews by the Department of Children and Families, Area Business Offices, that manage the contracts through routine monitoring and supervision. Costs for such professional services and costs for compliance are funded by the State through contracts with the domestic violence shelters.

There are 23 domestic violence shelters that fall within the definition of small business, as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. It is not appropriate or necessary to establish different standards that would apply to larger or smaller shelters, as all regulated entities are small businesses or governmental entities. No capital expenditures are imposed by the rules proposed for re adoption with amendments.

Housing Affordability Impact Analysis

The rules proposed for re adoption with amendments and a repeal will have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules proposed for re adoption with amendments and a repeal would evoke a change in the average cost associated with housing because the rules pertain to the Division on Women Standards for Shelters for Victims of Domestic Violence.

Smart Growth Development Impact Analysis

The rules proposed for re adoption with amendments and a repeal have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to the Division on Women Standards for Shelters for Victims of Domestic Violence.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 3A:57.

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

SUBCHAPTER 1. GENERAL PROVISIONS FOR SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE

[3A:57-1.3 Legal authority of chapter

This chapter is promulgated pursuant to N.J.S.A. 30:14-1 et seq., the Shelters for Victims of Domestic Violence Act.]

SUBCHAPTER 2. STANDARDS FOR SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE

3A:57-2.2 Shelter site

A shelter shall provide a residential area, which provides safe refuge for victims of domestic violence. A shelter shall also offer [non-residential] services, including, **but not limited to, 24-hour hotline, advocacy, and supportive counseling [programs] services.** These services may be located at the shelter site or in a separate facility, which can assist victims of domestic violence who have not made a decision to

leave their home, or who have found other [shelter] **accommodations**, but who nevertheless have a need for other domestic violence supportive services provided by the shelter.

3A:57-2.5 Domestic violence shelter services

(a) (No change.)

(b) [Wherever possible, if] **If** requested, a shelter shall arrange referrals to appropriate authorities or agencies, to provide the following services to victims of domestic violence:

1.-3. (No change.)

4. Information regarding education, welfare, and other available social services.

(c) The shelter staff shall advocate on behalf of the clients to assist them [in] **with** receiving equitable, [and] uniform, **and emergency** services from agencies, including, but not limited to, the Department of Children and Families, the Department of Education, State and local public assistance agencies, and local educational agencies, **including temporary housing agencies**, as well as other appropriate governmental and community-based groups or agencies.

(d) A shelter shall have [an] ongoing individual and group counseling [programs] **services with licensed mental health clinicians or access to these services**.

(e) (No change.)

(f) Shelters shall provide supportive recreational programs for [sheltered] children **residing within the shelter**.

(g) (No change.)

3A:57-2.8 Confidentiality

Information that may reveal the identity or location of a person seeking or receiving shelter services shall not be disclosed, except as otherwise specifically required by law. Information that may identify the location of a shelter for victims of domestic violence shall not be deemed to be a public record pursuant to N.J.S.A. 47:1A-1 et seq., 47:1A-5 et seq., 30:14-13, and 30:14-13.1.

3A:57-2.9 Non-discrimination; clients and employees

A shelter shall not discriminate in providing appropriate residential services and other domestic violence services based on race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), familial status, marital **or civil union** status, domestic partnership status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for military service, mental or physical disability, perceived disability, and AIDS and HIV status.

SUBCHAPTER 3. ESTABLISHING AND MAINTAINING SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE THROUGH MARRIAGE LICENSE AND CIVIL UNION FEES AND CIVIL PENALTIES

3A:57-3.1 [Legal authority of subchapter] **Receipt of revenue by Department**

[(a) This subchapter is promulgated pursuant to N.J.S.A. 37:1-12.1 et seq., and P.L. 2001, c. 195, which increased the fees charged for the issuance of a marriage license, imposed civil penalties on persons found to have committed an act of domestic violence, created the "Domestic Violence Victims' Fund," provided for the use of such fees and funds by the Department of Children and Families in establishing and maintaining shelters for victims of domestic violence and which resulted in the adoption of rules to implement the purposes of the legislation.]

[(b)] [Under] **Pursuant to N.J.S.A. 9:3A-9, 37:1-12.1 and 12.2, and [P.L. 2001, c. 195,] 2C:25-29.2**, the Department of Children and Families is authorized to receive revenues from additional \$25.00 fees charged with the issuance of a marriage **or civil union** license and from the civil penalties imposed on domestic violence offenders, for the purposes of maintaining and establishing shelters for victims of domestic violence and for the continued support of direct services to that population.

3A:57-3.2 Delegation of responsibility to the Department of Children and Families

Responsibility for ensuring that revenues are used according to the provisions of N.J.S.A. 37:1-12.1 et seq., is hereby delegated to the Department of Children and Families, **pursuant to N.J.S.A. 9:3A-9**.

3A:57-3.3 Purpose of subchapter

The purpose of this subchapter[, which governs the distribution of collections made through N.J.S.A. 37:1-12.1 et seq. and P.L. 2001, c.195,] is to assure that [such] **the collected** funds are available for the continued support of programs serving victims of domestic violence and for the development of new programs. These programs are essential to provide persons who have been subject to or threatened with violence at home with a safe refuge where they can examine alternatives and receive supportive services.

3A:57-3.4 Scope of subchapter

This subchapter shall apply to all shelters for victims of domestic violence [which] **that** receive funds from the collections made through N.J.S.A. 37:1-12.1 et seq., and [P.L. 2001, c.195] **2C:25-29.2**, within the State of New Jersey.

3A:57-3.5 Funding priorities for marriage license fees

[Designated lead agencies and the New Jersey Coalition for Battered Women] **Agencies** receiving funds from the Department of Children and Families shall be eligible to receive the proceeds of marriage license fee collections. Donor matching will not be required.

3A:57-3.6 Funding priorities for the Domestic Violence Victims' Fund

(a) All moneys deposited in the Domestic Violence Victims' Fund shall be distributed [equally] among the Department of Children and Families' [designated] domestic violence [lead] agencies, specifically for the provision of emergency shelter and related core services to adult victims and their dependent children. Donor matching is not required.

(b) (No change.)

3A:57-3.7 Program fiscal responsibility

(a)-(b) (No change.)

(c) All emergency residential shelter programs applying for or receiving funding under the provisions of this subchapter shall comply with the provisions of this chapter[, Standards for Shelters Serving Victims of Domestic Violence, N.J.A.C. 3A:57] and with the provisions of N.J.A.C. 5:15, Rules Governing Emergency Shelters for the Homeless.

HEALTH

(a)

PUBLIC HEALTH SERVICES BRANCH DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH CANCER EPIDEMIOLOGY SERVICES Cancer Registry

Proposed Readoption with Amendments: N.J.A.C. 8:57A

Proposed Repeals: N.J.A.C. 8:57A Appendices A through M

Authorized By: Shareef Elnahal, MD, MBA, Acting Commissioner, Department of Health (in consultation with the Public Health Council).

Authority: N.J.S.A. 26:2-104 et seq., particularly 26:2-106.

Calendar Reference: See Summary below for an explanation of exception to calendar requirement.

Proposal Number: PRN 2018-035.

Submit written comments by June 15, 2018, electronically to www.nj.gov/health/legal/ecomments.shtml or on paper by regular mail to:

Joy L. Lindo, Director
Office of Legal and Regulatory Compliance
Office of the Commissioner
New Jersey Department of Health
PO Box 360
Trenton, NJ 08625-0360

The agency proposal follows:

Summary

The Department of Health (Department) proposes the readoption with amendments of N.J.A.C. 8:57A, Cancer Registry, and proposed repeal of N.J.A.C. 8:57A Appendices A through M. Pursuant to N.J.S.A. 52:14B-5.1, the chapter was scheduled to expire on March 10, 2018. However, the agency filed this notice with the Office of Administrative Law prior to the expiration date, which extended the expiration of N.J.A.C. 8:57A by 180 days to September 6, 2018, in accordance with N.J.S.A. 52:14B-5.1.c(2).

N.J.A.C. 8:57A implements The Cancer Registry Act, N.J.S.A. 26:2-104 et seq., which requires the Department to maintain the New Jersey State Cancer Registry (NJSCR) and the disease conditions that must be reported thereto. The chapter applies to mandated reporters, identified in the existing rules as administrative officers of health care facilities, physicians, dentists, and other health care providers, health care insurers and other third-party health care payers, and directors of clinical laboratories, which requires them to report certain data concerning New Jersey residents diagnosed with particular types of cancer and specified cases of tumorous or precancerous disease.

The Acting Commissioner reviewed N.J.A.C. 8:57A and determined that the existing rules remain necessary, adequate, reasonable, efficient, understandable, and responsive to the purposes for which they were originally promulgated. In addition, the Acting Commissioner recommends proposing certain amendments to the existing rules to reflect changes in the reporting of cancer related data required by the Federal government. Specifically, the Centers for Disease Control and Prevention (CDC) of the U.S. Department of Health and Human Services, through its National Program of Cancer Registries (NPCR) Program Standards aims to achieve electronic reporting benchmarks of 100 percent for hospitals and 80 percent for non-hospital facilities by 2022. As a grantee of the CDC's Cancer Prevention and Control Programs for State, Territorial, and Tribal Organizations (DP17-1701), the NJSCR is required to adhere to these standards. Other proposed amendments would support electronic submission by utilizing a software system and coding manual for the most up-to-date list of reportable diseases and conditions in the classification of cancerous and precancerous diagnoses issued by the National Cancer Institute (NCI) of the National Institutes of Health (NIH) and CDC.

The following is a summary of the regulatory history of N.J.A.C. 8:57A:

On November 18, 1977, P.L. 1977, c.266, directed the Department to establish a cancer registry based on statistics that showed New Jersey had "the highest overall mortality rates for cancer in the Nation." N.J.S.A. 26:2-104. The Department is responsible for maintaining "an up-to-date registry which shall include a record of cases of cancer and specified cases of tumorous or precancerous disease that occur in New Jersey, and such information concerning these cases as it shall deem necessary and appropriate in order to conduct thorough and complete epidemiologic surveys of cancer and cancer-related diseases in this State and to apply appropriate preventive and control measures." N.J.S.A. 26:2-105.

On December 13, 1977, the Department adopted N.J.A.C. 8:57-1.19 as an emergency rule requiring the reporting of bladder cancer to assist the Department in an emergency investigation. 10 N.J.R. 12(a).

In response to statutory amendments at N.J.S.A. 26:2-104 through 109, the Department promulgated a new rule at N.J.A.C. 8:57-1.20, which established the NJSCR and the timely, mandatory reporting thereto of cancer and other tumorous and precancerous diseases by administrative officers of every licensed health care facility in the State, physicians and dentists on initial diagnosis, and directors of every

independent clinical laboratory licensed in the State. 10 N.J.R. 30(a); 385(b). Initially, the NJSCR focused on determining correlations between cancer and environmental factors that, if controlled, could reduce the incidence of cancer in the State. N.J.S.A. 26:2-104.

N.J.A.C. 8:57-1.19 and 1.20 expired October 30, 1985, pursuant to Executive Order No. 66 (1978). The Department repealed N.J.A.C. 8:57-1.19 and 1.20, inasmuch as the emergency investigation into bladder cancer was complete and the focus of the rule had changed pursuant to statutory amendment, and N.J.A.C. 8:57-1.20 was relocated as a new rule with amendments at N.J.A.C. 8:57-6, to accomplish the following reporting objectives: maintain a population-based cancer reporting system for New Jersey; provide annual New Jersey cancer incidence data using demographic data for prevention and control activities; promote studies related to high risk groups and occupational occurrence of cancer; expand cancer registry programs in New Jersey health care facilities; and provide education and outcome data to physicians and hospitals. 17 N.J.R. 2836(b); 18 N.J.R. 1283(a).

In 1990, the Department recodified N.J.A.C. 8:57-6 with amendments as N.J.A.C. 8:57A, which expanded the list of reportable diseases to the NJSCR, clarified ambiguous terms used in the interpretation of final cancer diagnoses, and provided the Department access to cancer data from a variety of sources for research related to cancer prevention and control. 21 N.J.R. 3909(a); 22 N.J.R. 1596(a).

In 1995, the Department readopted N.J.A.C. 8:57A with amendments that required hospitals, and provided an option for health care providers, physicians, and dentists, to submit machine-readable data that meet criteria and standards specified by the Department to address the changing health care practices of increased outpatient diagnosis. 27 N.J.R. 629(a); 1988(a).

In 1998, the Department adopted amendments to N.J.A.C. 8:57A to implement statutory amendments that require abstracting work for a health care facility to be performed by a certified tumor registrar; permit the Department to contract out its registry services to those health care facilities that lack the capability to timely comply with reporting mandates; allow the Department to conduct registry services at facilities that fail to correct deficiencies discovered on audit; require all health care facilities to report cases electronically; require health insurers and third party health care payers to report cancer cases to the NJSCR; permit the imposition of civil monetary penalties against any health facility, health care provider, or health insurer that fails to report cancer cases in a timely manner; and provide necessary funding to bring the NJSCR up-to-date, pursuant to N.J.S.A. 26:2-106, effective July 22, 1996. 29 N.J.R. 2759(a); 30 N.J.R. 2903(b).

In 2000, the Department readopted N.J.A.C. 8:57A. 32 N.J.R. 214(a); 1790(a).

In 2005, the Department readopted N.J.A.C. 8:57A with amendments to the list of reportable diseases and conditions at N.J.A.C. 8:57A-1.8(g). 37 N.J.R. 1666(a); 4257(a).

In 2011, the Department readopted N.J.A.C. 8:57A with amendments, new rules, and a repeal, which effectively recast the role of the Public Health Council from advisory to consultative and vested in the Commissioner of Health the responsibility to establish standards and promulgate rules to maintain an up-to-date registry. 42 N.J.R. 2529(a); 43 N.J.R. 850(a).

The following is a summary of the rules proposed for readoption with amendments:

The Department makes technical changes throughout the chapter to implement a statutory amendment at N.J.S.A. 26:2A-2.1 that renames the agency the "Department of Health," updates manual references, and corrects contact information for reference materials.

N.J.A.C. 8:57A-1.1, Purpose and scope, describes the purpose and scope of the subchapter, the purpose of the NJSCR, and the stakeholders to which the chapter applies.

N.J.A.C. 8:57A-1.2, Incorporated and referenced documents, identifies the documents incorporated and referenced by the chapter. The Department proposes to delete existing N.J.A.C. 8:57A-1.2(c) and (d) by deleting existing language that refers to the reporting forms at N.J.A.C. 8:57A Appendices A through M because the NJSCR no longer will support paper-based reporting in accordance with the terms and

conditions of Federal cancer data reporting agencies and would require all cancer data to be submitted electronically.

N.J.A.C. 8:57A-1.3, Definitions, defines words and terms used in the chapter. Proposed amendments to N.J.A.C. 8:57A-1.3 would add definitions for “certified tumor registrar” and “clinical laboratory.” Proposed definition of the term “certified tumor registrar (CTR)” anticipates the changes to be made by the National Cancer Registrars Association, which governs the education and certification of the data information specialists who capture the complete history, diagnosis, treatment, and health status for every cancer patient in the U.S. This amendment would permit CTRs with the new credential to perform reporting and abstracting work for health care facilities and enable those facilities to remain in compliance with N.J.A.C. 8:57A.

N.J.A.C. 8:57A-1.4, Reporting of cancer; general requirements, establishes the general requirements for reporting cancer data to the Department. Proposed amendments to N.J.A.C. 8:57A-1.4(a) and (b) would remove the qualifying term “independent” before the term “clinical laboratories” to maintain consistency with N.J.A.C. 8:57A-1.1(c), which refers to clinical laboratories in general. Proposed amendments to N.J.A.C. 8:57A-1.4(b) would redefine the existing reporting timeframe to align with industry standards. “Date of first contact” is a data element required by the NAACCR Data Standards for Cancer Registries and is defined as “date of first patient contact, as inpatient or outpatient, with the reporting facility for the diagnosis and/or treatment of the tumor.” The existing requirement at N.J.A.C. 8:57A-1.4(b) as written is within six months after diagnosis or three months of discharge, whichever is sooner, which presents difficulties in measurement because diagnosis may not have occurred at the reporting facility and may not capture all patients who are not admitted for cancer treatment. Proposed amendments to N.J.A.C. 8:57A-1.4(c) would allow the NJSCR to define the most appropriate format of follow-up reporting on a case-by case basis. Multiple potential formats exist for reporting follow-up data and may vary by reporting facility type. Electronic reporting of follow-up data in the form of a NAACCR-modified abstract is preferred, but not all software programs have the capability of producing such an abstract. The Department proposes to amend N.J.A.C. 8:57A-1.4(e) that would redefine health care facilities’, physicians’, dentists’, other health care providers’, and clinical laboratories’ options for applying for no-cost registry software because the Rocky Mountain software is no longer used. Health care facilities, physicians, dentists, and other health care providers may contact the NJSCR at njscrdat@doh.nj.gov to obtain Registry Plus™ Web Plus or Abstract Plus software through CDC at no cost. Laboratories may contact the NJSCR to receive electronic laboratory software provided by NIH or CDC at no cost to the facility.

N.J.A.C. 8:57A-1.5, Health care facility reporting, addresses cancer reporting requirements specific to health care facilities. Proposed amendments to N.J.A.C. 8:57A-1.5(b) through (f), would require health care facilities with greater than 100 cancer cases to be required to employ or have under contract a CTR or other equivalent certified professional to oversee case-finding activities, inform the NJSCR of any change in the name and contact information of the CTR, and ensure abstracting services adhere to New Jersey State cancer-reporting rules, as these services may be performed remotely in other states where rules differ from those in New Jersey. The Department expects these amendments would improve completeness of case capture, allow the Department to more easily obtain supplemental information, monitor compliance with reporting, and provide support to the reporting facility. The amendments also would allow the Department to offer facilities the option of contracting with the Department, or the Department’s designee, to perform abstracting services. The Department authorized the Rutgers, Cancer Institute of New Jersey as its designee.

N.J.A.C. 8:57A-1.6, Physician, dentist, and other health care provider reporting, addresses cancer reporting requirements for physicians, dentists, and other health care providers. N.J.A.C. 8:57A-1.6(a) proposed for amendment would simplify the reporting requirements for physicians by removing the qualification for physicians to report only patients who were not seen at another facility. Increasingly, cancer is being treated in the physician office setting, and this treatment is not often captured by other health care facilities. Accurate physician office

reporting of these cases would improve the completeness of treatment information reported to the NJSCR. In addition, it is not always possible for the NJSCR or the physician to confirm whether a patient has been seen in another facility. N.J.A.C. 8:57A-1.6(b), as proposed for amendment, would define acceptable electronic reporting formats for physicians, dentists, and other health care providers. To replace paper-based reporting, NPCR Program Standards require a shift to electronic reporting by physicians and other health care facilities using the free cancer-reporting software provided at proposed N.J.A.C. 8:57A-1.4. The Department proposes to allow electronic reporting in the NAACCR data standard format for cancer registries or in other industry-accepted standard reporting formats that are currently in the process of implementation. These formats would include reporting under the Centers for Medicare and Medicaid Meaningful Use (MU) program and medical claims billing data. Allowing these reporting formats would eliminate the need for duplicate reporting by the physician.

N.J.A.C. 8:57A-1.7, Clinical laboratory reporting, addresses cancer reporting requirements for clinical laboratories. N.J.A.C. 8:57A-1.7(a), as proposed for amendment, would define acceptable electronic reporting formats for clinical laboratories to replace paper-based reporting because CDC’s NPCR Program Standards favor electronic reporting by laboratories and other health care facilities and such cancer reporting software is available at no cost to these providers as set forth at proposed N.J.A.C. 8:57A-1.4.

N.J.A.C. 8:57A-1.8, Health care insurer reporting, addresses cancer reporting requirements for health care insurers.

N.J.A.C. 8:57A-1.9, Supplemental information, establishes the requirement for health care facilities, physicians, dentists, and other health care providers and clinical laboratories to provide the Department supplemental information upon request. N.J.A.C. 8:57A-1.9, as proposed for amendment, would delete the forms that no longer will be used for submitting supplemental information and establishes that the NJSCR would contact the reporter for the supplemental information and direct the manner of submission at the time of the request.

N.J.A.C. 8:57A-1.10, Access to information and records, addresses the obligation of every health care facility, clinical laboratory, physician, dentist, or other health care provider and health care payers to allow the Department or its designee access to records related to cancer cases. Proposed amendments to N.J.A.C. 8:57A-1.10(a) and (b) would remove the qualifying term “independent” from clinical laboratories to maintain consistency within the subchapter, particularly with N.J.A.C. 8:57A-1.1(c), which refers to clinical laboratories in general. Proposed amendments to N.J.A.C. 8:57A-1.10(a) would allow remote, electronic access to records, where available, to reduce costs to the Department associated with travel to and from health care facilities and may reduce the expenditure of health care facility resources by eliminating the need to provide space on-site for NJSCR staff. Proposed new N.J.A.C. 8:57A-1.10(f)2 would allow the Department to release limited summary information to the patient or next-of-kin, with written authorization, for the purposes of the health or welfare of the patient or their descendants. Proposed new N.J.A.C. 8:57A-1.10(f)3 would permit healthcare providers to make written requests to the Department for release of pertinent patient cancer information for treatment purposes.

Existing N.J.A.C. 8:57A-1.11 identifies reportable diseases and conditions. The lists of reportable conditions at subsections (a) and (g) are subject to rapid obsolescence as the science of oncology progresses. To avoid this, the Department proposes to amend this section to delete existing subsections (a) and (g), recodify existing subsection (b) as new subsection (a), add new subsection (b), which would identify reportable diagnoses by histology and behavior as specified in the ICD-O, recodify, reorganize, and combine existing subsections (c) and (d), which contain exceptions to reportability, as new subsection (c), and recodify existing subsections (e) and (f) as new (d) and (e).

N.J.A.C. 8:57A-1.12, Audit, letter and notice of violations and enforcement actions, defines the procedure for the Department to conduct audits of regulated entities and to issue enforcement action for failure to comply with the reporting requirements of the chapter. The Department proposes to amend N.J.A.C. 8:57A-1.12(a) and (b) to remove the qualifying term “independent” from clinical laboratories to eliminate confusion on the requirement of hospital-based clinical

laboratories to report to NJSCR and to maintain consistency within the subchapter, particularly with N.J.A.C. 8:57A-1.1(c), which refers to clinical laboratories in general. The Department proposes to amend N.J.A.C. 8:57A-1.12(f) to enable the NJSCR to report non-compliant mandated reporters to the appropriate State licensing authorities that could subject such entities to potential enforcement actions that affect licensure status, as provided by statute and regulation. The previously existing civil monetary penalties for noncompliance have not been changed.

N.J.A.C. 8:57A-1.13, Civil monetary penalties, sets forth the process for assessing a per day fine for health care facilities with violations for unreported cancer cases and failure to report electronically to the NJSCR, as well as providing the Department discretion for mitigation of penalties on a fact-specific basis.

N.J.A.C. 8:57A-1.14, Failure to pay a penalty; remedies, establishes the process mandated reporters must follow to pay a Notice of Violation and Penalty Assessment and identifies enforcement actions available to the Department for non-payment pursuant to the Penalty Enforcement Law at N.J.S.A. 2A:58-10.

N.J.A.C. 8:57A-1.15, Hearings, sets forth the rights of mandated reporters to request a hearing upon receipt of a Notice of Violation and Penalty Assessment, whereby the Department transmits the request for a hearing to the Office of Administrative Law pursuant to the Administrative Procedure Act at N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq.

N.J.A.C. 8:57A-1.16, Settlement of enforcement actions, provides a process by which mandated reporters may request the Department settle an enforcement action in lieu of conducting an administrative hearing, whereby funds recovered by the Department are dedicated to the NJSCR.

The Department proposes to repeal the following appendices that contain reporting formats that are no longer acceptable by the Federal government, as discussed above.

N.J.A.C. 8:57A APPENDIX A is the "Radiation Therapy Facility Report Form."

N.J.A.C. 8:57A APPENDIX B is the "Ambulatory Surgery Center Report Form."

N.J.A.C. 8:57A APPENDIX C is the "Physician Report Form."

N.J.A.C. 8:57A APPENDIX D is the "Dentist Report Form."

N.J.A.C. 8:57A APPENDIX E is the "Laboratory Report Form."

N.J.A.C. 8:57A APPENDIX F is the "Hospice Program Report Form."

N.J.A.C. 8:57A APPENDIX G is the "Hematology/Oncology Physician Report."

N.J.A.C. 8:57A APPENDIX H is the "Hematology/Oncology Information Request."

N.J.A.C. 8:57A APPENDIX I is the "Cancer Registry Survey."

N.J.A.C. 8:57A APPENDIX J is the "Diagnostic Laboratory Information Request."

N.J.A.C. 8:57A APPENDIX K is the "Rocky Mountain Cancer Data Software (RMCDS) Information Request."

N.J.A.C. 8:57A APPENDIX L is the "Death Certificate Follow-Back Report."

N.J.A.C. 8:57A APPENDIX M is the "NJSCR Follow-Back Physician Form."

The Department has provided a 60-day public comment period on this notice of proposal; therefore, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

In 2018, the NJSCR expects to receive over 300,000 reports of cancer among New Jersey residents. Health care facilities are the primary source of reporting cancer cases. However, as cancer care patterns trend toward the ambulatory setting, non-hospital health care providers are becoming an increasingly critical source of information for the NJSCR. Physicians, dentists, clinical laboratories, and other health care providers report treatment performed outside the hospital setting as well as cancer cases in patients who do not require hospitalization. Because of this trend, and owing to the importance of ensuring that all cases of cancer among New Jersey residents, including complete treatment information,

are documented in the NJSCR, the CDC has established program standards requiring the NJSCR to ensure electronic reporting from 80 percent of non-hospital facilities by 2022.

The NJSCR's database contains nearly 1.8 million cases of cancer diagnosed since October 1, 1978. Data collected include but are not limited to demographic information (name, date of birth, gender, race, ethnicity, and address at diagnosis) and medical information (primary site, histological type, stage of disease at diagnosis and treatment, and survival). The Department uses these data to monitor cancer trends, make comparisons to national data, plan and evaluate cancer prevention and control initiatives, investigate community cancer concerns, and conduct epidemiological studies of cancer causes and treatment outcomes.

Over 400 scientific papers and reports have been produced using the NJSCR data, thereby contributing to the understanding of cancer in New Jersey. The NJSCR has been recognized nationally for excellence by the NCI, CDC, and the North American Association of Central Cancer Registries (NAACCR). NCI's Surveillance, Epidemiology and End Results (NCI/SEER) program has awarded the NJSCR with first-place recognition for meeting all 14 data quality measures for the last three years. NJSCR has been recognized as a Registry of Excellence by the CDC's National Program of Cancer Registries. The NJSCR has earned the NAACCR gold certification 19 out of the 20 years since the inception of the award (the one exception being a silver certification in 2014). See <http://www.naacr.org>.

New Jersey's diverse, multi-ethnic population and unique environmental factors make the State an excellent place to study cancer differences and similarities in comparative populations. Population-based data are essential in assisting in the research and development of treatment protocols that combat cancer. The data inform health care planners and policy makers of trends that aid in activating plans and policies regarding cancer. A number of research programs use these data for the control and prevention of cancer and for special investigations of cancer etiology and treatment outcomes.

The rules proposed for readoption with amendments and repeals would continue to have a beneficial social impact since cancer remains a leading cause of morbidity and mortality in this State, as well as in the entire nation. The increased focus on electronic reporting proposed in these rules would expedite the mechanism for reporting cancer and pre-cancerous conditions to the NJSCR and improve the timely availability of complete cancer data and statistics to researchers, policy makers, and the public.

Non-substantive changes to the rules may positively impact among members of the regulated community by providing a greater understanding of the meaning of the rules, and therefore, may improve compliance. Other positive outcomes from the proposed amendments could be significant reduction in paper-based reporting, shifting toward more electronic reporting by utilizing existing IT systems and infrastructure, thus ensuring data integrity and improving the timely availability of complete cancer data to researchers, policy makers, and the public.

The proposed amendment to N.J.A.C. 8:57A-1.4(b) would simplify timing of reporting for the regulated community and bring it into alignment with industry standards. Date of first contact is a well-defined date specific to each reporting facility, while date of diagnosis and date of discharge may be unknown to or vary by facility. This proposed amendment also would facilitate the ability of the Department to assess the compliance of reporting facilities with timing requirements of N.J.A.C. 8:57A-1.4 to identify delinquent reporters and improve the timely availability of complete cancer data to researchers, policy makers, and the public. Proposed amendments to N.J.A.C. 8:57A-1.4(e) would provide health care facilities, physicians, dentists, clinical laboratories, and other health care providers instructions for accessing no-cost software to facilitate electronic cancer reporting to the NJSCR.

The proposed amendments to N.J.A.C. 8:57A-1.5(b) would anticipate potential changes in the name of the Certified Tumor Registrar (CTR) credential by the NCRA. This proposed amendment would allow reporting facilities to utilize staff with the expected new credential and remain in compliance with N.J.A.C. 8:57A. An additional proposed amendment to N.J.A.C. 8:57A-1.5(b) would require hospitals that

contract with outside agencies for cancer registry reporting ensure that these agencies follow New Jersey cancer reporting rules and standards, which the Department anticipates would improve the quality of the data that is reported to NJSCR and that would be available to researchers, policy makers, and the public.

Proposed amendments at N.J.A.C. 8:57A-1.6(b) would allow physician reporting under the Centers for Medicare and Medicaid Meaningful Use (MU) program and other innovative reporting mechanisms currently in development at NCI and NJSCR (that is, medical billing claims data) to satisfy the cancer reporting requirements of N.J.A.C. 8:57A. The current rule creates redundant reporting for physicians, requiring reporting under both MU and N.J.A.C. 8:57A. This amendment would eliminate the need for physicians to dual report, thus easing the burden on these providers. These electronic reporting mechanisms replace the need for paper-based reporting forms. The proposed amendment at N.J.A.C. 8:57A-1.6(c) eliminates the need for providers to complete the paper Cancer Registry Survey, which is redundant with their registration for reporting electronically under amended N.J.A.C. 8:57A-1.4 and 1.6.

The Department believes the proposed amendments to N.J.A.C. 8:57A-1.7 would improve the electronic case capture of cancer from clinical laboratories providing services for New Jersey residents, which likely would ensure data integrity and provide more timely availability of complete cancer data to researchers, policy makers, and the public. Currently, 32 hospital-based and 34 independent clinical laboratories report to NJSCR electronically via software provided by the National Cancer Institute and at no cost to the reporting facility. No-cost software also is available now from the CDC that would allow all laboratories to report electronically to the NJSCR via the Public Health Information Messaging System (PHIN MS). Currently, eight independent clinical laboratories report to NJSCR via PHIN MS. The proposed amendment would allow all laboratories to determine the reporting mechanism that best meets their needs.

Proposed amendments to N.J.A.C. 8:57A-1.10 would allow the Department to release limited cancer record summaries to the patient or their next-of-kin, with the positive social impact of improving individuals access to cancer registry information that are no longer available from the physician or hospital due to record retention and destruction policies, hospital or clinic closures, physician retirements, or natural disasters. Better understanding of personal and familial history of cancer improves the individual's ability to make informed decisions around health care and cancer screening. Additional proposed amendments to N.J.A.C. 8:57A-1.10 would allow the Department to release diagnostic, treatment, or follow-up information about a patient to a physician or medical facility involved in the patient's care. This may aid providers in ensuring patients receive appropriate care during and after their initial treatment and may help providers to assess outcomes and make improvements in their own practice.

The proposed amendments to N.J.A.C. 8:57A-1.11 remove the list of reportable conditions and incorporate by reference the reporting requirements published by the NCI/SEER Program, which would allow the regulated community to maintain the most up-to-date list of reportable diseases and conditions.

Economic Impact

The rules proposed for readoption with amendments and repeals impose requirements on health care facilities, independent and hospital-based clinical laboratories, physicians, dentists and other health care providers, and health care insurers and other third-party payers. The information required for reporting is information that regulated entities, subject to the chapter's reporting requirements, routinely collect in the ordinary course of health care practice.

Existing N.J.A.C. 8:57A-1.5(b) requires health care facilities that diagnose or treat 100 or more cancer cases per year to either employ or retain the services of a Certified Tumor Registrar to perform abstracting for the purpose of reporting of cancer data. These facilities have incurred and would continue to incur costs associated with the employment or retention of a registrar.

Some entities subject to the chapter's reporting requirements elect to purchase reporting software as part of their existing cancer practices. All

hospitals have the capacity to report data electronically. However, upon request, the Department provides the necessary cancer-reporting software and associated training in the use of the software at no cost to entities subject to the chapter. The rules proposed for readoption with amendments and repeals have required and would continue to require entities to incur administrative expenses associated with the time needed to train employees in use of the system and the time needed to enter the information into the system and transmit it to the Department.

Under existing N.J.A.C. 8:57A-1.6(b) and 1.7(c), physicians, dentists, other health care providers, and clinical laboratories that report through submission of paper reports incur administrative expenses associated with form completion and postage as well as a certain level of risk to confidentiality when paper-based reports are generated and mailed to the registry. Proposed amendments to N.J.A.C. 8:57A-1.6 and 1.7 provide mechanisms for physicians, dentists, other health care providers, and clinical laboratories to report electronically, eliminating the burden associated with paper reporting, enhancing data integrity, and significantly decreasing risks to confidentiality. The rules proposed for readoption with amendments and repeals would require reporting entities to incur administrative expenses associated with the time needed to train employees in the use of the system and to enter information into the system to transmit to the Department. When available, the Department may provide cancer-reporting software and associated training in the use of the software at no cost to the reporting entities subject to the chapter. The time and cost associated with submitting electronically is not anticipated to be significantly greater than reporting on paper and may be less in the long term. The NJSCR funding sources include monies from Federal, State, and collaborating researchers, such as universities and private companies.

Proposed amendments to N.J.A.C. 8:57A-1.7 and 1.12 may result in penalties imposed by the Department or other actions pursuant to the appropriate State licensing authorities for failure to comply with the provisions of N.J.A.C. 8:57A. The previously existing civil monetary penalties for noncompliance have not been changed.

The provision of timely and accurate cancer data is essential for developing a complete picture of cancer in New Jersey. In the long term, the reporting of cancer data benefits the public through the provision of important information that public and private health care agencies and governmental authorities use in the planning and funding of cancer prevention and control activities. Identifying high-risk populations, trends, and disparities specific to this State result in the economically efficient allocation of public health resources.

In terms of cost efficiency studies of the NJSCR, Dr. Hannah K. Weir and colleagues analyzed state variations in average cost per case of cancer reported by 43 state cancer registries and the cancer registry for the District of Columbia in their article entitled "The National Program of Cancer Registries: Explaining State Variations in Average Cost per Case Reported," published in the journal *Preventing Chronic Disease* in July 2005. The authors reported that the average cost per case of cancer reported tended to decrease with increasing total number of cases reported by the state, and that the cost per case reported tended to increase in areas with higher costs of living. New Jersey is among the states that reports a higher number of cancer cases each year, due to the State's large population. The cost per case in New Jersey was found to be \$11.01, nearly 67 percent lower than the national average of \$29.20. The Department is not aware of any more recent cost analyses of state cancer registries in the United States. The Department believes that the benefits of the NJSCR in reducing the burden of cancer among the residents of this State outweigh the associated costs.

Existing N.J.A.C. 8:57A-1.10 required reporting entities to provide Department personnel, or their designee, with access to all records pertinent to its cancer cases as necessary for fulfilling the functions of the NJSCR. Proposed amendments to N.J.A.C. 8:57A-1.10 would leverage existing information technology infrastructure to provide NJSCR staff access to these records without the expense of physical travel to the facility, thereby further reducing the cost per case of cancer data collection in New Jersey. Additionally, the fact that patients and next-of-kin would now be allowed to access records previously filed with the Cancer Registry and now no longer available elsewhere can be expected to improve treatment outcomes.

Federal Standards Analysis

The Department proposes to readopt the rules at N.J.A.C. 8:57A with amendments and repeals pursuant to the authority of N.J.S.A. 26:2-104 et seq., particularly 26:2-106b. Nevertheless, there are Federal laws and standards that are applicable to cancer registries and the rules at N.J.A.C. 8:57A.

The Cancer Registries Amendment Act (Pub. L. 102-515, enacted October 24, 1992) authorizes the Secretary of the U.S. Department of Health and Human Services to make grants to states to support the collection of cancer data by the operation of statewide cancer registries. Section 3 of the Act, codified at 42 U.S.C. § 280e, specifically conditions grant eligibility on a state's promulgation of statutes and regulations implementing its cancer registry. 42 U.S.C. § 280e(c)(2)(D) provides a state's regulations must: 1) require reporting of newly diagnosed cancer cases by hospitals and other health-care facilities; 2) require reporting of cancer cases by physicians and other health-care practitioners; 3) guarantee access by the statewide cancer registry to all records of medical status of persons with cancer; 4) require the use of standardized reporting formats; 5) ensure confidentiality of cancer case data; 6) allow use of confidential case data by certain researchers; 7) authorize the conduct of studies using cancer registry data; and 8) ensure protection of persons complying with the law from liability.

The rules proposed for readoption with amendments and repeals meet and do not exceed these requirements, thereby making the Cancer Registry eligible for Federal funding under the National Program of Cancer Registries (NPCR) funded by the Centers for Disease Control and Prevention. The NPCR Program Standards, 2017 to 2022, require the NJSCR, as a recipient of Federal funding, to increase the percentage of non-hospital facilities reporting to the NJSCR to at least 80 percent by 2022.

The Benign Brain Tumor Cancer Registries Amendment Act, Pub. L. 107-260, signed on October 29, 2002, requires state cancer registries participating in the NPCR to collect data on benign and borderline tumors of the central nervous system in addition to the previously required data on malignant tumors. The rules proposed for readoption with amendments meet, but do not exceed, this Federal standard.

Jobs Impact

The rules proposed for readoption with amendments and repeals may have created, and may continue to create, a demand for personnel in positions requiring specialized training in the use of cancer reporting systems.

Except as described above, the rules proposed for readoption with amendments and repeals would have no impact in the creation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments and repeals have not had an impact on the agriculture industry, and the Department does not anticipate that the rules proposed for readoption with amendments and repeals would have an impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments and repeals would continue to impose reporting requirements on health care facilities (hospitals), which are the primary source of reporting cancer cases. In addition, the rules proposed for readoption with amendments and repeals would continue to require physicians, dentists, other health care providers, and clinical laboratories to report cancer cases treated on an outpatient basis. Hospitals and health care insurers are not small businesses within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Physicians, dentists, other health care providers, and clinical laboratories may be small businesses within the meaning of the Regulatory Flexibility Act.

The rules proposed for readoption with amendments and repeals would continue to require small businesses subject to the chapter to report cancer data. The proposed amendment at N.J.A.C. 8:57A-1.6(a) may result in a small increase in the number of cases required to be reported by small business. Although the Department has no statistics quantifying the number of such cases that have been reported to the NJSCR, the Department does not expect the proposed amendments and

repeals to have any significant impact on the burden of cancer reporting on these entities. Information on whether or not a patient has been referred to or previously diagnosed in a health care facility may not be readily available or clear to the reporting physician, dentist, or other health care provider, thus resulting in an unclear determination of the reportability of the case to the NJSCR. This proposed amendment removes the ambiguity and eliminates the need for the reporting entity to research the patient's hospitalization history. In addition, the act of referring a patient to a health care facility does not confirm that the patient was seen at and reported by the health care facility. For these reasons and the ability of physicians, dentists, and other health care providers who treat cancer patients in the outpatient setting to provide essential information on this treatment to the NJSCR, the potential small economic impact on reporting entities is justified. As described in the Economic Impact above, the rules proposed for readoption with amendments and repeals have required and would continue to require these small businesses to obtain reporting software and associated training services either from an outside vendor or free of charge from the Department and to incur administrative expenses associated with the time needed to train employees in the use of the software and to enter the required cancer data. Also, as noted above, the Department has and will continue to assist health care providers in obtaining free software and training, which, in the long run, may reduce the administrative costs associated with reporting to the registry.

The rules proposed for readoption with amendments and repeals do not require small businesses subject to the chapter to retain the services of professionals in order to comply. The Department has made no provision for lesser or differing standards to minimize the burden of the rules on small businesses. The Department has determined that the rules proposed for readoption with amendments and repeals impose the minimum standards necessary to implement the statutory mandate to establish a thorough and complete cancer registry, to provide thereby an accurate picture of the incidence of cancer in New Jersey. These data are essential for public health policy and planning for cancer control and prevention. The provision of exclusions, exemptions, or variations in data reporting from small businesses would skew the accuracy and completeness of the NJSCR. Moreover, to require less than complete reporting on New Jersey cancer cases from small businesses subject to the chapter potentially would be inconsistent with the requirements of and conflict with the Federal standards described in the Federal Standards Statement above, thereby jeopardizing the NJSCR's eligibility for Federal funding to support its efforts.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and repeals would have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing. The rules have concerned and would continue to concern the reporting of cases of cancer and specified cases of tumorous or precancerous disease to the NJSCR.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and repeals would have an insignificant impact on smart growth, and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The rules proposed for readoption with amendments and repeals have concerned and would continue to concern the reporting of cases of cancer and specified cases of tumorous or precancerous disease to the NJSCR.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:57A.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 8:57A Appendices A through M.

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

SUBCHAPTER 1. CANCER REGISTRY

8:57A-1.1 Purpose and scope

(a) The purpose of this subchapter is to:

1. Implement N.J.S.A. 26:2-104 through 109, which authorizes the Department of Health [and Senior Services] to establish and maintain the New Jersey State Cancer Registry (NJSCR) as the Statewide repository of records of cases of cancer and specified cases of tumorous or precancerous disease that occur in New Jersey;

2.-3. (No change.)

(b)-(c) (No change.)

8:57A-1.2 Incorporated and referenced documents

(a) The Department incorporates by reference, as amended and supplemented, the following documents in this subchapter:

1. [The e-path Reporting Site Information Checklist (based on the National Cancer Institute's Surveillance Epidemiology End Results (SEER) Program Case Finding List, effective January 2010), developed by the] Artificial Intelligence in Medicine Incorporated[, 2 Berkeley Street, Suite 403, Toronto, Ontario, Canada M5A 2W3,]. **"The e-path Reporting Site Information Checklist,"** which is based on the National Cancer Institute's Surveillance Epidemiology End Results (SEER) Program Case Finding List, effective January 2010, and will be used by pathology laboratories to send site information in order to implement electronic cancer case-finding and pathology data gathering for the NJSCR, and is available through request to the NJSCR, and for which the contact information is Artificial Intelligence in Medicine Incorporated, 2 Berkeley Street, Suite 403, Toronto, Ontario, Canada M5A 2W3;

2. The [SEER Program Code Manual 2007, developed by the Surveillance Epidemiology and End Results (SEER) Program of the] National Cancer Institute, Division of Cancer Control and Population Sciences, Surveillance Research Program, Cancer Statistics Branch/SEER Program[, 6116 Executive Boulevard, Suite 504, MSC 8316, Bethesda, MD 20892-8316, Telephone: (301) 496-8510,]. **"The SEER Program Coding and Staging Manual 2016, updated January 4, 2017,"** which is used for abstracting and coding cancer data, and is available online at: <http://seer.cancer.gov>, and for which the contact information is NCI, 9609 Medical Center Drive, MSC 97608, Bethesda, MD 20892-9760, Telephone: 1-800-4-CANCER (1-800-422-6237) in English and Spanish languages;

3. The [NAACCR Data Standards for Cancer Registries — Data Standards and Data Dictionary (Volume II-Version 12), developed by the] North American Association of Central Cancer Registries (NAACCR), [Executive Office, 2121 West White Oaks Drive, Suite B, Springfield, IL 62704-6495, Telephone: (217) 698-0800,] Inc. **"The NAACCR Data Standards for Cancer Registries — Data Standards and Data Dictionary (Volume II-Version 16),"** which is used by health care facilities, physicians, dentists, and other health care providers to electronically submit data to the NJSCR, and is available online at: <http://www.naaccr.org/StandardsandRegistryOperations/VolumelI.aspx>, and for which the contact information is NAACCR, 2050 W. Iles, Suite A, Springfield, IL 62704-4194, Telephone: (217) 698-0800; [and]

4. The [NAACCR Standards for Cancer Registries Volume V: Pathology Laboratory Electronic Reporting, Version 2.1 (effective January 1, 2008), developed by the] North American Association of Central Cancer Registries (NAACCR), [Executive Office, 2121 West White Oaks Drive, Suite B, Springfield, IL 62704-6495, Telephone: (217) 698-0800,] Inc. **"The NAACCR Standards for Cancer Registries Volume V: Pathology Laboratory Electronic Reporting, Version 4.0 (effective April 1, 2011), including Chapter 3: "Implementation guidelines with rules for formatting messages carrying synoptic reports,"** which sets forth the Health Level 7 (HL-7) Version [2.3.1] 2.5.1 standard protocol that [independent or hospital-based] clinical laboratories [must] may use [if they chose] to make reports to the Department electronically and is available online at: <http://www.naaccr.org/StandardsandRegistryOperations/VolumelI.aspx>, <http://www.naaccr.org/StandardsandRegistryOperations/VolumelV.aspx>, and for which the contact information is NAACCR, 2050 W.

Iles, Suite A, Springfield, IL 62704-4194, Telephone: (217) 698-0800; and

5. World Health Organization. **"International classification of diseases for oncology (ICD-O)—3rd edition, 1st revision, 2013,"** which is used to classify oncologic conditions for inclusion in cancer registry data, and which is available online at http://apps.who.int/iris/bitstream/10665/96612/1/9789241548496_eng.pdf.

(b) The Department references the following documents, as amended and supplemented, as guidance in this subchapter:

1. New Jersey State Cancer Registry (NJSCR), Cancer Epidemiology Services, New Jersey Department of Health. **"The NJSCR 2017 Program Manual: Instructions For Health Care Facilities,"** [written and published by the New Jersey Department of Health and Senior Services, Cancer Epidemiology Services to] which provides guidance to health care facilities on the electronic transmission of data to the Department and [to provide] information from Federal programs that establish standards for cancer registries and which is available online at: http://nj.gov/health/ces/cancer-reporting_hos.shtml <http://www.nj.gov/health/ces/reporting-entities/registrars/index.shtml>; and

2. New Jersey State Cancer Registry (NJSCR), Cancer Epidemiology Services, New Jersey Department of Health. **"The NJSCR Abstract Instruction Manual For Physicians, Ambulatory Care Centers and Radiation Treatment Facilities [2008] 2017,"** [written and published by the New Jersey Department of Health and Senior Services, Cancer Epidemiology Services to] which provides guidance to physicians, ambulatory care centers (ACCs), and radiation treatment facilities (RTFs) on the electronic [or written] transmission of data to the Department and which is available online at: http://nj.gov/health/ces/cancer-reporting_phy.shtml <http://www.nj.gov/health/ces/reporting-entities/non-hospital/>.

(c) The Department incorporates by reference the following forms in this subchapter:

1. The Radiation Therapy Facility Report Form (N.J.A.C. 8:57A Appendix A), which is a form required of radiation facilities to report radiotherapy treatment information for cases of cancer to the NJSCR;

2. The Ambulatory Surgery Center Report Form (N.J.A.C. 8:57A Appendix B), which is a form required of ambulatory care centers to report surgical cancer diagnosis and cancer treatment to the NJSCR;

3. The Physician Report Form (N.J.A.C. 8:57A Appendix C), which is a form required of physicians to report information on cancer diagnosis or treatment at their respective practices to the NJSCR;

4. The Dentist Report Form (N.J.A.C. 8:57A Appendix D), which is a form required of dentists to report information on non-hospitalized cases of cancer to the NJSCR;

5. The Laboratory Report Form (N.J.A.C. 8:57A Appendix E), which is a form required of laboratories to report cancer diagnoses to the NJSCR;

6. The Hospice Program Report Form (N.J.A.C. 8:57A Appendix F), which is a form required of hospice providers to report patients diagnosed with cancer to the NJSCR;

7. The Hematology/Oncology Physician Report (N.J.A.C. 8:57A Appendix G), which is a form required of physicians to report information on cases of hematopoietic cancer to the NJSCR;

8. The Hematology/Oncology Information Request (N.J.A.C. 8:57A Appendix H), which is a form that physicians shall use to report information about their practice to the NJSCR, upon request;

9. The Cancer Registry Survey (N.J.A.C. 8:57A Appendix I), which is a form required of physicians, dentists, or health care providers to report information on their practice when they report cases of cancer to the NJSCR the first time or if they have just opened their practice in New Jersey;

10. The Diagnostic Laboratory Information Request form (N.J.A.C. 8:57A Appendix J), which is a form that clinical laboratories located in New Jersey shall use to report information about their laboratory to the NJSCR, upon request, and to request software in order to implement electronic cancer case-finding and pathology data gathering for the NJSCR;

11. The Rocky Mountain Cancer Data Software (RMCDS) Information Request (N.J.A.C. 8:57A Appendix K), which is a form required of health care facilities and providers if they choose to apply for

a no-cost software program to report information on cases of cancer electronically to the NJSCR;

12. The Death Certificate Follow-Back Form (N.J.A.C. 8:57A Appendix L), which is a form used to obtain information on New Jersey residents who died with a cancer diagnosis and is only required when the NJSCR determines that there is a need for more information on a specific cancer case, which is based on cancer related cause of death information from the death certificate;

i. If the NJSCR determines that more information is needed, NJSCR staff will mail the appropriate form to the physician or health care facility; and

13. The NJSCR Follow-Back Physician Form (N.J.A.C. 8:57A Appendix M), which is a form used to obtain information on living patients with a cancer diagnosis and is only required when the NJSCR receives insufficient information and needs further details in order to complete abstraction of the case.

i. If the NJSCR determines that more information is needed, NJSCR staff will mail the appropriate form to the physician.

(d) All of the forms in (c) above are available by written request to the NJSCR mailing address.

1. The forms in (c)1 through 13 above are available online through the NJSCR webpage or the Department's Forms webpage at <http://web.doh.state.nj.us/forms/>

8:57A-1.3 Definitions

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

...
"Certified tumor registrar" means a person who has been certified as such, or certified with an equivalent credential, by the National Cancer Registrars Association's (NCRA) Council on Certification, pursuant to N.J.A.C. 8:57A-1.5(b), for which the contact information is NCRA, 13340 Braddock Place, Suite 520, Alexandria, VA 22314, telephone: (703) 299-6640, telefacsimile: (703) 299-6620, e-mail: ctrexam@ncra-usa.org, website: <http://www.ctrexam.org>.

"Clinical laboratory" means a facility that conducts tests on tissue or cellular specimens and/or hematologic examinations in order to diagnose or otherwise characterize a disease.

"Commissioner" means the Commissioner of the New Jersey Department of Health [and Senior Services], or his or her designee.

"Department" means the New Jersey Department of Health [and Senior Services].

...
"NJSCR mailing address" means the mailing address of the New Jersey State Cancer Registry, which is: Cancer Epidemiology Services, New Jersey State Cancer Registry, New Jersey Department of Health [and Senior Services], PO Box 369, Trenton, New Jersey 08625-0369.

"NJSCR webpage" means the webpage of the New Jersey State Cancer Registry available at www.state.nj.us/health/ces/index.shtml www.nj.gov/health/ces.

8:57A-1.4 Reporting of cancer; general requirements

(a) Every New Jersey health care facility, physician, dentist, other health care provider, and [independent] clinical laboratory shall report [all cases of cancer and other specified tumorous and precancerous diseases] to the Department [in accordance with] the [list of] reportable diseases and conditions established at N.J.A.C. 8:57A-1.11.

(b) Every New Jersey health care facility, physician, dentist, other health care provider, and [independent] clinical laboratory shall submit all case reports within six months of the date of [diagnosis or within three months of the date of discharge from the reporting facility, whichever is sooner] **first contact with the patient for the reportable condition as defined by the NAACCR Data Standards for Cancer Registries—Data Standards and Data Dictionary (Volume II—Version 16).**

(c) Every New Jersey health care facility shall submit follow-up [reports] data on each cancer case, as requested **and in the format specified** by the Department, to confirm the patient's vital status until the patient's death.

(d) Every New Jersey health care facility, physician, dentist, and other health care provider shall use the SEER Program [Code] **Coding and Staging Manual [2007] 2016** when abstracting and coding cancer data.

(e) [If health care facilities and physicians choose to] **A health care facility, physician, dentist, other health care provider, or clinical laboratory may** apply for a no-cost software program [, which would be used] to report information on cases of cancer **electronically** to the NJSCR [, they shall use the Rocky Mountain Cancer Data Software Information Request, available at N.J.A.C. 8:57A Appendix K] **by contacting the NJSCR at njscrdat@doh.nj.gov.**

8:57A-1.5 Health care facility reporting

(a) The administrative officer of every health care facility shall report to the Department every case of cancer or other specified tumorous and precancerous disease when it is initially diagnosed, [or] when the patient is first admitted or treated for any reason in that facility[.

1. The administrative officer of the health care facility shall also submit to the Department a report for each], **including admissions and discharges to inpatient or outpatient services, and when subsequent primary cancer is diagnosed in that patient.**

(b) A [certified tumor registrar] **certified tumor registrar** shall perform all abstracting work [from] **and oversee all case-finding for** a health care facility that diagnoses [or] **and/or** treats 100 or more cancer cases per year.

[1. The certified tumor registrar shall be certified by the National Cancer Registrars Association's Council on Certification, 1340 Braddock Place, Suite 203, Alexandria, VA 22314, <http://www.ctrexam.org>, telephone: (703) 299-6640; telefacsimile: (703) 299-6620, e-mail: ctrexam@ncra-usa.org;

[2.] 1. [The certified tumor registrar shall be either employed by] **Either** the health care facility or [employed by] an abstract-coding service under contract [by] **with** the health care facility **shall employ the certified tumor registrar; and**

[3.] 2. [The] A health care facility shall [have until August 3, 2000 to comply with the provisions of (b) above.] **notify the NJSCR by e-mail to ops.njscr@doh.nj.gov of the name and contact information for the certified tumor registrar, and of any changes to registry staff or contact information; and**

3. A health care facility that contracts with an abstract-coding service shall be responsible for ensuring the abstract-coding service complies with the provisions of this chapter.

(c) The **administrative officer of every health care facility shall ensure that the** information to be reported, as set forth in (a) above, [shall:

1. Be] is submitted electronically using the NAACCR Data Standards for Cancer Registries — Data Standards and Data Dictionary (Volume II — Version [12] 16)[;], **as amended and supplemented, and**

[2. Include] **includes all required data elements set forth in the NAACCR Data Standards for Cancer Registries—Data Standards and Data Dictionary (Volume II), such as patient identifying information, medical history, cancer treatment, and cancer stage at diagnosis.**

(d) Health care facilities may use the NJSCR **2017 Program Manual: Instructions For Health Care Facilities, incorporated herein by reference, as amended and supplemented,** for guidance in abstracting **and reporting.**

(e) Health care facilities that lack adequate internal capabilities to report cases in accordance with the requirements of (b) and (c) above shall contract with the Department **or its designee** to provide abstracting services.

(f) The Department **or its designee** shall charge a fee, based upon the fair market value of services, to health care facilities for the provision of services set forth at (e) above.

(g) A health care facility [which] **that** fails to comply with the provisions of this subchapter shall be liable for a penalty of up to \$500.00 per unreported case of cancer or other specified tumorous and precancerous disease.

(h) A health care facility[, which] **that** fails to report cases of cancer or other specified tumorous and precancerous diseases electronically shall be liable for a penalty not to exceed \$1,000 per business day.

8:57A-1.6 Physician, dentist, and other health care provider reporting

(a) Every physician, dentist, or other health care provider who diagnoses or provides treatment for cancer patients shall **submit an electronic** report to the Department **with** an initial diagnosis of each case of cancer or other specified tumorous and precancerous disease [not referred to or previously diagnosed in a health care facility in the State of New Jersey].

1. The physician, dentist or health care provider shall also submit to the Department a report for] **and for** each subsequent primary cancer diagnosed in that [individual].

(b) The information to be reported in (a) above shall:

1. Be submitted electronically] **person**, using **either** the NAACCR Data Standards for Cancer Registries — Data Standards and Data Dictionary (Volume II — Version [12] **16**) **or another standard electronic reporting format approved by the Department**];

2. Be submitted using the following forms:

i. Physicians shall use the Physician Report Form, available at N.J.A.C. 8:57A Appendix C;

ii. Dentists shall use the Dentist Report Form, available at N.J.A.C. 8:57A Appendix D; and

iii. Other health care providers shall use the forms set forth at N.J.A.C. 8:57A-1.2(c) 1 and 2 and 6 and 7, as appropriate for the type of health care provider; and

3. Include] **that includes all required data elements set forth in the “NAACCR Data Standards for Cancer Registries—Data Standards and Dictionary (Volume II),” such as** patient identifying information, medical history, cancer treatment, and cancer stage.

[(c) The physician, dentist or health care provider shall report information on their practice when they report cases of cancer to the NJSCR the first time or if they have just opened their practice in New Jersey using the Cancer Registry Survey, available at N.J.A.C. 8:57A Appendix I.

i. If applicable, physicians shall use the Hematology/Oncology Information Request, available at N.J.A.C.8:57A Appendix H, to provide information to the Department upon request.]

[(d)] (b) The physician, dentist, or other health care provider may use the “NJSCR Abstract Instruction Manual For Physicians, Ambulatory Care Centers and Radiation Treatment Facilities [2008] **2017,” incorporated herein by reference, as amended and supplemented, as** guidance when reporting.

[(e)] (c) A physician, dentist, or other health care provider who fails to [comply with the provisions of this subchapter] **report cases of cancer or other specified tumorous and precancerous diseases** shall be liable for a penalty of up to \$500.00 per unreported case [of cancer or other specified tumorous and precancerous disease] **for violation of the Cancer Registry Act.**

8:57A-1.7 Clinical laboratory reporting

(a) The director of every [independent or hospital-based] clinical laboratory shall report **electronically** to the Department the results of examinations of tissue specimens and/or hematology examinations that are positive for the existence of cancer or other specified tumorous and precancerous disease [not previously reported from that laboratory].

(b) The information to be reported shall:

1. Be submitted using the Laboratory Report Form, available at N.J.A.C. 8:57A Appendix E; and

2. Include] **using the HL-7 standard protocol set forth in the NAACCR Standards for Cancer Registries Volume V: Pathology Laboratory Electronic Reporting or the NAACCR Data Standards for Cancer Registries—Data Standards and Data Dictionary (Volume II—Version 16), which includes** all available patient identifying information, the tissue examined, and the results of the pathologic examination, and the name, address and/or telephone number of the referring physician.

[(c) The director of the independent or hospital-based clinical laboratory may submit the reports electronically in accordance with:

1. The e-path Reporting Site Information Checklist; and

2. The HL-7 standard protocol set forth in the NAACCR Standards for Cancer Registries Volume V: Pathology Laboratory Electronic Reporting, Version 2.1.

(d) The director of the independent or hospital-based clinical laboratory shall use the Diagnostic Laboratory Information Request Form, available at N.J.A.C. 8:57A Appendix J, to report information about the laboratory to the NJSCR, upon request, and to request software in order to implement electronic cancer case-finding and pathology data gathering for the NJSCR.]

[(e)] (b) A [hospital-based] clinical laboratory[, which] **that** fails to [comply with the provisions of this subchapter] **report cases of cancer or other specified tumorous and precancerous diseases** shall be liable for a penalty of up to \$500.00 per unreported case [of cancer or other specified tumorous and precancerous disease].

8:57A-1.8 Health care insurer reporting

[(a)] Health care insurers and other third-party health care payers providing benefit plans to residents of the State shall report **electronically** to the Department information on cases of cancer or other specified tumorous and precancerous diseases based upon selection criteria, established at N.J.A.C. 8:57A-1.11, upon request of the Department[.

(b) The information shall:

1. Be submitted electronically] in the format specified by the Department in the request set forth in [(a) above] **this section**; and

[2. Include] **that includes** patient identifying information and medical information, [including but not limited to,] **such as** medical history, cancer treatment, cancer stage at diagnosis information, and co-morbid conditions.

8:57A-1.9 Supplemental information

(a) Every New Jersey health care facility, physician, dentist, other health care provider, and [independent] clinical laboratory shall [supply] **report supplemental** information necessary to clarify medical or demographic data upon request of the Department[.

1. This supplemental information shall include, but not be limited to:], **such as** copies of pathology and/or hematology reports, operative reports, treatment information, history and physical sections of the medical records and discharge summaries, **and other information as deemed necessary by the NJSCR.**

(b) If the NJSCR determines that more information is needed, NJSCR staff will [mail one of the following forms] **contact**, as appropriate, [to] the [physician or] health care facility[:] **physician, dentist, other health care provider, and clinical laboratory, to obtain this information in the form and manner specified by the NJSCR at that time of the request.**

[1. The Death Certificate Follow-Back Report form, available at N.J.A.C. 8:57A Appendix L; or

2. The NJSCR Follow-Back Physician Form, available at N.J.A.C. 8:57A Appendix M.]

8:57A-1.10 Access to information and records

(a) Every health care facility, [independent] clinical laboratory, physician, dentist, [or] **and** other health care provider [who diagnoses or provides] **diagnosing or providing** treatment for cancer patients and health care insurers and other third-party health care payers providing benefit plans to residents of the State shall allow representatives of the Department, or its designee, to obtain information from all medical, pathological, and other pertinent records and logs related to cancer cases, as necessary for fulfilling the functions of the NJSCR.

1. Access to records set forth in (a) above shall be given through secure, electronic remote means where requested and where available.

(b) Every health care facility, [independent] clinical laboratory, physician, dentist, [or] **and** other health care provider [who diagnoses or provides] **diagnosing or providing** treatment for cancer patients and health care insurers and other third-party health care payers providing benefit plans to residents of the State shall permit representatives of the Department access to information or provide necessary information on specified cancer patients and other patients specified by characteristics

for research studies related to cancer etiology, prevention, and control, which are conducted by the Department subject to the following:

1.-2. (No change.)

(c) Representatives of the Department shall:

1. (No change.)

2. Present valid identification at the time of access, including[, but not limited to], Department or designee issued identification, if on-site access to patient records is necessary.

(d)-(e) (No change.)

(f) The Department shall not make public any information reported to the NJSCR that discloses the identity of any person to whom the information relates.

1. (No change.)

2. A patient who was diagnosed with, or treated for, cancer, or, if the patient is deceased, that patient's next-of-kin may request that the Department release summary information about that patient with a signed Authorization to Release Health Information form.

3. A patient's physician who, or licensed facility that, diagnosed that patient with, or is treating that patient for, cancer may submit a request in writing to the Department for a release of that patient's diagnostic, treatment, and follow-up information.

(g)-(h) (No change.)

8:57A-1.11 [List of reportable] **Reportable** diseases and conditions

[(a) If a diagnosis includes any of the following words, every New Jersey health care facility, physician, dentist, other health care provider or independent clinical laboratory shall report the case to the Department in accordance with the provisions of this subchapter:

Cancer;
Carcinoma;
Leukemia;
Lymphoma;
Malignant; and/or
Sarcoma.]

[(b)] **(a)** Every New Jersey health care facility, physician, dentist, other health care provider [or independent], **and** clinical laboratory shall report to the **Department, in accordance with this chapter**, any case having a diagnosis [listed] **meeting the criteria** at [(g)] **(b)** below [and which] **that** contains any of the following terms in the final diagnosis [to the Department in accordance with the provisions of this subchapter]:

Apparent(ly);
Appears;
Compatible/Compatible with;
Consistent with;
Favors;
Malignant appearing;
Most likely;
Presumed;
Probable;
Suspect(ed);
Suspicious (for); and/or
Typical (of).

(b) Subject to (c) below, every New Jersey health care facility, physician, dentist, other health care provider, and clinical laboratory shall report to the Department, in accordance with this chapter, all cases having the following diagnoses:

1. All *in situ* or invasive neoplasms that have behavior codes "2" or "3" in the ICD-O; or

2. All solid tumors of the brain and the central nervous system, including the meninges and intracranial endocrine structures, that have the following behavior codes in the ICD-O:

i. "0" benign disease;
ii. "1" disease of uncertain malignant potential;
iii. "2" *in situ* disease; or
iv. "3" malignant disease.

(c) The following diagnoses are not to be reported to the Department:

1. Basal cell carcinomas of the skin [shall not be reported to the Department], except when they are diagnosed in the labia, clitoris, vulva, prepuce, penis, or scrotum[.]; or

[(d)] **2. Carcinoma *in situ* of the cervix and/or cervical squamous intraepithelial neoplasia III (CIN III) [shall not be reported to the Department].**

[(e)] **(d)** (No change in text.)

[(f)] **(e)** If any uncertainty regarding the reporting of a particular case exists, the health care facility, physician, dentist, other health care provider, or [independent] clinical laboratory shall contact the Department for guidance at (609) [588-3500] **633-0500** or view information on the following website: <http://www.nj.gov/health/ces/njsr.shtml>.

[(g) Every New Jersey health care facility, physician, dentist, other health care provider or independent clinical laboratory shall report the following conditions to the Department in accordance with the provisions of this subchapter:

ADRENAL

Adrenal cortical carcinoma
Ganglioneuroblastoma
Neuroblastoma
Neuroendocrine carcinoma
Neuroepithelioma
Paranglioma (+)
Pheochromocytoma, malignant only
Sympathicoblastoma

ANUS (see G-I tract)

APPENDIX (see G-I tract)

BILE DUCTS (see gall bladder and bile ducts)

BLOOD (see Hematopoietic/Lymphoid)

BLOOD VESSELS (see soft tissues)

BONE AND JOINTS

Adamantinoma
Ameloblastoma, malignant
Angioblastoma (+)
Angiosarcoma
Chondrosarcoma
Chordoma
Ewing's Sarcoma
Fibrosarcoma (medullary, periosteal, central, endosteal)
Giant cell tumor of bone (+)
Giant cell tumor, malignant
Hemangioendothelioma, malignant
Mesenchymal chondrosarcoma
Myeloma
Osteoclastoma (+)
Osteogenic Sarcoma
Osteosarcoma
Parosteal osteoma
Plasmacytoma

BONE MARROW (see Hematopoietic/Lymphoid)

BRAIN, SPINAL CORD, CRANIAL NERVES, MENINGES, AND

CENTRAL NERVOUS SYSTEM

Acoustic neuroma (O)
Angiolipoma (O)
Angiomatous meningioma (O)
Astroblastoma
Astrocytoma, any type
Atypical choroid plexus papilloma (+)
Atypical lipoma (+)
Atypical meningioma (+)
Capillary hemangioma (O)
Cavernous hemangioma (O)
Central neurocytoma (+)
Chordoid glioma (+)
Choroid plexus papilloma, malignant
Choroid plexus papilloma (O)
Clear cell meningioma (+)
Dermoid cyst (O)
Demoplastic infantile astrocytoma (+)
Diffuse melanocytosis (O)
Dysembryoplastic neuroepithelial tumor (O)

Dyplastic gangliocytoma of cerebellum (O) (Lhermitte-Duclos)
 Ependymoblastoma
 Ependymoma
 Fibrolipoma (O)
 Fibroma (O)
 Fibrous meningioma (O)
 Gangliocytoma (O)
 Ganglioglioma (+)
 Ganglioneuroblastoma
 Ganglioneuroma (O)
 Germinoma
 Glioblastoma multiforme
 Gliofibroma (+)
 Glioma, all types
 Gliomatosis cerebri (+)
 Hemangioblastoma (+)
 Hemangioendothelioma, benign (O)
 Hemangioendothelioma (+)
 Hemangioma (O)
 Hemangiopericytoma, benign (O)
 Hemangiopericytoma (+)
 Hemangiopericytoma, malignant
 Leiomyoma (O)
 Leiomyomatosis (+)
 Lipoma (O)
 Medulloblastoma
 Medulloepithelioma
 Melanotic neurofibroma (O)
 Meningeal melanocytoma (+)
 Meningioma, malignant
 Meningioma (O)
 Meningiomatosis (+)
 Meningiotheliomatous meningioma (O)
 Meningiothelial meningioma (O)
 Myxopapillary ependymoma (+)
 Neoplasm, benign (O)
 Neoplasm, uncertain whether benign or malignant (+)
 Neurilemoma (O)
 Neurinomatosis (+)
 Neuroblastoma
 Neurofibroma (O)
 Neurofibromatosis (+)
 Neuroma (O)
 Neurothekeoma (O)
 Oligodendrocytoma or oligodendroblastoma
 Oligodendroglioma
 Papillary meningioma
 Paraganglioma (+)
 Perineurioma (O)
 Pinealoma
 Pineal teratoma, malignant
 Pineoblastoma
 Pineocytoma
 Plexiform neurofibroma (O)
 Polarespongioblastoma
 Psammomatous meningioma (O)
 Rhabdomyoma (O)
 Schwannoma (any)
 Smooth muscle tumor (+)
 Soft tissue tumor, benign (O)
 Solitary fibrous tumor (O)
 Spongioblastoma
 Subependymal astrocytoma
 Subependymal giant cell astrocytoma (+)
 Subependymoma (+)
 Teratoma, benign (O)
 Teratoma (+)
 Transitional meningioma (O)
 Tumor cells, benign (O)
 Tumor cells, malignant

Venous hemangioma (O)

BREAST

Adenocarcinoma
 Apocrine carcinoma
 Colloid carcinoma
 Comedocarcinoma
 Cribiform carcinoma
 Cystosarcoma phyllodes, malignant only
 Ductal carcinoma, in situ
 Fibroadenoma, malignant only
 Glycogen rich carcinoma
 Infiltrating carcinoma of the breast such as:
 Carcinoma, NOS
 Duct adenocarcinoma
 Duct and lobular
 Duct carcinoma
 Duct and Paget's disease
 Ductular
 Lobular
 Lipid-rich carcinoma
 Lobular carcinoma, in situ
 Lobular and intraductal, in situ
 Lobular neoplasia
 Medullary carcinoma
 Papillary carcinoma, in situ
 Paget's disease
 Phyllodes tumor, malignant
 Stromal sarcoma of breast
 Tubular carcinoma

BRONCHUS (see lung)

CERVIX (see uterus)

COLON (see G-I tract)

EAR (see skin, soft tissue)

ENDOMETRIUM (see uterus)

ESOPHAGUS (see G-I tract)

EYE

Epidermoid carcinoma
 Melanoma, malignant
 Retinoblastoma
 Squamous cell carcinoma
 Squamous cell epithelioma
 (Tumors of the orbit: See soft tissues and Hematopoietic/
 Lymphoid)

EXTRA-ADRENAL PARAGANGLIA (see adrenal)

FALLOPIAN TUBE (see uterus)

GALL BLADDER AND BILE DUCTS

Adenocarcinoma
 Carcinoma (other)

GASTRO-INTESTINAL TRACT (esophagus, stomach, intestine,
 appendix, colon, anus)

Adenoacanthoma
 Adenocarcinoma
 Adenoidcystic carcinoma
 (Adeno) carcinoma in Adenomatous polyp with or without invasion
 of stalk
 Adenosarcoma
 Anal intraepithelial neoplasia (AIN III)
 Apudoma (+)
 Argentaffinoma (+)
 Bowen's disease of anus
 Carcinoid (except benign—e.g. appendix)
 Carcinosarcoma
 Cloacogenic carcinoma
 Epidermoid carcinoma
 Gastrinoma (+)
 Immunoproliferative disease, small intestinal
 Kaposi's Sarcoma
 Leiomyosarcoma, malignant only
 Linitis plastica
 Lymphoma

Mixed tumor of esophagus, malignant only
 Neuroendocrine carcinoma
 Paget's disease of anus
 Polypoid adenoma, malignant only
 Signet ring cell carcinoma
 Squamous cell carcinoma
 Squamous cell epithelioma
 Transitional cell carcinoma
 HEMATOPOIETIC/LYMPHOID (Including blood, bone marrow, lymph nodes, spleen and tumors of hematopoietic or lymphoid histogenesis found in other sites.)
 Acute erythremic myelosis
 Acute megakaryocytic myelosis
 Blastic plasmacytoid dendritic cell neoplasm
 Chronic lymphoproliferative disorder of NK cells
 Dendritic cell sarcoma
 DiGuglielmo syndrome
 Erythroleukemia
 Essential thrombocythemia
 Extraosseous plasmacytoma
 Fibroblastic reticular cell tumor
 Heavy chain disease, all such as:
 Alpha
 Gamma (Franklin's Disease)
 Mu
 Not otherwise specified
 Histiocytic medullary reticulosis
 Histiocytosis, malignant
 Histiocytosis-X, malignant only
 Hodgkin's Disease, all such as:
 Histiocyte predominant
 Lymphocyte depleted
 Lymphocyte predominant
 Mixed cellularity
 Nodular sclerosing
 Hypereosinophilic syndrome
 Idiopathic thrombocythemia
 Immunoproliferative Disease, NOS
 Letterer-Siwe's Disease
 Leukemia, all
 Leukemic reticuloendotheliosis
 Lymphoid neoplasm
 Lymphoma, all
 Lymphosarcoma
 Lymphoreticular process, malignant
 Megakaryocytosis, malignant
 Multiple myeloma
 Mycosis fungoides
 Myelodysplastic neoplasm, unclassifiable
 Myelodysplastic syndrome
 Myelofibrosis with myeloid metaplasia, malignant only
 Myeloid neoplasm
 Myeloma
 Myeloproliferative disease (+)
 Myelosclerosis
 Panmyelosis, acute
 Primary myelofibrosis
 Polycythemia Vera
 Refractory anemia
 Refractory neutropenia
 Refractory thrombocytopenia
 Reticulosis, malignant
 Reticulum cell sarcoma/tumor
 Sezary's disease or syndrome
 Systemic mastocytosis
 Therapy related myelodysplastic syndrome
 Waldenstrom's macroglobulinemia or syndrome
 HYPOPHARYNX (see oral cavity)
 KIDNEY
 Adenocarcinoma

Adenomyosarcoma
 Clear cell carcinoma
 Hypernephroma
 Nephroblastoma
 Renal cell carcinoma
 Squamous cell carcinoma
 Transitional cell carcinoma
 Tubular adenoma, borderline or malignant only
 Wilms's Tumor
 LARYNX AND TRACHEA
 Adenocarcinoma
 Adenocystic carcinoma
 Cylindroma
 Squamous cell carcinoma
 LIP (see oral cavity)
 LIVER
 Angiosarcoma
 Bile duct carcinoma
 Cholangiocarcinoma
 Hepatoblastoma
 Hepatocellular carcinoma
 Hepatoma, malignant only
 LUNG AND BRONCHUS
 Adenocarcinoma
 Adenoid cystic carcinoma
 Apudoma (+)
 Argentaffinoma (+)
 Bronchial adenoma (+)
 Bronchial adenoma (carcinoid type)
 Cylindroma
 Epidermoid carcinoma
 Intravascular bronchial alveolar tumor
 Large cell (anaplastic) carcinoma
 Neuroendocrine carcinoma
 Oat cell carcinoma
 Pulmonary blastoma
 Small cell (anaplastic) carcinoma
 Squamous cell carcinoma
 Undifferentiated carcinoma
 LYMPH NODE (see Hematopoietic/Lymphoid)
 MEDIASTINUM (see Hematopoietic/Lymphoid, soft tissue, or thymus)
 MENINGES (see brain)
 MUSCLE (see soft tissue)
 NERVE (see soft tissue)
 NOSE (Nasal cavity, Para-nasal sinus and Nasopharynx)
 Adenocarcinoma
 Epidermoid carcinoma
 Esthesioneuroblastoma
 Lymphoepithelioma
 Mesenchymoma, malignant
 Neuroblastoma
 Rhabdomyosarcoma
 Sarcoma botryoides
 Squamous cell carcinoma
 ORAL CAVITY AND SALIVARY GLANDS
 Adenocarcinoma
 Adenoid cystic carcinoma
 Acinic cell carcinoma
 Acinic cell tumor (+)
 Cylindroma
 Epidermoid carcinoma
 Lymphoepithelioma
 Melanoma
 Mixed tumor, salivary gland type, malignant only
 Mucoepidermoid carcinoma
 Mucoepidermoid tumor (+)
 Pleomorphic adenoma, malignant only
 Squamous cell carcinoma
 Transitional cell carcinoma

PROPOSALS**HEALTH**

Undifferentiated carcinoma	Craniopharyngioma, malignant
Verrucous carcinoma	Epithelial tumor, benign (O)
OROPHARYNX (see oral cavity)	Granular cell tumor (O)
OVARY	Lipoma (O)
Adenocarcinoma, NOS	Mixed acidophil-basophil adenoma (O)
Arrhenoblastoma, malignant	Mixed cell adenoma (O)
Brenner tumor, malignant only	Monomorphic adenoma (O)
Choriocarcinoma	Neoplasm, uncertain (+)
Clear cell carcinoma	Neoplasm, benign (O)
Dysgerminoma	Oxyphilic adenoma (O)
Embryonal carcinoma	Papillary adenoma (O)
Endodermal sinus tumor	Papillary craniopharyngioma (+)
Endometrioid carcinoma	Pituitary adenoma (O)
Granulosa cell carcinoma	Prolactinoma (O)
Granulosa cell tumor, malignant	Rathke Pouch tumor (+)
Leydig cell tumor, malignant	Soft tissue tumor, benign (O)
Mesonephroid carcinoma	Teratoma, benign (O)
Mucinous cystadenocarcinoma	Teratoma (+)
Papillary serous cystadenocarcinoma	Tumor cells, benign or uncertain
Pseudomucinous cystadenocarcinoma	PLACENTA
Seminoma	Choriocarcinoma
Serous papillary cystadenocarcinoma	Chorioepithelioma
Sertoli-leydig cell carcinoma	Hydatiform mole, malignant (+)
Teratoma, malignant	Invasive mole (+)
Yolk-sac tumor	PLEURA, PERITONEUM, PERICARDIUM
PANCREAS	Fibrosarcoma
Adenocarcinoma	Mesothelioma
Cystadenocarcinoma	Sarcoma
Gastrinoma (+)	PROSTATE AND SEMINAL VESICLE
Glucagonoma, malignant only	Adenocarcinoma
Islet cell adenoma (+)	Adenoid cystic carcinoma
Islet cell carcinoma	Alveolar rhabdomyosarcoma
Pancreatoblastoma	Carcinosarcoma
Papillary cystic tumor (+)	Endometrioid carcinoma
Squamous cell carcinoma	Rhabdomyosarcoma
PARAGANGLIA	RECTUM (see G-I Tract)
Non-chromaffin paraganglioma (+)	SALIVARY GLANDS (see oral cavity)
(see also adrenal gland)	SKIN
PARATHYROID	Amelanotic melanoma
Carcinoma, all	Basal cell carcinoma of labia, clitoris, vulva, prepuce, penis and scrotum
PARANASAL SINUSES (see nose)	Bowen's disease of anus and penis
PENIS	Hutchinson's melanotic freckle
Basal cell carcinoma of Penis and Prepuce (skin of)	Lentigo maligna
Bowen's disease	Melanocarcinoma
Erythroplasia of Queyrat	Melanoma
Squamous cell carcinoma	Melansarcoma
Verrucous carcinoma	Merkle cell tumor
PERICARDIUM (see pleura)	Mycosis Fungoides
PERITONEUM (see pleura)	Pilomatrix carcinoma
PHARYNX (see oral cavity)	Superficial spreading melanoma
PINEAL	Sweat gland carcinoma
Demoid cyst (O)	SOFT TISSUE (including retroperitoneum, peripheral nerve)
Epithelial tumor, benign (O)	Alveolar rhabdomyosarcoma
Gangliocytoma (O)	Alveolar soft parts sarcoma
Ganglioglioma (+)	Angiofibrosarcoma
Neoplasm, benign (O)	Angiosarcoma
Pinealoma (+)	Angiomyxoma (+)
Pineoblastoma	Chondrosarcoma
Pineocytoma (+)	Clear cell sarcoma of tendons
Teratoma, benign (O)	Dermatofibrosarcoma protuberans
Teratoma (+)	Embryonal rhabdomyosarcoma
PITUITARY AND CRANIOPHARYNGEAL DUCT	Fibromyxosarcoma
Acidophil adenoma (O)	Fibrosarcoma
Adamantinomatous craniopharyngioma (+)	Fibrous histiocytoma, malignant
Adenoma (O)	Granular cell tumor, malignant
Basophil adenoma (O)	Hemangioendothelial sarcoma
Chromophobe adenoma (O)	Hemangioendothelioma, malignant only
Clear cell adenoma (O)	Hemangiopericytoma, malignant only
Clear cell tumor (O)	Juvenile rhabdomyosarcoma
Craniopharyngioma (any type) (+)	

Kaposi's sarcoma
 Leiomyosarcoma
 Liposarcoma
 Lymphangioendothelioma, malignant
 Lymphangiosarcoma
 Mesenchymoma, malignant
 Metastasizing leiomyoma
 Myosarcoma
 Myxosarcoma
 Neuroblastoma
 Neurogenic sarcoma
 Neurilemmoma, malignant
 Neurilemmosarcoma
 Osteosarcoma
 Paraganglioma, malignant
 Pigmented dermatofibrosarcoma protuberans bednar tumor
 Reticulum cell sarcoma
 Rhabdomyoma, malignant
 Rhabdomyosarcoma
 Sarcoma botryoides
 Schwannoma, malignant
 Schwannoma, malignant with rhabdomyoblastomatous differentiation
 Synovial sarcoma
 Xanthofibroma, malignant
 SPINAL CORD (see brain)
 SPLEEN (see Hematopoietic/Lymphoid)
 STOMACH (G-I Tract)
 TESTIS
 Carcinoid tumor (+)
 Choriocarcinoma
 Chorioepithelioma
 Embryoma
 Embryonal carcinoma
 Embryonal teratoma
 Endodermal sinus tumor
 Germ cell carcinoma
 Gonadal stromal tumor, malignant only
 Gonadoblastoma (+)
 Interstitial cell carcinoma
 Leydig cell carcinoma
 Mesonephric adenocarcinoma (infantile, juvenile embryonal carcinoma)
 Polyembryoma
 Seminoma
 Sertoli cell carcinoma
 Spermatoblastoma
 Spermatocytic seminoma
 Spermatocytoma
 Teratoblastoma
 Teratocarcinoma
 Teratoma (+)
 Vitelline tumor
 Yolk sac tumor
 THYMUS
 Epithelioid thymoma, malignant only
 Lymphocytic thymoma, malignant only
 Seminoma
 Spindle cell thymoma, malignant only
 Thymic carcinoid
 Thymoma, malignant
 THYROID
 Adenocarcinoma
 Anaplastic carcinoma
 Follicular carcinoma
 Giant cell carcinoma
 Hurthle cell adenoma, malignant only
 Hurthle cell tumor, malignant only
 Medullary carcinoma
 Occult sclerosing carcinoma

Papillary carcinoma
 Undifferentiated carcinoma
 TRACHEA (see Larynx)
 URINARY BLADDER, URETER, URETHRA
 Adenocarcinoma
 Adenosarcoma
 Carcinosarcoma
 Chemodectoma, malignant only
 Mullerian mixed tumors
 Papillary transitional cell carcinoma
 Paraganglioma (+)
 Pheochromocytoma, malignant only
 Rhabdomyosarcoma
 Squamous cell carcinoma
 Transitional cell carcinoma
 UTERUS, UTERINE TUBES, CERVIX
 Adenoacanthoma
 Adenocarcinoma
 Adenosarcoma
 Adenosquamous carcinoma
 Endolymphatic stromal myosis (low grade sarcoma)
 Endometrial stromal sarcoma
 Endometrioid carcinoma
 Leiomyosarcoma
 Mesonephric carcinoma
 Mixed mesodermal tumor
 Squamous cell carcinoma
 VULVA AND VAGINA
 Basal cell carcinoma of vulva, clitoris, and labia
 Clear cell carcinoma
 Mesonephroid carcinoma
 Paget's disease
 Squamous cell carcinoma
 Vaginal intraepithelial neoplasia (VAIN III)
 Vulvar intraepithelial neoplasia (VIN III)

NOTE: The following superscript indicates the nature of other than overtly malignant reportable tumors listed:

- (+) Borderline, reportable
- (O) Benign, reportable]

8:57A-1.12 Audit, [letter] **Letter**, and notice of violations and enforcement actions

(a) A health care facility, physician's, dentist's, other health care provider's office, [or independent] **and** clinical laboratory shall be subject to audit at the discretion of the Commissioner by authorized representatives of the Department.

(b) The Department, or its designee, shall evaluate completeness and timeliness of reporting as specified by this subchapter by reviewing documents [including, but not be limited to, the following:], **such as** medical records, diagnostic indices[, such as] **of** radiation, laboratory, cytology and/or pathology reports, and discharge records.

(c) (No change.)

(d) The Department's authorized representatives may cite a deficiency upon a determination that the health care facility, physician's, dentist's, other health care provider's office, [or independent] **and** clinical laboratory does not comply with the reporting requirements established in this subchapter.

(e) (No change.)

(f) A health care facility, physician, dentist, other health care provider, [or independent] **and** clinical laboratory shall have 30 business days after receipt of the Letter by certified mail or personal service in which to correct all deficiencies in its reporting that were discovered during the audit and cited in the Letter.

1. If a health care facility, physician, dentist, other health care provider, [or independent] **and** clinical laboratory fails to correct deficiencies in its reporting that were discovered during the audit and cited in the Letter within 30 days, the Department, or its designee, will act as registrar and shall charge the facility, physician, dentist, other health care provider, [or independent] **and** clinical laboratory for all

costs related to these services, [including, but not limited to,] **such as** the retrieval of case information and the cost of the audit.

i. (No change.)

ii. All checks for fees for the Department's [audit] services shall be made payable to "Treasurer, State of New Jersey" **or its designee, as provided in the Letter** and forwarded to:

Office of Cancer Epidemiology
New Jersey State Cancer Registry
New Jersey Department of Health [and Senior Services]
PO Box 369
Trenton, New Jersey 08625-0369

2. (No change.)

3. If [an independent clinical laboratory] **a health care facility licensed by the Department pursuant to N.J.S.A. 26:2H-1 et seq.**, fails to correct deficiencies in its reporting that were discovered during the audit and cited in the Letter within 30 days, the Department, or its designee, shall report the [deficiency] **facility** to the [Department's Clinical Laboratory Improvement Service, which may initiate enforcement actions] **Division of Health Facilities Evaluation and Licensing for non-compliance with these rules.**

4. **If a physician, dentist, and other health care provider fails to correct deficiencies in its reporting that were discovered during the audit and cited in the Letter within 30 days, the Department, or its designee, shall report the provider to the appropriate New Jersey licensing board for non-compliance with this chapter.**

5. **If a clinical laboratory fails to correct deficiencies in its reporting that were discovered during the audit and cited in the Letter within 30 days, the Department, or its designee, shall report the clinical laboratory to the Clinical Laboratory Improvement Service in the Division of Public Health and Environmental Laboratories for non-compliance with this chapter.**

CORRECTIONS

(a)

THE COMMISSIONER

Inmate Telephone Calls

Proposed Amendments: N.J.A.C. 10A:18-8.1 and 8.2

Authorized By: Gary M. Lanigan, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-036.

Submit written comments by June 15, 2018, to:

Kathleen Cullen
Administrative Rules Unit
Office of the Commissioner
New Jersey Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863
or via e-mail to ARU@doc.nj.gov

The agency proposal follows:

Summary

The Superior Court of New Jersey, Appellate Division, has remanded to the Department of Corrections the case of *Edward Grimes v. New Jersey Department of Corrections*, 452 N.J. Super 396 (2017). The Court found that the New Jersey Department of Corrections (DOC) has informally adopted a policy that does not permit inmates to place telephone calls to cellular, business, or non-traditional telephone numbers. This policy applies to all correctional facilities but is not codified in statute or regulation. The Court has concluded and required promulgation of the calling policy in conformity with the rulemaking procedures of the Administrative Procedures Act (APA), N.J.S.A. 52:14B-4 through 5.

Upon further review, the DOC has decided to modify the calling policy to permit inmate calls to any telephone number subscribed to by an individual at a verifiable address with certain limitations and restrictions for safety and security reasons. By putting in place a revised telephone number calling policy that permits inmate calls to a wider variety of telephone numbers, inmates could potentially be able to add a broadened number of family members and/or friends to their call lists and potentially increase inmate contact with family members and/or friends.

The proposed amendments are intended to codify the modified calling policy and incorporate additional details found in the current calling policy. The Department proposes to add new N.J.A.C. 10A:18-8.1(a)2 in order to codify the need for development of internal management procedures for inmate telephone number calling lists and conditions that may potentially be applied at N.J.A.C. 10A:18-8.1(a)4. These proposed amendments will require a technical change to recodify existing N.J.A.C. 10A:18-8.1(a)2 and 3 as (a)3 and 4.

The Department proposes to add new N.J.A.C. 10A:18-8.2(a), which expands the current calling policy, with limitations and conditions, by adding language that permits inmates to place phone calls to any phone number subscribed to by an individual at a verifiable address. The rule includes limitations and conditions that may be placed on telephone privileges on a case-by-case basis consistent with individual circumstances and the responsibilities associated with the safe and secure operation of a correctional facility, telephone privilege revocation for abuse, and/or other disciplinary infractions/sanctions as set forth at N.J.A.C. 10A:4-5.1. As a result of adding a new subsection (a), the Department proposes to recodify existing N.J.A.C. 10A:18-8.2(a) through (d) as (b) through (e).

In addition, the Department proposes to codify existing limitations on inmate calls to toll-free numbers, information service numbers, and from participation in any call involving three-way calls or transfers to any number other than those appearing on the approved inmate call list by adding new subsections (f) and (g).

The Department of Corrections has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

Social Impact

Given the proposed amendments, inmates will be able to make telephone calls to friends, family members, and other individuals that currently do not subscribe to traditional line telephone services and only have cellular or non-traditional phone numbers. This type of personal contact has been found to have a positive influence on inmate rehabilitation. It is expected that the cost of meeting and maintaining the proposed amendments will have little or no cost to the DOC as inmates and/or parties on their call lists bear the expense of inmate calls. There may be a small incremental increase in administrative activity associated with screening inmate call lists to ensure the telephone numbers submitted are subscribed to by an individual at a verifiable address, but it is expected that the cost can be met with the established budget and that additional funding will not be required.

Economic Impact

Additional funding is not necessary to implement the requirements of the proposed amendments. The cost of meeting and maintaining the requirements of the proposed amendments can be met by the Department through the established budget with funds allocated by the State.

Federal Standards Statement

The proposed amendments promulgated under the authority of the rulemaking requirements of the Department of Corrections as established at N.J.S.A. 30:1B-6 and 30:1B-10. The proposed amendments are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

Jobs Impact

The Department of Corrections does not anticipate that any jobs will be generated or lost as a result of the proposed amendments.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

Housing Affordability Impact Analysis

The proposed amendments will have no impact on the affordability of housing and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing in New Jersey. The proposed amendments concern inmate telephone calls to friends and family members, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

Smart Growth Development Impact Analysis

The proposed amendments will have no impact on smart growth development because the proposed amendments do not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The proposed amendments concern inmate telephone calls to friends and family members, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

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

SUBCHAPTER 8. TELEPHONE

10A:18-8.1 Written procedures

(a) Designated staff at each correctional facility shall develop and implement written procedures, which provide inmates with reasonable and equitable access to public telephones. These procedures shall specify:

1. (No change.)

2. Establishing and changing individual inmate telephone number calling or IPIN list;

[2.] **3.** (No change in text.)

[3.] **4.** Any limitation **and/or condition** on telephone calls.

10A:18-8.2 Notice to [inmates] **inmates-telephone privileges**

(a) Inmates are afforded the privilege of placing phone calls from designated public phones in each correctional facility to any phone number subscribed to by an individual at a verifiable address. Limitations and conditions may be placed on telephone privileges by the Administrator of each correctional facility on a case-by-case basis consistent with individual circumstances and the responsibilities associated with the safe and secure operation of a correctional facility. Conditions and/or limitations on telephone privileges may include revocation of telephone privileges for abuse of the privilege and/or other disciplinary infractions and sanctions as set forth at N.J.A.C. 10A:4-5.1.

Recodify existing (a)-(d) as **(b)-(e)** (No change in text.)

(f) Inmate calls are not permitted to toll-free numbers (800, 888, 877, 866, 855, 844, etc.) or information service numbers (976, 411, 611, 911, 555-1212, etc.).

(g) Inmate calls may not involve three-way calls or transfers to any other number.

RULE ADOPTIONS

ENVIRONMENTAL PROTECTION

(a)

LAND USE MANAGEMENT

Coastal Zone Management Rules

Freshwater Wetlands Protection Act Rules

Flood Hazard Area Control Act Rules

N.J.A.C. 7:7-13.16; 7:7A-1.3, 4.2, 7.17, 7.18, 7.23, 7.25, 8.1, 8.4, 10.2, 10.4, and 11.17; and 7:13-11.2, 12.1, 19.1, 21.4, and 22.7

Notice of Administrative Corrections

Take notice that the Department of Environmental Protection (Department) is making administrative corrections to its Coastal Zone Management Rules, N.J.A.C. 7:7, Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A, and Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, to correct cross-references and citations, correct typographical errors, and update names of Department and State agencies to reflect current organization.

The Department previously adopted comprehensive amendments to the Flood Hazard Area Control Act Rules in 2016 (see 48 N.J.R. 1067(a)), with additional amendments in 2017 (see 49 N.J.R. 2246(a)). The Department additionally adopted comprehensive amendments to the Freshwater Wetlands Protection Act Rules in 2017 (see 49 N.J.R. 3849(a)). Through this notice, the Department is correcting cross-references and citations within each chapter to reflect changes in codification resulting from the recent rulemakings referenced above, deleting incorrect references, and correcting typographical and grammatical errors. In addition, N.J.A.C. 7:13-22.7(c)4ii incorrectly identifies N.J.A.C. 7:13-28 as the subchapter containing the procedures to request an adjudicatory hearing on a permit suspension. This citation is corrected to refer to N.J.A.C. 7:13-23, which contains the provisions for requesting an adjudicatory hearing.

In the 2017 amendments to the Freshwater Wetlands Protection Act Rules, the Department sought to remove all references to the definitions section (previously N.J.A.C. 7:7A-1.4, now N.J.A.C. 7:7A-1.3) as unnecessary. Through this notice, the Department is removing remaining references to the prior definitions section that were inadvertently left in the rules.

The 2016 amendments to the Flood Hazard Area Control Act Rules deleted requirements for the Department to issue an individual permit to line or pipe a channel because, as stated in the notice of proposal at 47 N.J.R. 1041(a) "lining or piping a stream can result in serious adverse environmental impacts that should be considered only in emergent situations and under a request for hardship exception." A reference to these standards was erroneously retained at N.J.A.C. 7:13-11.2(i)2 and updated to refer to N.J.A.C. 7:13-12.14(c)4, which does not exist. Through this notice, this reference and citation are deleted.

The Department is also updating the reference to the "Hackensack Meadowlands District Commission" in the Freshwater Wetlands Protection Act Rules to the "New Jersey Sports and Exposition Authority" to reflect the agency currently possessing jurisdiction over activities in the Meadowlands District and is updating the reference to the "Dam Safety Section in the Division of Engineering and Construction" to the "Bureau of Dam Safety" to reflect current Department organization. Finally, the Department is amending the Coastal Zone Management Rules at N.J.A.C. 7:7-13.16(h) and the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-10.2(b)12i to update cross-references in both chapters to the State Planning rules, which were recodified from N.J.A.C. 17:32 to 5:85 in 2003 (see 35 N.J.R. 304(a); 1990(a); 3819(a)).

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

CHAPTER 7

COASTAL ZONE MANAGEMENT RULES

SUBCHAPTER 13. REQUIREMENTS FOR IMPERVIOUS COVER AND VEGETATIVE COVER FOR GENERAL LAND AREAS AND CERTAIN SPECIAL AREAS

7:7-13.16 Boundaries for Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes; non-mainland coastal centers

(a)-(g) (No change.)

(h) For purposes of this section, a State Planning Commission formally approved new or changed boundary is one that the State Planning Commission has amended in accordance with the New Jersey State Planning Act, N.J.S.A. 52:18A-196 et seq., and the State Planning rules, N.J.A.C. [17:32] **5:85**.

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

CHAPTER 7A

FRESHWATER WETLANDS PROTECTION ACT RULES

SUBCHAPTER 1. GENERAL PROVISIONS

7:7A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions specifically applicable to N.J.A.C. 7:7A-11, Mitigation, are set forth at N.J.A.C. 7:7A-11.1.

... "Delegable waters" means all waters of the United States, as defined in this section, within New Jersey, except waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement, as a means to transport interstate or foreign commerce, shoreward to their ordinary high water mark. This term includes all waters which are subject to the ebb and flow of the tide, shoreward to their mean high water mark, including wetlands that are partially or entirely located within [1000] **1,000** feet of their ordinary high water mark or mean high tide. Waters that are not delegable waters include, but are not limited to:

1. (No change.)

2. Waters of the United States under the jurisdiction of the [Hackensack Meadowlands Development Commission] **New Jersey Sports and Exposition Authority (formerly the New Jersey Meadowlands Commission)**; and

3. (No change.)

...

SUBCHAPTER 4. LETTERS OF INTERPRETATION

7:7A-4.2 General provisions

(a)-(g) (No change.)

(h) Except for a presence/absence LOI for an entire site under N.J.A.C. 7:7A-4.3(c)1, all LOI applicants shall provide the Department with a survey in accordance with N.J.A.C. 7:7A-16.3[(e)]**(a)4**. If the Department requires adjustments to the delineated wetlands and/or State open waters boundary after the survey is submitted, the applicant shall resurvey the delineated boundary after the adjustments are made and the Department has approved the boundary. The issued LOI will reference the approved and surveyed boundary line.

SUBCHAPTER 7. GENERAL PERMITS

7:7A-7.17 General permit 17—Trails and boardwalks

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

(f) An application for authorization under general permit 17 for a project on publicly owned land does not require an application fee under N.J.A.C. 7:7A-[11]18.

7:7A-7.18 General permit 18—Dam repair

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

(d) Activities under general permit 18 shall meet all applicable requirements at N.J.A.C. 7:7A-5.7 and 20.3 and are subject to the following limits:

1. All activities shall be conducted in accordance with a permit issued pursuant to N.J.A.C. 7:20 by the Department's **Bureau of Dam Safety** [Section in the Division of Engineering and Construction];

2.-6. (No change.)

(e) (No change.)

7:7A-7.23 General permit 23—Spring developments

(a) (No change.)

(b) Activities under general permit [24] **23** shall disturb no more than one quarter acre of freshwater wetlands and/or State open waters. Activities under general permit [24] **23** shall not drain, or remove from jurisdiction, any additional or adjacent wetlands other than the one-quarter acre directly impacted by the general permit activities.

(c) (No change.)

7:7A-7.25 General permit 25—Minor channel or stream cleaning for local government agencies

(a) General permit 25 authorizes a county, municipality, or a designated agency thereof to conduct activities in freshwater wetlands and transition areas within their jurisdiction, necessary to desnag a channel or stream and/or remove accumulated sediment, debris, and garbage, which are obstructing flow in a channel or stream, provided all applicable requirements at N.J.A.C. 7:7A-5.7 and 20.3 are met and:

1.-5. (No change.)

6. If the project involves sediment removal from a channel with a natural bed, the following requirements are satisfied:

i.-iv. (No change.)

v. The stream is not located in an area that has a threatened or endangered species[, as defined at N.J.A.C. 7:7A-1.4.] associated with its wetlands.

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

SUBCHAPTER 8. TRANSITION AREA WAIVERS

7:7A-8.1 General provisions for transition area waivers

(a) (No change.)

(b) If necessary, the Department shall include in a transition area waiver additional conditions to ensure that an activity does not result in a substantial impact on the adjacent wetlands, and does not impair the purposes and functions of transition areas as set forth in N.J.A.C. 7:7A-3.3. Such conditions may include, but are not limited to, the following:

1.-2. (No change.)

3. The modified transition area shall be permanently marked, in a manner determined appropriate by the Department, so as to clearly delineate its boundary and to prevent people from disturbing the transition area and/or wetland. Examples of appropriate markers include permanent fencing, concrete monuments, and boulders.

i. In determining the appropriate type of marker, the Department will consider such factors as the type of project proposed, wildlife that may be present, and the likelihood for people to disturb the transition area and/or wetland. For example, it may be necessary to mark the boundary of a modified transition area associated with a single-family home or duplex with permanent fencing because in many of these situations the modified transition area is directly adjacent to back yards and, therefore, the likelihood of homeowners disturbing the transition area is great. However, it may be appropriate to identify a modified transition area associated with a commercial or industrial development with concrete monuments because the likelihood of people disturbing the modified transition **area** is usually less around these types of developments;

ii. (No change.)

4. (No change.)

(c)-(i) (No change.)

7:7A-8.4 Hardship transition area waiver

(a) (No change.)

(b) The Department shall presume that a hardship under (a) above exists and shall issue a hardship transition area waiver that reduces the transition area in an amount determined under (c) below, provided the applicant demonstrates that all of the following criteria are met:

1.-8. (No change.)

9. The form letter offer of sale under (b)7 and 8 above shall be sent by certified mail and shall:

i.-ii. (No change.)

iii. Include a full disclosure that the property is contained within a wetland transition area[s] that restricts its use.

(c) (No change.)

SUBCHAPTER 10. REQUIREMENTS FOR ALL INDIVIDUAL FRESHWATER WETLANDS AND OPEN WATER FILL PERMITS

7:7A-10.2 Standard requirements for all individual permits

(a) (No change.)

(b) The Department shall issue an individual freshwater wetlands or open water fill permit only if the regulated activity:

1.-2. (No change.)

3. Will not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species; and shall not jeopardize the continued existence of a local population of a threatened or endangered species[, as defined at N.J.A.C. 7:7A-1.4];

4.-11. (No change.)

12. Is in the public interest, as determined by the Department in consideration of the following:

i. The public interest in preservation of natural resources and the interest of the property owners in reasonable economic development. In determining whether a proposed activity is in the public interest, the Department shall consider, as one source of guidance, the goals, strategies, policy objectives and policies of the New Jersey State Development and Redevelopment Plan, adopted and/or readopted by the State Planning Commission pursuant to the New Jersey State Planning Act, N.J.S.A. 52:18A-196 et seq., and the State Planning Act rules, N.J.A.C. [17:32] **5:85**;

ii.-vii. (No change.)

13.-15. (No change.)

(c) The following shall apply to the Department's consideration of whether an alternative is practicable under (b)1 above:

1. An alternative shall be practicable if it is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes;

i. In considering cost in accordance with (c)1 above, the Department shall consider the acquisition history of the property as a whole[, as defined at N.J.A.C. 7:7A-1.4.] and the amount, nature, and date of investments that the applicant has made in the property as a whole; and

2. (No change.)

7:7A-10.4 Additional requirements for a non-water dependent activity in exceptional resource value wetlands or trout production waters

(a) If an applicant proposes a [non water-dependent] **non-water-dependent** activity in wetlands of exceptional resource value or in trout production waters, the applicant, in addition to complying with all other requirements in this subchapter, shall also demonstrate either:

1.-2. (No change.)

SUBCHAPTER 11. MITIGATION

7:7A-11.17 Financial assurance for mitigation projects; general provisions

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

(d) Financial assurance shall comprise [of] one or more of the instruments identified at (d)1 through 5 below. A template for each of the types of financial assurance identified at (d)1 through 4 is available from the Department at the address set forth at N.J.A.C. 7:7A-1.4.

1.-5. (No change.)

(e)-(l) (No change.)

CHAPTER 13
FLOOD HAZARD AREA CONTROL ACT RULES

SUBCHAPTER 11. AREA-SPECIFIC REQUIREMENTS FOR
INDIVIDUAL PERMITS

7:13-11.2 Requirements for a regulated activity in a riparian zone

(a)-(h) (No change.)

(i) The Department shall issue an individual permit for the restoration to a stable condition of a bank or channel that has become eroded, unstable, ecologically degraded, and/or enclosed within a structure, which results in clearing, cutting, and/or removal of riparian zone vegetation, only if:

1. (No change.)

2. For a project to stabilize a bank and/or channel using revetments, retaining walls, or other armoring in accordance with N.J.A.C. 7:13-12.14(c)3, [or for a project to line or pipe a channel in accordance with N.J.A.C. 7:13-12.14(c)4,] the total area of vegetation cleared, cut, and/or removed within the riparian zone does not exceed the limits set forth in Table 11.2 above, unless the applicant demonstrates that the bank or channel cannot feasibly be stabilized without exceeding these limits. In such a case, the applicant shall provide mitigation, in accordance with N.J.A.C. 7:13-13, for the area of vegetation that is cleared, cut, and/or removed in excess of the limits set forth in Table 11.2; and

3. (No change.)

(j)-(z) (No change.)

SUBCHAPTER 12. ACTIVITY-SPECIFIC REQUIREMENTS FOR
INDIVIDUAL PERMITS

7:13-12.1 Requirements that apply to all regulated activities

(a)-(f) (No change.)

(g) The Department shall consider a regulated activity to adversely impact a property not owned by an applicant if the activity meets one or more of the following. For the purpose of determining compliance with (g)4 and 5 below, calculations shall be rounded to the nearest 0.1 feet:

1.-3. (No change.)

4. The applicant proposes to undertake one or more of the following regulated activities:

i. The construction of a new bridge or culvert, which does not meet the offsite flood requirements of N.J.A.C. 7:13-12.7[(e)](d)1;

ii. The reconstruction of an existing bridge or culvert, which does not meet the offsite flood requirements of N.J.A.C. 7:13-12.7[(f)](e)1; or

iii. (No change.)

5. (No change.)

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

SUBCHAPTER 19. REQUIREMENTS FOR AN APPLICANT TO
PROVIDE PUBLIC NOTICE OF AN
APPLICATION

7:13-19.1 Purpose and scope

(a) An applicant shall provide public notice in accordance with this subchapter for the following:

1.-5. (No change.)

6. An application for a major technical modification pursuant to N.J.A.C. 7:13-22.5[(d)3](e).

(b)-(d) (No change.)

SUBCHAPTER 21. APPLICATION REVIEW

7:13-21.4 Department review and decision on an application for an authorization under general permit 1 for channel cleaning under the Stream Cleaning Act

(a) Within 15 calendar days after receiving an administratively and technically complete application for authorization under a general permit 1 for activities that do not include the removal of sediment, or within 60 calendar days after receiving an administratively and technically **complete** application for activities that include the removal of sediment, where day one of the 15- or 60-calendar-day period is the date the

application is received, the Department shall take one of the following actions:

1.-2. (No change.)

(b)-(c) (No change.)

SUBCHAPTER 22. PERMIT CONDITIONS; EXTENSION,
MODIFICATION, TRANSFER, SUSPENSION,
AND TERMINATION OF VERIFICATIONS,
AUTHORIZATIONS, AND PERMITS

7:13-22.7 Suspension of a verification, an authorization under a general permit, an individual permit, or an emergency authorization

(a)-(b) (No change.)

(c) A notice of suspension shall:

1.-3. (No change.)

4. Notify the permittee or person to whom the verification was issued of the right to, within 10 calendar days after the permittee or person to whom the verification was issued receives the notice, request:

i. (No change.)

ii. An adjudicatory hearing in accordance with N.J.A.C. 7:13-[28]23.

(d)-(f) (No change.)

HEALTH

(a)

LABOR AND WORKFORCE DEVELOPMENT

PUBLIC HEALTH SERVICES BRANCH

DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH

DIVISION OF PUBLIC SAFETY AND OCCUPATIONAL SAFETY AND HEALTH

Asbestos Licenses and Permits

Joint Readoption With Technical Changes: N.J.A.C. 8:60 and 12:120

Authorized By: Robert Asaro-Angelo, Acting Commissioner,
Department of Labor and Workforce Development, and Shereef
Elnahal, MD, MBA, Acting Commissioner, Department of
Health.

Authority: N.J.S.A. 34:5A-32 et seq., specifically, 34:5A-39 and
Reorganization Plan No. 002-2002.

Effective Dates: March 21, 2018, Readoption;
April 16, 2018, Technical Changes.

New Expiration Date: March 21, 2025.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the Acting Commissioner of the Department of Health (DOH) and the Acting Commissioner of the Department of Labor and Workforce Development (DLWD) hereby readopt with technical changes N.J.A.C. 8:60, Asbestos Licenses and Permits, and N.J.A.C. 12:120, also known as Asbestos Licenses and Permits. These rules are a joint adoption of the DOH and the DLWD and were scheduled to expire on April 21, 2018.

N.J.A.C. 8:60 and N.J.A.C. 12:120 are intended to ensure that only qualified people are involved in asbestos abatement work. The rules establish licensing and/or permitting requirements for employers, supervisors, and workers. In addition, the rules establish standards for certification of training courses and training agencies who provide education regarding asbestos removal and encapsulation to licensees. This readoption with technical changes would continue to impose requirements on applicants for and holders of licenses, permits, and certificates issued pursuant to the rules.

In addition to readopting the existing rules, DOH and DLWD are making technical changes throughout N.J.A.C. 8:60 and 12:120. These would include updating DOH's name by deleting "and Senior Services" throughout both chapters. At N.J.A.C. 8:60-2.1 and 12:120-2.1, and

throughout both chapters, the DOH and DLWD are updating the name of the DOH program that administers N.J.A.C. 8:60 from "Environmental Health Services" to its current name, the "Consumer, Environmental and Occupational Health Service." In addition, at N.J.A.C. 8:60-4.7(a)3 and 12:120-4.7(a)3, and throughout both chapters, the DOH and DLWD are updating the name of the Department of Environmental Protection's rule, N.J.A.C. 7:26, from "Non-Hazardous Waste Regulations" to its current name, "Solid and Hazardous Waste Regulations."

DOH and DLWD have reviewed N.J.A.C. 8:60 and 12:120 and have determined that, subject to the technical changes, the existing chapters remain necessary, proper, reasonable, efficient, understandable, and responsive for the purposes for which they were originally promulgated, as amended and supplemented over time, and should be readopted. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 8:60 and 12:120 are readopted and shall continue in effect for a seven-year period.

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

SUBCHAPTER 1. GENERAL PROVISIONS

8:60-1.1 (12:120-1.1) Title and citation

(a) (No change.)

(b) This chapter, as a Department of Health [and Senior Services] rule, shall be known as and may be cited as N.J.A.C. 8:60, Asbestos Licenses and Permits.

(c) [These rules] **N.J.A.C. 8:60 and 12:120** are a joint adoption of the Department of Labor and Workforce Development and the Department of Health [and Senior Services].

SUBCHAPTER 2. DEFINITIONS

8:60-2.1 (12:120-2.1) Definitions

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

...

"Approved" means acceptable to the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services], as the case may be.

...

"Certificant" means any training agency certified by the Department of Health [and Senior Services] pursuant to N.J.A.C. 8:60-6 and 12:120-6.

"[C.F.R.]**CFR**" means the Code of Federal Regulations.

...

"Commissioner of Health" means the Commissioner of Health [and Senior Services] or his or her authorized designee.

...

"Department of Health [and Senior Services]" means the **Consumer, Environmental and Occupational Health Service[s]** of the New Jersey Department of Health [and Senior Services], PO Box 360, Trenton, [N.J.] **NJ** 08625-0360.

...

"Instructor" means any person(s) hired by a training agency and approved by the Department of Health [and Senior Services] for the purpose of instructing a Department of [Health and Senior Services approved] **Health-approved** asbestos training course.

...

"Supervisor" means any person who has completed an asbestos supervisor training course approved by the Department of Health [and Senior Services] and who has successfully passed a written asbestos supervisor examination devised and administered under the approval of the Department of Health [and Senior Services] for the position of supervisor and who possesses a valid asbestos supervisor permit issued by the Department of Labor and Workforce Development.

...

"Trainee" means any person who is enrolled in an asbestos worker or asbestos supervisor training course approved by the Department of Health [and Senior Services].

"Training agency" means a training provider approved or certified by the Department of Health [and Senior Services] to conduct asbestos training courses.

"Training course" means any asbestos training course approved by the Department of Health [and Senior Services] in accordance with the requirements of N.J.A.C. 12:120 and 8:60.

...

"Worker" means a person who has completed an asbestos worker training course approved by the Department of Health [and Senior Services] and who has successfully passed a written asbestos worker examination devised and administered under the approval of the Department of Health [and Senior Services] for the position of worker and who possesses a valid asbestos worker permit issued by the Department of Labor and Workforce Development.

SUBCHAPTER 3. ADMINISTRATION

8:60-3.2 (12:120-3.2) Compliance

(a) (No change.)

(b) For the purpose of determining under (a) above whether an employer is performing any of the functions of application, enclosure, repair, removal, or encapsulation of asbestos in any structure, or entering into any contract with the owner or owner's representative for the employer to perform such work and, therefore, whether the employer is required to comply with the provisions of this chapter and be issued a nontransferable license by the Commissioner of Labor and Workforce Development, the Department of Labor and Workforce Development and the Department of Health [and Senior Services] shall analyze all bulk samples obtained to determine the presence of asbestos utilizing the "Test Method -- Method for the Determination of Asbestos in Bulk Building Materials," EPA/600/R-93/116, July 1993, incorporated herein by reference, as amended and supplemented.

1. The Department of Labor and Workforce Development and the Department of Health [and Senior Services] shall analyze Category I non-friable asbestos containing material and other non-friable organically bound material utilizing the "Test Method -- Method for the Determination of Asbestos in Bulk Building Materials," EPA/600/R-93/116, July 1993, in the manner prescribed within the Appendix to this chapter.

(c) (No change.)

(d) Every employer and employee shall take all prudent measures to comply with written recommendations made by the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services], as the case may be.

8:60-3.3 (12:120-3.3) Interface of State agencies

(a) (No change.)

(b) The Department of Health [and Senior Services], under the provisions of this chapter, shall:

1. Certify training agencies [which] **that** use Department of [Health and Senior Services-approved] **Health-approved** courses to train workers and supervisors and to determine compliance by such training agencies with this chapter;

2.-6. (No change.)

8:60-3.4 (12:120-3.4) Enforcement

(a) (No change.)

(b) The Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services], as the case may be, as an alternative to or in addition to the fines and imprisonment authorized in (a) above, may employ the following powers and remedies in enforcing their respective responsibilities under the Act:

1. Whenever either the Commissioner of Labor and Workforce Development or Health [and Senior Services] find that a person has violated any provision of the Act for which that Commissioner has the responsibility to enforce, that Commissioner may issue an administrative order to abate the violation. The administrative order must:

i. (No change.)

ii. Give notice of the person's right to an informal conference or hearing pursuant to N.J.A.C. 12:120-8 and 8:60-8, on the matters contained in the order. Upon a request for an informal conference or

formal hearing, the Commissioner of Labor and Workforce Development or Health [and Senior Services] may grant a stay of the administrative order following review of a written request [which] **that** includes a factual basis and clearly supports the appropriateness of the stay.

2. Either the Commissioner of Labor and Workforce Development or Health [and Senior Services] may institute an action or proceeding in the Superior Court for injunctive or other relief for any violation of this Act for which the Commissioner has the responsibility to enforce and the court may proceed in the action in a summary manner.

(c) Either the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services] may assess a civil administrative penalty in accordance with N.J.A.C. 12:120-3.5 and 8:60-3.5, not to exceed \$25,000 for each violation of this Act for which that Commissioner has the responsibility to enforce.

1.-3. (No change.)

4. Payment of the assessment of a civil administrative penalty is due upon issuance of a final order by the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services].

5. The Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services] may file a civil action to recover a civil administrative penalty with costs pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

(d)-(e) (No change.)

8:60-3.5 (12:120-3.5) Civil administrative penalties

(a)-(b) (No change.)

(c) In assessing a civil administrative penalty pursuant to this chapter, the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services], as the case may be, may consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular violations:

1.-6. (No change.)

(d) In addition to other sanctions in the Act or this chapter, the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services], as the case may be, shall have the authority to require:

1.-5. (No change.)

SUBCHAPTER 4. LICENSING OF EMPLOYERS

8:60-4.2 (12:120-4.2) Exempted activities

(a) The Commissioner of Health [and Senior Services] may exempt from the license requirements those designated asbestos-related activities based on sufficient data which indicates that no significant exposure exists to perform such activity. Such data shall be submitted to the Commissioner of Health [and Senior Services] for review at least 10 calendar days prior to the beginning of such work.

(b) (No change.)

8:60-4.4 (12:120-4.4) Eligibility for employer license

(a) The applicant, to be eligible for a license as an employer, shall:

1. Provide evidence of having successfully completed the training course and pass the written examination for asbestos abatement supervisors devised and administered under the approval of the Department of Health [and Senior Services] as set forth at N.J.A.C. 12:120-6.2 and 8:60-6.2;

2.-3. (No change.)

8:60-4.5 (12:120-4.5) Granting of employer license

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

(e) The Commissioner shall not grant a license unless the employer has certified that the employer's supervisor has completed a training course and examination certified and approved by the Department of Health [and Senior Services].

8:60-4.6 (12:120-4.6) Identification of licensee

(a) The license shall be available at the worksite for examination by the Commissioner of Labor and Workforce Development, Commissioner of Health [and Senior Services], the contracting agency, and the owner or the owner's representative.

(b)-(e) (No change.)

8:60-4.7 (12:120-4.7) License performance standards

(a) Every licensee shall ensure that all asbestos work performed conforms to those license performance standards as identified at N.J.A.C. 12:120-[4.4(a) 3]**4.4(a)3** and 8:60-4.4(a)3, including, but not limited to, the following:

1.-2. (No change.)

3. Compliance with N.J.A.C. 7:26, [Non-Hazardous] **Solid and Hazardous** Waste Regulations; and

4. (No change.)

(b)-(d) (No change.)

8:60-4.8 (12:120-4.8) Suspension or revocation of employer license

(a) (No change.)

(b) Any employer shall have his or her license suspended or revoked for:

1.-5. (No change.)

6. Any violation of an administrative order lawfully issued by the Commissioner of Labor and Workforce Development or the Commissioner of Health, [and Senior Services] as the case may be.

(c)-(h) (No change.)

SUBCHAPTER 5. REQUIREMENTS AND PROCEDURES FOR OBTAINING AN ASBESTOS WORKER OR AN ASBESTOS SUPERVISOR PERMIT

8:60-5.2 (12:120-5.2) Exempted activities

(a) The Commissioner of Health [and Senior Services] may exempt from the permit requirements those designated asbestos-activities based on sufficient data which indicates that no significant exposure exists to perform such activity. Such data shall be submitted to the Commissioner of Health [and Senior Services] for review at least 10 calendar days prior to the beginning of such work.

(b) (No change.)

8:60-5.3 (12:120-5.3) Requirements for obtaining an asbestos worker or an asbestos supervisor permit

(a) The Commissioner shall issue a permit to each applicant who satisfies the requirements listed below. The applicant shall:

1. (No change.)

2. Successfully complete either the asbestos abatement worker or asbestos abatement supervisor training course approved by the Department of Health [and Senior Services] and pass a written examination devised and administered under the approval of the Department of Health [and Senior Services] for each respective position[; and].

i. Proof of passing the written examination shall be submitted with the permit application[.]; **and**

3. (No change.)

8:60-5.4 (12:120-5.4) Procedures for completing training course and examination

(a) Each applicant required by this subchapter to complete asbestos training shall register at a training agency [which] **that** has been certified by the New Jersey Department of Health [and Senior Services] to offer such training. A list of certified training agencies is available from the Department of Health [and Senior Services].

1. The topics for worker training are set forth at N.J.A.C. 12:120-6.2 and 6.6 and [N.J.A.C.] 8:60-6.2 and 6.6;

2. The topics for supervisor training are set forth at N.J.A.C. 12:120-6.2 and 6.7 and [N.J.A.C.] 8:60-6.2 and 6.7; and

3. (No change.)

(b) Upon successful completion of the training course, each applicant shall register to take a written examination administered under the approval of the Department of Health [and Senior Services].

1. (No change.)

(c)-(j) (No change.)

8:60-5.8 (12:120-5.8) Identification of permit holder

(a) Each worker or supervisor performing asbestos work shall have their permits available at the job site and readily available for inspection

by representatives of the Commissioners of the Department of Labor and Workforce Development and Health [and Senior Services] and of the contracting agency.

(b)-(g) (No change.)

8:60-5.10 (12:120-5.10) Renewal of permit

(a) An application for renewal of a permit shall be submitted at least 30 days prior to its expiration date. When the application for renewal is submitted within the required time period, the permit may continue in effect until the Commissioner renders a determination regarding the application. The applicant shall be notified in writing by the Department whether a valid extension has been granted. This validation together with the expired permit shall be carried upon the worker's person and be readily available for inspection by representatives of the Commissioners of the Departments of Labor and Workforce Development and Health [and Senior Services] and the contracting agency.

(b)-(d) (No change.)

SUBCHAPTER 6. CERTIFICATION OF TRAINING COURSES

8:60-6.1 (12:120-6.1) Scope of subchapter

This subchapter shall apply to the procedures and qualifications required to obtain and maintain or renew certification from the Commissioner of Health [and Senior Services] to conduct training courses on asbestos abatement as provided for in the Act. At a minimum, training courses shall meet the following requirements as set forth in this subchapter or 40 CFR 763, "Asbestos Model Accreditation Plan; Interim Final Rule," whichever is more stringent.

8:60-6.3 (12:120-6.3) Application for certification of training courses

(a) An applicant for certification of an asbestos abatement training course shall submit an application and a proposal on forms provided by the Department of Health [and Senior Services], specifying the following:

1.-16. (No change.)

(b) (No change.)

(c) The applicant shall be required to successfully pass a pre-commencement inspection of the training facility conducted by the Department of Health [and Senior Services].

(d) The applicant shall immediately notify the Department of Health [and Senior Services] in writing of any change(s) in the application information occurring either prior to or after certification.

(e) A non-refundable application fee for annual certification in the amount of \$500.00 per discipline shall be forwarded with the application. The application fee shall be paid by certified check or money order and made payable to the New Jersey Department of Health [and Senior Services]. No liability shall be assumed by the Department for the loss in the transmission of the application.

(f) (No change.)

(g) Upon written request from the applicant, the Commissioner of Health [and Senior Services] may, at his or her discretion, waive the fees for certification of training agencies identified in (e) above.

1.-2. (No change.)

8:60-6.4 (12:120-6.4) Training agency operating requirements

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

(d) Certified training agencies shall ensure that at least one course instructor represents them at any meeting sponsored by the Department of Health [and Senior Services] for the purpose of maintaining uniform and high quality training courses among certificants.

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

(g) All certified training agencies shall notify the Department of Health [and Senior Services] at least two weeks in advance of the beginning of any training course. All notifications shall be in writing and shall be submitted on forms provided by the Department of Health [and Senior Services]. If any course information changes, the training agency shall notify the Department of Health [and Senior Services] as soon as that agency becomes aware of such changes.

(h) (No change.)

(i) Certified training agencies shall submit instructor documentation meeting the requirements of N.J.A.C. 12:120-6.5 and 8:60-6.5 to the

Department of Health [and Senior Services] for approval prior to allowing that instructor to conduct any training course.

(j) (No change.)

(k) Certified training agencies shall permit entry to all training courses by representatives of the Department of Health [and Senior Services] for the purposes of course evaluation and determination of compliance with this subchapter.

(l)-(m) (No change.)

(n) Certified training agencies shall permit representatives of the Department to inspect and evaluate these records. Upon request by the Department of Health [and Senior Services], training agencies shall provide copies of all training records for the purpose of inspection, evaluation and compliance.

(o) Certified training agencies shall maintain training records for a minimum of five years. The Department of Health [and Senior Services] shall be notified and be given the opportunity to take possession of all training records should an agency cease to conduct training.

(p) Certified training agencies shall notify the Department of Health [and Senior Services], in writing, in advance of any changes in information submitted on its agency and course applications. Any course modifications made subsequently to certification shall require 10 days prior notification and shall be subject to Department of Health [and Senior Services] approval.

(q) Notwithstanding (g) above, certified training agencies shall notify the Department of Health [and Senior Services] in writing at least four weeks advance of any changes in their hands-on training site. Any changes in location and/or renovations to the site shall require a reinspection of the facility before training can be conducted at that site.

(r) (No change.)

(s) Certified training agencies shall cooperate fully with the Department of Health [and Senior Services] in all matters relating to the conduct of certified training courses, the administration of examinations, and the permitting of individuals pursuant to this chapter.

8:60-6.5 (12:120-6.5) Criteria for training course instructors

(a) To be eligible for certification of any training course, three or more course instructors shall be employed. A sufficient number of instructors shall be hired to ensure that all of the education and experience criteria for instructors set forth below are met:

1. (No change.)

2. All applicants applying for instructor approval after April 3, 1995, must take the New Jersey asbestos supervisor course and successfully complete the examination approved by the Department of Health [and Senior Services].

3.-5. (No change.)

6. To qualify to teach the smoking cessation topics, instructors shall have successfully completed a course in smoking cessation approved by the Department of Health [and Senior Services].

8:60-6.8 (12:120-6.8) Criteria for topics in refresher training courses

(a)-(b) (No change.)

(c) The Department of Health [and Senior Services] reserves the right to require additional refresher training course topics within one month of a certified training agency's receipt of written notice.

8:60-6.9 (12:120-6.9) Granting of certification

(a) (No change.)

(b) An annual certification shall be granted to a training agency which has demonstrated the ability to meet the requirements of this subchapter, including course content, teaching methods, and instructor qualification based upon the application submission required by N.J.A.C. 12:120-6.3 and 8:60-6.3, and such investigation as the Commissioner of the Department of Health [and Senior Services] should deem necessary.

(c) (No change.)

(d) An annual letter of certification shall:

1.-4. (No change.)

5. Be signed by the Commissioner of the Department of Health [and Senior Services] or his or her designee; and

6. (No change.)

8:60-6.10 (12:120-6.10) Renewal of training agency certification

(a) In order to approve a training agency certification renewal application, the Commissioner of Health [and Senior Services] shall determine, based upon the application, that:

1.-4. (No change.)

(b) A complete application for renewal of a certification shall be submitted at least 30 days prior to the date of its expiration. When a complete application is submitted within the required time period, the certification shall continue in effect until the Commissioner of Health [and Senior Services] renders a final decision on the application.

(c) The annual application fee for renewal shall be \$500.00 per discipline. The application fee shall be submitted with the application and shall be non-refundable. The application fee shall be paid by certified check or money order and made payable to the New Jersey Department of Health [and Senior Services]. No liability shall be assumed by the Department of Health [and Senior Services] for the loss or delay in the transmission of the application fee.

(d) Upon written request from the applicant, the Commissioner of Health [and Senior Services] may, at his or her discretion, waive the fees for renewal of certification of training agencies identified to (c) above.

1.-2. (No change.)

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

8:60-6.11 (12:120-6.11) Suspension or revocation of training agency certification or instructor approval

(a) Any certified training agency may have its application denied, certification suspended or revoked, and/or shall be required to pay the administrative penalties set forth at N.J.A.C. 12:120-3.5 and 8:60-3.5 for each violation listed below:

1. (No change.)

2. Failure to adequately present either the topics set forth in this subchapter or any other materials required by the Department of Health [and Senior Services];

3.-9. (No change.)

(b) (No change.)

(c) In all cases where the Commissioner of Health [and Senior Services] proposes to revoke or suspend certification or instructor approval, or denies an application for certification or instructor approval, the applicant shall have the right to an informal conference or formal hearing, or both, pursuant to N.J.A.C. 12:120-8 and 8:60-8.

SUBCHAPTER 7. ASBESTOS WORK NOTIFICATION REQUIREMENTS

8:60-7.1 (12:120-7.1) Purpose and scope of subchapter

(a) The purpose of this subchapter is to establish the requirements for notifying the Departments of Labor and Workforce Development and Health [and Senior Services] as to when and where asbestos work will be undertaken.

(b) (No change.)

8:60-7.2 (12:120-7.2) Notification requirements

(a) Every employer under the scope of this subchapter who plans to perform asbestos work in New Jersey shall submit a written notification of intent to perform asbestos work at least 10 calendar days prior to beginning such work on forms specified by the Department of Health, [and Senior Services] except where such work is exempted at N.J.A.C. 12:120-1.4(b) (8:60-1.4(b)).

1.-5. (No change.)

(b) The written notification required by (a) above shall include:

1.-9. (No change.)

10. Any other relevant information [which] **that** the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services], as the case may be, determines to be necessary.

(c) Amended written notifications shall be submitted in accordance with and pursuant to N.J.A.C. 12:120-7.2(a) and (b) and 8:60-7.2(a) and (b). Amended notifications to the Commissioner of Labor and Workforce Development and the Commissioner of Health [and Senior Services] are required when:

1.-4. (No change.)

(d) The Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services], as the case may be, may allow less than 10 calendar days prior notification where emergency circumstances warrant less than a [10 calendar day prior] **10-calendar-day-prior** notification.

1. Where emergency circumstances warrant less than a [10 calendar day prior] **10-calendar-day-prior** notification, an employer shall still be required to adhere to the remaining requirements of N.J.A.C. 12:120-7.2(a) and (b) and 8:60-7.2(a) and (b) when it plans to perform asbestos work in New Jersey.

2. To enable the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services] to determine whether a waiver of the [10 calendar day prior] **10-calendar-day-prior** notification may be granted, the notifying party shall:

i. Submit a written explanation from the facility owner or from the [third party] **third-party** environmental engineer representing the facility owner to both the Commissioner of Labor and Workforce Development and the Commissioner of Health [and Senior Services] which details:

(1) (No change.)

(2) The impact upon the facility owner should a waiver of the [10 calendar day prior] **10-calendar-day-prior** notification not be granted.

ii. (No change.)

3. A request for a waiver of the 10 calendar days prior notification may be reviewed for approval by the Commissioner of Labor and Workforce Development or Health [and Senior Services] when received by facsimile transmission or express delivery. Only after the Commissioner of Labor and Workforce Development or Health [and Senior Services] has determined and has authorized that the emergency circumstance warrants a waiver, may the asbestos work proceed as notified.

(e) Written notifications required pursuant to this subchapter shall be submitted to:

New Jersey Department of Labor and Workforce Development

Asbestos Control and Licensing Section

1 John Fitch Plaza, 3rd Floor

PO Box 392

Trenton, NJ 08625-0392

and

New Jersey Department of Health [and Senior Services]

Consumer [and], Environmental **and Occupational** Health Service[s]

PO Box 369

Trenton, NJ 08625-0369

SUBCHAPTER 8. APPEALS AND COMPLAINTS

8:60-8.1 (12:120-8.1) Scope of subchapter

This subchapter shall apply to the procedures for appealing any action or inaction by the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services], under the Act, including, the revocation, suspension, or refusal to renew a license or permit, or denial of an application for a license or permit; the denial, revocation, or suspension of a training agency certification or instructor approval; and the assessment of a civil administrative penalty. It shall also apply to the procedures for filing a citizen complaint alleging a violation of the Act.

8:60-8.2 (12:120-8.2) Appeals

(a) Any individual who is aggrieved by any action or inaction of the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services] or his or her designee, under this chapter, shall have the right to an informal conference under (c) below or a formal hearing under (d) below or both upon receipt by the Commissioner of Labor and Workforce Development or Health [and Senior Services], as the case may be, of a written request within 10 calendar days of receipt of notice of the proposed agency action.

(b) In the interest of protecting employee or public health and safety, the Commissioner of Labor and Workforce Development or the Commissioner of Health [and Senior Services] may suspend a license, permit, instructor approval or training agency certification prior to a

hearing. When the license, permit, training agency certification, or instructor approval has been suspended, the aggrieved person shall have the right to a hearing within 10 calendar days of the notice of suspension.

(c) Upon receipt of the written request, an informal conference shall be held before a designee of the Commissioner of Labor and Workforce Development or Health [and Senior Services], as the case may be, within 30 calendar days. The designee of the Commissioner of Labor and Workforce Development or Health, [and Senior Services] as the case may be, shall render a decision within 45 calendar days of the conference. Such decision shall state the findings and conclusions and shall be transmitted to the aggrieved person.

(d) Any party who disagrees with the decision of the Commissioner of Labor and Workforce Development or [Health and Senior Services'] **Health's** designee may submit a written request for a formal hearing in accordance with (e) below.

(e)-(g) (No change.)

8:60-8.3 (12:120-8.3) Citizen complaints

(a) Any person who believes a violation of the provisions of the Act has occurred may file a citizen complaint petitioning the Commissioner of Labor and Workforce Development or Health [and Senior Services] to bring an enforcement action. The citizen complaint shall specify:

- 1.-3. (No change.)
- (b)-(c) (No change.)

SUBCHAPTER 9. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

8:60-9.1 (12:120-9.1) Documents referred to by reference

(a) The full title and edition of each of the standards and publications referred to in this chapter are as follows:

1. (No change.)
2. N.J.A.C. 1:1, Uniform **Administrative** Procedure Rules;
3. (No change.)
4. N.J.A.C. 7:26, [Non-Hazardous] **Solid and Hazardous** Waste Regulations;
- 5.-10. (No change.)

APPENDIX

For the purpose of analyzing Category I non-friable asbestos containing material and other non-friable organically bound material, the Department of Labor and Workforce Development and the Department of Health [and Senior Services] shall utilize the "Test Method -- Method for Determination of Asbestos in Bulk Building Materials," EPA/600/ R-93/116, July 1993, in the following manner:

- 1.-4. (No change.)

CORRECTIONS

(a)

STATE PAROLE BOARD

Parole Board Rules

Division of Parole

Readoption with Amendments: N.J.A.C. 10A:71

Adopted Amendments: N.J.A.C. 10A:72-1.1, 2.4, 3.6, 6.1, 7.1, 10.1, 10.2, 10.3, 10.4, 10.8, 10.9, 11.2, and 11.3

Adopted New Rules: N.J.A.C. 10A:72-14

Proposed: October 16, 2017, at 49 N.J.R. 3408(a).

Adopted: January 31, 2018, by the New Jersey State Parole Board, Samuel J. Plumeri, Jr., Chairman.

Filed: March 19, 2018, as R.2018 d.093, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:4-123.48.d, 30:4-123.51.b, and 30:4-123.92.d.

Effective Dates: March 19, 2018, Readoption;
April 16, 2018, Amendments and New Rules.

Expiration Dates: March 19, 2025, N.J.A.C. 10A:71;
December 5, 2020, N.J.A.C. 10A:72.

Summary of Public Comment and Agency Response:

The official comment period ended on December 15, 2017. In response to the notice of proposal, the State Parole Board (Board) received comments from Michael C. Woyce, Esq., in regards to proposed new N.J.A.C. 10A:72-14, Internet Access Condition. The comment from Mr. Woyce and the agency response are as follows:

COMMENT: The proposed regulation permits the imposition of absolute Internet prohibitions, as well as granting the Board power to monitor all Internet communications of an offender and requires the disclosure of all passwords used to access information on the Internet. This restriction prohibits benign Internet activity and other Internet communications that pose no risk of harm. The regulation is overly broad and violates offenders' First Amendment protections. The regulation should be less restrictive and more narrowly tailored and the prohibition to all Internet access is greater than necessary to meet any governmental interest.

Offenders' First Amendment rights are further intruded upon by requiring monitoring software. No guidelines are created for the imposition of this software and it is unclear which programs are acceptable and what features may be utilized. As the Division of Parole may not ransack an offender's home, read every piece of mail, and require him or her to write his or her every thought out for review by the Division of Parole, nor can it do so through technological means.

The regulation requires offenders to provide all passwords. This would include passwords to such matters as bank log-in information and access to government benefit programs. The Division of Parole is not entitled to such information.

The regulation violates the Fourth Amendment. The State Parole Board may only conduct a search (using software is a search through technical means) where it has a reasonable articulable suspicion of a violation. The regulation would permit an ongoing search without a reasonable suspicion of wrongdoing.

The procedure to impose Internet prohibitions is defective as the regulation does not permit a hearing, evidentiary or otherwise. The State Supreme Court in *J.I. v. New Jersey State Parole Board*, 228 N.J. 204 (2017), noted that J.I. was entitled to a reasonable opportunity to challenge the proposed imposition of the severely enhanced Internet restrictions and to a hearing in some form even if not an evidentiary one before the Board. The Court ordered at a minimum that offenders are entitled to provide written submissions and a hearing. The proposed regulation only provides for half of the process demanded by the Court.

The regulation provides for a review no less than one year from the effective date. The language utilized requires no review. The regulation prohibits a review in the first year and only requires a review on an annual basis thereafter, if necessary. The proposed regulation does not make the yearly review automatic, nor does it define when a review would be necessary. An offender should be entitled to a review of any Internet restriction at least every 90 days and for a decision to be rendered and a justification given for any continuation of the restriction.

Therefore, the proposed regulation should not be adopted and significant revisions are necessary to protect the substantial liberty interests affected and to more narrowly tailor the authority of the Division of Parole to impose Internet restrictions. Additionally, guidelines are necessary with regard to searching computers, as well as a process for more frequent reviews of the deprivation of liberty.

RESPONSE: The Board believes that the new subchapter addresses the First Amendment issues referred to by Mr. Woyce by delineating the Internet access condition as a special condition that will only apply on a case-by-case basis. The Division of Parole is required to demonstrate a specific and articulable reason and a clear purpose for the imposition of the Internet access condition. The proposed new subchapter also requires the Division of Parole to demonstrate that the imposition of the Internet access condition will act as an aid to the offender's re-entry effort, will

promote the rehabilitation of the offender, is necessary to protect the public, or will reduce recidivism by the offender. Furthermore, under the proposed new subchapter, the prohibition of Internet use can be relaxed with the approval of the District Parole Supervisor or designee. Many courts have upheld conditional bans on Internet use by sex offenders, whereby, the prohibition of Internet use could be relaxed with the approval of the offender's probation/parole officer.

The constitutional rights of a sex offender who is serving a special sentence of community/parole supervision for life are greatly diminished. The Supreme Court of the United States has acknowledged that a state has an overwhelming interest in supervising parolees because parolees are more likely to commit future criminal offenses. A state's interests in reducing recidivism among parolees allow for privacy intrusions that would not otherwise be tolerated under the Fourth Amendment. The Supreme Court of the United States has held that parolees do not have unfettered constitutional rights and that parole conditions that restrict their activities substantially beyond the ordinary restrictions imposed by law on an individual citizen do not violate the Constitution. Moreover, in *J.I., supra*, referred to by Mr. Woyce, the State Supreme Court held that in lieu of imposing a complete ban on Internet use, the Board had the option of imposing other less restrictive methods of supervision including a condition that required the installation of monitoring software on an offender's computer or device. The Court did not question the validity of such a condition. The installation of monitoring software on an Internet capable device(s) serves to ensure that an offender uses his or her electronic device(s) for authorized purposes only, thereby, furthering the State's interest in rehabilitation. It also allows the Board to determine if an offender is using these devices in a manner that could trigger re-offense, as well as whether the offender is re-offending. Thus, the condition serves the interest of protecting the public.

The new subchapter provides for the disclosure of all passwords used by an offender to access any data, information, image, program signal, or file on the computer/device. The Board believes that the disclosure would fall under a less restrictive method of supervision, is legally permissible, and is necessary to monitor an offender's computer/device activity. Mr. Woyce maintains that the requirement is overbroad because it would include disclosure of passwords related to activities, such as banking and government benefit programs. The purpose of the disclosure requirement is to permit a parole officer to search a computer/device to determine whether the offender is engaging in inappropriate activity. The Board concurs that there would seemingly be no purpose or reason for a parole officer to conduct a search of the computer/device related to matters such as banking or government benefit programs. However, a parole officer must have access to the computer/device and to personal e-mail addresses that could contain evidence of inappropriate activity. The Board has, therefore, elected to change proposed N.J.A.C. 10A:72-14.1(c)1vi. As changed, an offender is required to disclose all usernames and passwords related to the accessing of any computer/device, e-mail, and approved social networking service or chat room. Additionally, an offender will be required to disclose any other username(s) and password(s) utilized to access any data, information, image, program signal, or file as deemed necessary by a parole officer to ensure the offender's compliance with the conditions of supervision. The Board has included reference to username(s) as such may be an identification requirement in order to access a computer/device or any of the aforementioned items.

Mr. Woyce asserts that under *J.I., supra*, an offender is entitled to an in-person hearing before the Board prior to the imposition of the Internet access condition. In *J.I.*, the State Supreme Court reversed a condition imposed by the Board barring J.I. from accessing the Internet. The Court remanded the matter to the Board for the purpose of providing J.I. or his counsel the opportunity to challenge the condition at a hearing. Nowhere in the Court's opinion did the Court hold that all offenders serving a special sentence of community/parole supervision for life must be afforded a hearing to challenge a special condition that places restrictions on Internet use. Although the Court required a process to safeguard against arbitrary government action, the Court stated it will not mandate a regime that makes it impractical to impose an Internet restriction to protect the public or rehabilitate an offender. The Court

determined that the balance of interests weighs in favor of giving a supervised offender the opportunity to respond in a meaningful way to a near total or absolute Internet ban and that due process will be satisfied by allowing an offender the opportunity to respond by letter with supporting attachments, such as certifications or affidavits. The Board believes that the proposed new subchapter is in accordance with the Court's opinion and, therefore, a hearing is not required to be included in the proposed regulation.

Mr. Woyce claims that the annual review by the District Parole Supervisor is discretionary and not mandatory and that an offender should be entitled to a more frequent review of the Internet access condition. The proposed new rule uses the term "shall" and, therefore, the review is mandatory and not discretionary. However, to clarify the proposed new rule and to address Mr. Woyce's concern regarding when a review may be necessary, the Board has elected to change N.J.A.C. 10A:72-14.4(a). The Board has deleted the phrase "no less than" and deleted the phrase "if necessary." Thus, the first annual review is to be conducted one year from the effective date of the condition and on an annual basis thereafter (this, of course, assumes that the condition is continued at an annual review). The Board also believes, based on *J.I., supra*, that an annual review is a reasonable time period for an assessment as to whether an Internet access condition is to be continued.

Except for the modifications to N.J.A.C. 10A:72-14.1(c)1(vi) and 14.4(a), the Board elected to adopt new N.J.A.C. 10A:72-14 as proposed.

Federal Standards Statement

The rules readopted with amendments and new rules do not pertain to the implementation of, compliance with, or participation in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements. An analysis of the rules readopted with amendments and new rules pursuant to Executive Order No. 27 (1994), P.L. 1995, c. 65 is, therefore, not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10A:71.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

CHAPTER 71 PAROLE

SUBCHAPTER 1. BOARD ORGANIZATION

10A:71-1.1 Definitions

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

... "Division of Parole" shall mean the division within the State Parole Board responsible for the supervision of adult and juvenile offenders released on parole by the State Parole Board from an adult correctional facility; the supervision of offenders who are serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); the supervision of offenders under parole supervision from other states who have been accepted under the terms of the Interstate Compact for Adult Offender Supervision; the supervision of offenders sentenced to community supervision for life; the supervision of offenders sentenced to parole supervision for life; the supervision of juvenile offenders released from an adult correctional facility for the service of a term of post-incarceration; and the supervision of certain Executive Clemency cases.

... "Juvenile inmate" shall mean any person committed by the Family Court to a term of incarceration pursuant to N.J.S.A. 2A:4A-44.d(1).

... "Parolee" shall mean any inmate who is subject to the parole jurisdiction of the Board and who has been released on parole. "Parolee" shall also include a juvenile offender released from an adult correctional facility under supervision serving a term of post-incarceration; an adult offender under supervision serving a term of mandatory parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); an adult offender under

supervision serving a special sentence of parole supervision for life; an adult offender who resides in New Jersey under the terms of Interstate Compact for Adult Offender Supervision; and an adult offender placed under supervision by reason of Executive Clemency.

...

SUBCHAPTER 3. PAROLE RELEASE HEARINGS

10A:71-3.33 Post-incarceration supervision

(a)-(f) (No change.)

(g) As authorized by N.J.S.A. 2A:4A-44(d)5, a term of post-incarceration supervision may be terminated by the juvenile Board panel. Consideration to terminate the term of post-incarceration shall be in accordance with N.J.A.C. 10A:71-6.9(i).

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

10A:71-3.48 Victim input

(a)-(b) (No change.)

(c) The term "nearest relative of a murder/manslaughter victim" shall mean a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister, guardian of a minor, domestic partner, or civil union partner.

(d)-(r) (No change.)

10A:71-3.52 Interstate corrections compact and serving time-out-State (s.t.o.s.) cases

(a)-(p) (No change.)

(q) If an annual review hearing is to be scheduled pursuant to N.J.A.C. 10A:71-3.21(f), the following shall occur:

1. The Board shall notify the Department that the offender will be scheduled for an annual review hearing. The Department upon notice being provided shall request the out-of-State or Federal institutional authority to submit to the Board a report concerning the offender. The report shall consist of the information required in N.J.A.C. 10A:71-3.7(e)3 through 6.

2.-6. (No change.)

(r) (No change.)

10A:71-3.54 Mandatory supervision cases

(a)-(n) (No change.)

(o) If an offender sentenced pursuant to N.J.S.A. 2C:43-7.2 is also sentenced to a special sentence of community supervision for life or parole supervision for life pursuant to N.J.S.A. 2C:43-6.4 and if the offender is released on parole by a Board panel or the Board prior to the expiration of the sentence of incarceration, the conditions of supervision shall include, in addition to those conditions established pursuant to (e)2 above and N.J.A.C. 10A:71-6.4(a) and (i), the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), and (f) or 6.12(d), (e), (g), and (h), as appropriate.

10A:71-3.56 Parole contract agreements; adult inmates

(a)-(i) (No change.)

(j) The specified reduction(s) in the parole contract agreement shall be granted upon compliance with all of the following conditions:

1.-2. (No change.)

3. The inmate must not have been adjudicated guilty of the commission of any disciplinary infraction pursuant to N.J.A.C. 10A:4-9; and

4. (No change.)

(k)-(l) (No change.)

(m) The Board may terminate a parole contract agreement based on the following:

1. The inmate has been adjudicated guilty of any disciplinary infraction pursuant to N.J.A.C. 10A:4-9; or

2. (No change.)

(n)-(q) (No change.)

SUBCHAPTER 4. APPEALS

10A:71-4.1 Appeals by inmates

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

(d) Any rescission of parole release date by a Board panel shall be appealable to the Board provided one of the following criteria is met:

1.-2. (No change.)

3. A Board member participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

4. (No change.)

(e)-(j) (No change.)

10A:71-4.4 Review of Division of Parole decisions

(a) A determination by a District Parole Supervisor or his or her designated representative shall be appealable to the Director, Division of Parole, or his or her designated representative.

1. An appeal may be submitted, provided one of the following criteria is met:

i.-ii. (No change.)

iii. The District Parole Supervisor or his or her representative participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

iv. (No change in text.)

2.-4. (No change.)

(b) The determination of the Director, Division of Parole, or his or her representative rendered pursuant to (a) above shall be appealable to a Board panel.

1. A determination by the Director, Division of Parole, or his or her representative shall be appealable to a Board panel provided one of the following criteria is met:

i.-ii. (No change.)

iii. The District Parole Supervisor or his or her representative participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

iv. (No change in text.)

2.-4. (No change.)

(c) The decision of the Board panel rendered pursuant to (b) above shall be appealable to the Board.

1. The decision by the Board panel shall be appealable to the Board provided one of the following criteria is met:

i.-ii. (No change.)

iii. The District Parole Supervisor or his or her representative participating in the deliberations or disposition of the case has a demonstrable personal interest or demonstrated prejudice or bias in the case that affected the decision.

iv. (No change in text.)

2.-4. (No change.)

SUBCHAPTER 6. SUPERVISION

10A:71-6.4 Conditions of parole

(a) An offender granted parole shall comply with the following general conditions of parole:

1.-3. (No change.)

4. Notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining or protective order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation.

5. Comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court.

6. Refrain from behavior that results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes.

7.-19. (No change.)

(b) In the case of an adult or young adult State inmate subject to the provisions of N.J.S.A. 2C:43-6.4, the certificate of parole shall contain as general conditions of parole, in addition to those conditions specified in (a) above, the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), and (f) or 6.12(d), (e), (g), and (h) as appropriate.

(c)-(m) (No change.)

10A:71-6.10 Transfer of parole supervision to out-of-State jurisdiction

(a) The appropriate Board panel may permit a parolee to reside outside the State pursuant to the provisions of the Interstate Compact for Adult Offender Supervision (N.J.S.A. 2A:168-26 et seq.) and the Interstate Compact on juveniles (N.J.S.A. 9:23-1 et seq.) if the Board panel is satisfied that such change will not result in a substantial likelihood that the parolee will commit an offense, which would be a crime under the laws of this State.

(b)-(h) (No change.)

10A:71-6.11 Community supervision for life

(a) (No change.)

(b) The special sentence of community supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4.b upon the completion of the sentence imposed pursuant to the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq. An offender serving a special sentence of community supervision for life shall be supervised by the Division of Parole as if on parole and subject to any special conditions established by the appropriate Board panel and to the following general conditions. The offender shall:

1.-3. (No change.)

4. Notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining or protective order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation;

5. Comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

6. Refrain from behavior that results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes;

7.-20. (No change.)

21. Submit to a search conducted by a parole officer, without a warrant, of the offender's person, place of residence, vehicle, or other real or personal property within the offender's control at any time a parole officer has a reasonable, articulable basis to believe that the search will produce contraband or evidence that a condition of supervision has been violated, is being violated, or is about to be violated and permit the confiscation of any contraband;

22. (No change.)

23. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the District Parole Supervisor.

i. (No change.)

ii. "Internet website or application," as used in (b)23iv below, means an Internet website or application that allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website or application, and facilitates online social interactions by offering a mechanism for communication with other users of the Internet website or application. An Internet application shall include any program utilized in conjunction with a mobile or electronic device that permits access to a social networking service.

iii. "Peer-to-peer network," as used in (b)23iv below, means a connection of computer systems whereby files are shared directly between the systems on a network without the need of a central server.

iv. (No change.)

(c)-(n) (No change.)

10A:71-6.12 Parole supervision for life

(a) Pursuant to N.J.S.A. 2C:43-6.4(a), any enumerated offense committed on or after January 14, 2004, a court imposing sentence on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1(c)2, engaging in sexual conduct that would impair or debauch the morals of a child pursuant to N.J.S.A. 2C:24-4(a), endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4(b)3, luring, or an attempt to commit any of these offenses shall include, in addition to any sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of parole supervision for life. Pursuant to N.J.S.A. 2C:43-6.4.a, a court imposing sentence on a person who has been convicted of endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(4) or (5) or an attempt to commit either of these offenses on or after August 14, 2013, may include, upon motion of the prosecutor, in addition to any other sentence authorized by the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., a special sentence of parole supervision for life.

(b)-(c) (No change.)

(d) An offender sentenced to a special sentence of parole supervision for life shall comply with the following:

1.-3. (No change.)

4. Notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining or protective order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation;

5. Comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

6. Refrain from behavior that results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes;

7.-24. (No change.)

25. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the District Parole Supervisor.

i. (No change.)

ii. "Internet website or application," as used in (d)25iv below, means an Internet website or application that allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website or application, and facilitates online social interactions by offering a

mechanism for communication with other users of the Internet website or application. An Internet application shall include any program utilized in conjunction with a mobile or electronic device that permits access to a social networking service.

iii. "Peer-to-peer network," as used in (d)25iv below, means a connection of computer systems whereby files are shared directly between the systems on a network without the need of a central server.

iv. (No change.)

26. (No change.)

(e)-(v) (No change.)

SUBCHAPTER 7. REVOCATION OF PAROLE

10A:71-7.13 Revocation hearing; scheduling

(a) Except as provided herein, the revocation hearing shall be conducted within 60 days of the date the parolee was taken into custody as a parole violator, or, where the parolee was sentenced or committed to a State correctional, county correctional, or juvenile facility, within 60 days of the date of sentence or commitment.

(b)-(d) (No change.)

(e) If the request for postponement by the hearing officer, parole officer, or by a parolee is due to unanticipated scheduling problems or other emergent circumstances, such postponement shall be granted by the appropriate Board panel and shall not exceed 60 days from the originally scheduled date of hearing.

10A:71-7.15 Status of parolee pending Board panel action

(a) (No change.)

(b) In the case of a parolee who is on parole on a sentence imposed for the offense of murder, aggravated manslaughter, manslaughter, death by vehicular homicide, aggravated assault, kidnapping, aggravated sexual assault, sexual assault, robbery first degree, burglary second degree, terroristic threats, or endangering the welfare of a child, the warrant shall not be withdrawn pursuant to (a) above if the hearing officer determines that, based on the review of the hearing record and the review of the Board's records on the parolee, the parolee would pose a danger to the public safety. In such case, the parolee shall remain in custody pending a review by the appropriate Board panel pursuant to N.J.A.C. 10A:71-7.17, 7.17A, or 7.17B.

(c)-(e) (No change.)

10A:71-7.17B Board panel action; schedule of future parole eligibility dates upon revocation of parole for inmates who violated parole on or after December 4, 1995

(a) This section applies to inmates who violated parole on or after December 4, 1995. After consideration of the hearing officer's hearing summary and opinion and any written exceptions thereto, a two-member Board panel shall determine whether to revoke parole pursuant to N.J.A.C. 10A:71-7.12. The Board panel members shall not receive or consider any ex parte communication. The parolee's case shall be decided on the basis of the established record.

1.-2. (No change.)

3. Except as provided in this section, if parole is revoked by the two-member Board panel and parole release is not certified pursuant to (a)2 above, an adult inmate shall serve 12 months, a young adult inmate shall serve nine months, and a juvenile inmate shall serve six months if the inmate has violated one of the following conditions of parole:

i. (No change.)

ii. Failure to notify the assigned parole officer no later than the next business day upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes, of an order granting emergency relief, a temporary or final restraining or protective order, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation;

iii. Failure to comply with any condition established within an order granting emergency relief, a temporary or final restraining or protective order, issued by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the

provisions of similar Federal or state statutes, or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

iv. Failure to refrain from behavior that results in the issuance of a final restraining or protective order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., the Sexual Assault Survivor Protection Act of 2015, N.J.S.A. 2C:14-13 et seq., or the provisions of similar Federal or state statutes;

v.-viii. (No change.)

(b)-(r) (No change.)

CHAPTER 72 DIVISION OF PAROLE

SUBCHAPTER 1. GENERAL PROVISIONS

10A:72-1.1 Definitions

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

...

"Parole officer" means persons with the following Division of Parole titles that shall be sworn as peace officers:

1.-5. (No change.)

6. Senior Parole Officer;

7. Parole Officer Recruit;

8. Chief Investigator Parole & Secured Facilities;

9. Principal Investigator Parole & Secured Facilities; and

10. Senior Investigator Parole & Secured Facilities.

"Parole supervision for life" as established in N.J.S.A. 2C:43-6.4, means a court imposed sentence of parole supervision on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to N.J.S.A. 2C:13-1.c(2), endangering the welfare of a child by engaging in sexual conduct that would impair or debauch the morals of the child pursuant to N.J.S.A. 2C:24-4.a, endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(3), luring, endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4.b(4) or (5), or an attempt to commit any such offense. Rules regarding parole supervision for life are established at N.J.A.C. 10A:71-6.12.

"Parolee" means any inmate who is subject to the parole jurisdiction of the Board and who has been released on parole. "Parolee" shall also include a juvenile offender released from an adult correctional facility under supervision serving a term of post-incarceration; an adult offender under supervision serving a term of mandatory parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); an adult offender under supervision serving a special sentence of parole supervision for life; an adult offender who resides in New Jersey under the terms of Interstate Compact for Adult Offender Supervision; and an adult offender placed under supervision by reason of Executive Clemency.

...

SUBCHAPTER 2. COMMUNITY PLAN AND SUPERVISION

10A:72-2.4 Violations of parole

(a) (No change.)

(b) The response to a violation of a condition of parole shall be proportional to the risk to the community posed by the parolee, the severity of the violation, and the potential for long-term positive outcomes. Responses may include, but not be limited to, the following:

1.-2. (No change.)

3. The imposition of a special condition requiring:

i. (No change.)

ii. Assignment to and successful completion of the electronic monitoring program or Global Positioning System (GPS) monitoring program, wherein electronic monitoring or GPS monitoring serves to address violations of conditions of supervision;

iii.-iv. (No change.)

(c)-(d) (No change.)

SUBCHAPTER 3. POLYGRAPH EXAMINATION OF SEX OFFENDERS

10A:72-3.6 Polygraph examination disclosure form

(a) (No change.)

(b) The disclosure form shall include, but not be limited to:

1.-4. (No change.)

5. That the valid exercise of the right to remain silent does not constitute failure to fully participate and/or cooperate with the examination;

i. An offender validly invokes the right to remain silent, without consequence, if the answer to any question asked throughout any portion of the polygraph examination process as defined in N.J.A.C. 10A:72-3.7(a) could form the basis of an independent criminal investigation.

6.-9. (No change.)

SUBCHAPTER 6. SEARCH AND URINE MONITORING OF PAROLEES

10A:72-6.1 Search of parolees; when authorized; scope

(a)-(f) (No change.)

(g) A parolee shall be searched prior to being transported pursuant to N.J.A.C. 10A:72-8.1 to 8.4.

SUBCHAPTER 7. CONTRABAND AND DISPOSITION OF CONTRABAND

10A:72-7.1 Procedures for handling contraband upon discovery

(a) Whenever an item, article, or material is determined to be contraband pursuant to N.J.A.C. 10A:72-1.1, the contraband shall be immediately seized.

(b)-(d) (No change.)

SUBCHAPTER 10. CURFEW, ELECTRONIC MONITORING, AND GLOBAL POSITIONING SYSTEM (GPS) MONITORING

10A:72-10.1 Criteria

(a) (No change.)

(b) The District Parole Supervisor or designee may effectuate the general condition of curfew or impose a special condition that the offender abide by an assigned curfew, participate in electronic monitoring, or GPS monitoring if:

1.-2. (No change.)

10A:72-10.2 Specifications

(a) The curfew, electronic monitoring, or GPS monitoring period established pursuant to N.J.A.C. 10A:72-10.1(b) shall comply with the following specifications:

1.-5. (No change.)

6. A District Parole Supervisor or designee shall review the curfew, electronic monitoring, or GPS monitoring period no less than 90 days after imposition to determine if it remains warranted; and

7. Any extension of the curfew, electronic monitoring, or GPS monitoring period beyond 180 days shall require an additional review by the District Parole Supervisor or designee and shall conform with the procedures in N.J.A.C. 10A:72-10.3.

10A:72-10.3 Procedure

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

(d) If the offender does not contest the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the curfew, electronic monitoring, or GPS monitoring condition, the offender shall be advised that the curfew, electronic monitoring, or GPS monitoring condition shall be effectuated immediately.

(e) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the curfew, electronic monitoring, or GPS monitoring condition and exigent circumstances do not exist as to require the immediate effectuation of the curfew, electronic monitoring, or GPS monitoring condition, the following procedures shall apply:

1.-3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition to a Board panel. If the offender contests the imposition of the curfew, electronic monitoring, or GPS monitoring condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. (No change.)

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the five-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

(f) If the offender contests the allegations, the conclusions to be drawn from the allegations or the justification supporting the imposition of the curfew, electronic monitoring, or GPS monitoring condition and the District Parole Office believes that exigent circumstances do exist as to require the immediate effectuation of the curfew, electronic monitoring, or GPS monitoring condition, the following procedures shall apply:

1. The District Parole Supervisor or designee shall review the offender's case within 24 hours of the determination to impose the curfew, electronic monitoring, or GPS monitoring condition to determine whether exigent circumstances do exist as to require immediate effectuation of the curfew, electronic monitoring, or GPS monitoring condition and shall verbally advise the offender and the assigned parole officer of his or her determination. If the District Parole Supervisor or designee determines that exigent circumstances exist, the District Parole Supervisor or designee shall also provide written notice to the offender as to the basis for the determination;

2. If the District Parole Supervisor or designee determines that exigent circumstances do exist, the curfew, electronic monitoring, or GPS monitoring condition shall be effectuated immediately;

3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition and, if exigent circumstances were found to exist by the District Parole Supervisor or designee, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to a Board panel. If the offender contests the imposition of the curfew, electronic monitoring, or GPS monitoring condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. (No change.)

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the five-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

10A:72-10.4 Board panel review

(a) Upon receipt of the written notice of the imposition of the curfew, electronic monitoring, or GPS monitoring condition, the basis for the imposition of the curfew, electronic monitoring, or GPS monitoring condition, the written statement or documentation of the offender and an assessment of the written statement or documentation by the District Parole Supervisor or designee, if submitted, and any attendant documents, a Board panel shall review the offender's case.

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

10A:72-10.8 Hearing; record

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

(d) A copy of the hearing report shall be forwarded to the offender, District Parole Supervisor or designee, and to the Board panel within seven days of the hearing.

(e) (No change.)

10A:72-10.9 Hearing; notice of decision

Within 21 days of the hearing, the Board panel shall render a decision. Written notice of the decision shall be provided to the offender and the District Parole Supervisor or designee.

SUBCHAPTER 11. SEX OFFENDER GLOBAL POSITIONING SYSTEM (GPS) MONITORING PROGRAM

10A:72-11.2 Global positioning system (GPS) monitoring referral procedure

(a)-(g) (No change.)

(h) If the offender contests the basis supporting the GPS monitoring referral and exigent circumstances do not exist as to require immediate GPS monitoring, the following procedures shall apply:

1.-2. (No change.)

3. The District Parole Office shall forward a copy of the written notice of the GPS monitoring referral to the Director, Division of Parole. If the offender contests the GPS monitoring referral and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Director, Division of Parole, for consideration.

4.-5. (No change.)

(i) If the offender contests the basis supporting the GPS monitoring referral and the District Parole Office believes that exigent circumstances do exist as to require immediate GPS monitoring, the following procedures shall apply:

1. The Supervising Parole Officer shall review the offender's case within 24 hours of the determination to immediately forward the GPS monitoring referral to determine whether exigent circumstances do exist as to require immediate forwarding of the GPS monitoring referral and shall verbally advise the District Parole Office of his or her determination. If the Supervising Parole Officer determines that exigent circumstances exist, the District Parole Office shall provide written notice to the offender as to the basis for the determination.

2.-3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the GPS monitoring referral and, if exigent circumstances were found to exist by the Supervising Parole Officer, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to the Director, Division of Parole. If the offender contests the GPS monitoring referral and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Director, Division of Parole, for consideration.

5. (No change.)

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the five-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Director, Division of Parole, for consideration.

(j) Upon receipt of the written notice of the GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender and an assessment of the written statement or documentation by the District Parole Supervisor or designee, if submitted, and any attendant documents, the Director, Division of Parole, or designee shall review the offender's case.

(k) Upon review of the offender's case, the Director, Division of Parole, or designee shall forward, within five business days, the written notice of the GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender and an assessment of the written statement or documentation by the District

Parole Supervisor or designee, if submitted, any attendant documents, and his or her recommendation as to the appropriateness of GPS monitoring to the Chairperson of the State Parole Board for review.

10A:72-11.3 Chairperson of the State Parole Board (Chairperson) review

(a) Upon receipt of the written notice of GPS monitoring referral, the basis for the GPS monitoring referral, the written statement or documentation of the offender and an assessment of the written statement or documentation by the District Parole Supervisor or designee, if submitted, any attendant documents, and the recommendation of the Director, Division of Parole, or designee, the Chairperson shall review the offender's case.

(b)-(c) (No change.)

SUBCHAPTER 14. INTERNET ACCESS CONDITION

10A:72-14.1 Criteria

(a) This subchapter applies to the imposition of a special condition prohibiting an offender access to the Internet (Internet access condition) in the cases of offenders serving a special sentence of community or parole supervision for life.

(b) The District Parole Supervisor or designee may impose a special condition prohibiting an offender from accessing the Internet if:

1. There is a specific and articulable reason and a clear purpose for the imposition of the Internet access condition; and

2. The imposition of the Internet access condition will act as an aid to the offender's re-entry effort, will promote the rehabilitation of the offender, is deemed necessary to protect the public, or will reduce recidivism by the offender.

(c) The Internet access condition shall include, but not be limited to, the following:

1. The offender is to refrain from the possession and/or utilization of any computer and/or device that permits access to the Internet unless specifically authorized by the District Parole Supervisor or designee. If the District Parole Supervisor or designee permits use of a computer and/or device that is capable of accessing the Internet, the offender shall be subject to the following restrictions and conditions:

i. The offender is to refrain from accessing the Internet from any computer and/or device at any time or for any reason unless authorized by the District Parole Supervisor or designee;

ii. The offender is prohibited from possessing or using any data encryption techniques and/or software programs that conceal, mask, alter, eliminate, and/or destroy information, and/or data from a computer and/or device;

iii. The offender agrees to install on the computer and/or device, at his or her expense, one or more hardware or software system(s) to monitor computer and/or device use if such hardware or software system(s) is(are) determined to be necessary by the District Parole Supervisor or designee;

iv. The offender agrees to permit the monitoring of the computer and/or device activity by a parole officer and/or computer/device specialist through the use of electronic means;

v. The offender is subject to periodic unannounced examinations of the computer and/or device by a parole officer or designated computer/device specialist, including the retrieval and copying of all data from the computer and/or device and any internal or external peripherals and removal of such equipment to conduct a more thorough inspection; and

vi. The offender is to disclose all ***usernames and* passwords** used by him or her to access any ***computer/device, e-mail address, and approved social networking service or chat room, as well as any other username(s) and password(s) used by him or her to access any* data, information, image, program, signal, or file on the computer/device *deemed necessary by a parole officer to ensure compliance with the conditions of supervision*.**

10A:72-14.2 Procedure

(a) Upon a determination by the District Parole Supervisor or designee to impose a special condition prohibiting an offender access to the Internet (Internet access condition), the offender shall be served in

person with written notice of the imposition of the Internet access condition. The written notice shall include the basis for the imposition of the Internet access condition.

(b) The offender shall be provided with a written informational statement that details the procedure for the imposition of the Internet access condition.

(c) The offender shall indicate in writing whether he or she contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition.

(d) If the offender does not contest the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition, the offender shall be advised that the Internet access condition shall be effectuated immediately.

(e) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition and exigent circumstances do not exist as to require the immediate effectuation of the Internet access condition, the following procedures shall apply:

1. The offender shall be advised that he or she will have 10 business days to submit a written statement or documentation to the District Parole Office to be considered before the Internet access condition becomes effective;

2. The offender shall be advised that if the offender fails to submit a written statement or documentation within 10 business days, the Internet access condition shall become effective immediately upon the expiration of the 10 business days;

3. If the offender submits a written statement or documentation within 10 business days, the Internet access condition shall not be effectuated until such time as a Board panel authorizes the effectuation of the Internet access condition;

4. The District Parole Office shall forward a copy of the written notice of the imposition of the Internet access condition to a Board panel. If the offender contests the imposition of the Internet access condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. An offender shall not be precluded from submitting a written statement or documentation to the District Parole Office after the expiration of the 10-business-day time period. However, the failure to comply with the 10-business-day time period shall result in the immediate effectuation of the Internet access condition; and

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the 10-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

(f) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the Internet access condition and the District Parole Office believes that exigent circumstances do exist as to require the immediate effectuation of the Internet access condition, the following procedures shall apply:

1. The District Parole Supervisor or designee shall review the offender's case within 24 hours of the determination to impose the Internet access condition to determine whether exigent circumstances do exist as to require immediate effectuation of the Internet access condition and shall verbally advise the offender and the assigned parole officer of his or her determination. If the District Parole Supervisor or designee determines that exigent circumstances exist, the District Parole Supervisor or designee shall also provide written notice to the offender as to the basis for the determination;

2. If the District Parole Supervisor or designee determines that exigent circumstances do exist, the Internet access condition shall be effectuated immediately;

3. The offender shall be advised that he or she will have 10 business days to submit a written statement or documentation to be considered;

4. The District Parole Office shall forward a copy of the written notice of the Internet access condition and, if exigent circumstances were found to exist by the District Parole Supervisor or designee, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to a Board panel. If the offender contests the imposition of the Internet access condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee shall be forwarded by the District Parole Office to the Board panel for consideration;

5. An offender shall not be precluded from submitting a written statement or documentation to the District Parole Officer after the expiration of the 10-business-day time period; and

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the 10-business-day time period, the District Parole Office shall forward a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor or designee to the Board panel for consideration.

10A:72-14.3 Board panel review

(a) Upon receipt of the written notice of a special condition prohibiting an offender access to the Internet (Internet access condition), the basis for the imposition of the Internet access condition, the written statement of the offender, if submitted, and any attendant documents, a Board panel shall review the offender's case.

(b) The Board panel shall determine whether to affirm or vacate the imposition of the Internet access condition.

(c) The offender and District Parole Office shall be notified in writing of the Board panel's decision.

10A:72-14.4 Division of Parole review

(a) A District Parole Supervisor or designee shall review a special condition prohibiting an offender access to the Internet (Internet access condition) *[no less than]* one year from the effective date of the Internet access condition and *[, if necessary,]* on an annual basis thereafter to determine if it remains warranted.

(b) The District Parole Supervisor or designee shall review the Internet access condition utilizing the criteria specified in (c) below.

(c) The review of the Internet access condition shall include, but not be limited to, an assessment as to whether:

1. There is a reasonable basis to preclude access to the Internet;
2. Internet use is consistent with the continued rehabilitation of the offender and will not compromise public safety;
3. The offender is in compliance with the conditions of supervision;
4. The offender has met the goals listed in his or her Case Plan Agreement and is progressing in a pro-social manner; and
5. The offender's treatment provider, if the offender is presently participating in counseling, is of the opinion that Internet access will promote the rehabilitation of the offender and assist the offender's re-entry efforts.

(d) Upon completion of the review of the Internet access condition, the District Parole Supervisor or designee shall determine whether to continue or vacate the Internet access condition.

(e) If the District Parole Supervisor or designee determines to continue the Internet access condition, the continuation shall conform with the procedures in N.J.A.C. 10A:72-14.2 and 14.3. However, if the offender contests the justification supporting the extension of the Internet access condition, the Internet access condition shall remain in effect until the Board panel has reviewed the offender's case and determined whether to continue or vacate the extension of the Internet access condition.

(f) If the District Parole Supervisor or designee determines to vacate the Internet access condition, the District Parole Supervisor or designee shall notify the offender in writing of the decision. The decision shall also be recorded in the chronological supervision report.

LABOR AND WORKFORCE DEVELOPMENT

(a)

INCOME SECURITY

Notice of Readoption

Unemployment Compensation and Temporary Disability Benefits: General Provisions, Disclosure of Information and Registration of Authorized Agents

Readoption: N.J.A.C. 12:15

Authorized By: Robert Asaro-Angelo, Acting Commissioner,
Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20, 34:1A-3.c, and 43:21-1 et seq.,
specifically, 43:21-7.g and 43:21-65.

Effective Date: March 14, 2018.

New Expiration Date: March 14, 2025.

Take notice that pursuant to the provisions of N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 12:15 were scheduled to expire on April 21, 2018.

A summary of the sections of N.J.A.C. 12:15 follows:

N.J.A.C. 12:15-1.1 sets forth the purpose and scope of the rules, which are designed to assist in the implementation of the basic provisions of the Unemployment Compensation Law, N.J.S.A. 43:21-1 et seq., and the Temporary Disability Benefits Law, N.J.S.A. 43:21-25 et seq.

N.J.A.C. 12:15-1.1A contains definitions of words and terms used throughout the chapter.

N.J.A.C. 12:15-1.2 states the current year's maximum weekly benefit rate for benefits under the Unemployment Compensation Law and for State plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law.

N.J.A.C. 12:15-1.3 sets forth the current year's taxable wage base for the purpose of contributions under the Unemployment Compensation Law in accordance with N.J.S.A. 43:21-7.b(3).

N.J.A.C. 12:15-1.4 states the current year's contribution rate for governmental entities and instrumentalities that elect to pay contributions under the Unemployment Compensation Law.

N.J.A.C. 12:15-1.5 outlines the amount of earnings required to establish a base week for an individual's claim for unemployment compensation and State plan temporary disability and family leave insurance benefits.

N.J.A.C. 12:15-1.6 states the amount of base year earnings required to establish an individual's eligibility for unemployment compensation and State plan temporary disability and family leave insurance benefits in those instances in which the individual has not established 20 base weeks.

The rules at N.J.A.C. 12:15-1.2 through 1.6 are amended annually to reflect current statistics.

N.J.A.C. 12:15-1.7 contains definitions of words and terms used in N.J.A.C. 12:15-1.8, 1.9, and 1.10.

N.J.A.C. 12:15-1.8 concerns the training of Department employees who have direct contact with victims of domestic violence in the context of processing unemployment compensation claims.

N.J.A.C. 12:15-1.9 sets forth the responsibilities of Department employees who process unemployment compensation claims and who have direct, in-person, contact with claimants within the context of processing unemployment claims.

N.J.A.C. 12:15-1.10 sets forth the responsibilities of Department employees who process unemployment compensation claims and domestic violence liaisons when a claimant has disclosed, as the result of the self-screening process described in N.J.A.C. 12:15-1.9, that he or she has been the victim of domestic violence.

The rules at N.J.A.C. 12:15-2 concern the disclosure of information provided to the Department in the course of administering the Unemployment Compensation Law and Temporary Disability Benefits

Law. These rules are necessary to ensure that the confidentiality of information provided to the Department by claimants and employers is maintained.

N.J.A.C. 12:15-2.1 sets forth the general prohibition against the disclosure of information obtained by the Department for purposes of administering the Unemployment Compensation Law and Temporary Disability Benefits Law.

N.J.A.C. 12:15-2.2 delineates the requirements for the authorized disclosure of information to certain individuals and entities.

N.J.A.C. 12:15-2.3 provides that any request for the release of information connected with the proper presentation of an unemployment or temporary disability insurance claim before the Appeal Tribunal or the Board of Review shall be considered in accordance with N.J.A.C. 1:12-10.1.

N.J.A.C. 12:15-2.4 indicates that the disclosure of information in violation of Federal regulation is unauthorized.

The rules at N.J.A.C. 12:15-3 implement N.J.S.A. 43:21-6.2 through 6.8, which require in pertinent part that an authorized agent who represents a party or parties for a fee in connection with claims for unemployment compensation, charges, or tax assessments, shall register with the Division.

N.J.A.C. 12:15-3.1 sets forth the application and scope of the subchapter.

N.J.A.C. 12:15-3.2 includes definitions of words and terms used throughout the subchapter.

N.J.A.C. 12:15-3.3 indicates which organizational unit within the Department is responsible for administering and enforcing the subchapter.

N.J.A.C. 12:15-3.4 sets forth the authorized agent registration requirement and describes the registration process.

N.J.A.C. 12:15-3.5 concerns the Department's issuance of a registration number to a duly registered authorized agent and addresses the term of the registration.

N.J.A.C. 12:15-3.6, Violations — first determination, addresses what occurs when the Director makes his or her first determination that an authorized agent has violated more than one of the provisions of N.J.S.A. 43:21-6.2 through 6.8, or other provisions of N.J.S.A. 43:21-1 et seq.

N.J.A.C. 12:15-3.7, Violations — second determination, addresses what occurs when the Director determines that the authorized agent has continued to violate any of the provisions of N.J.S.A. 43:21-6.2 through 6.8, or other provisions of N.J.S.A. 43:21-1 et seq.

N.J.A.C. 12:15-3.8, Violations — third determination, addresses what occurs when the Director determines that the authorized agent has, after the second determination, continued to violate any of the provisions of N.J.S.A. 43:21-6.2 through 6.8, or other provisions of N.J.S.A. 43:21-1 et seq.

N.J.A.C. 12:15-3.9 describes the process whereby a registered authorized agent may appeal a determination by the Director to suspend or revoke the registration of the authorized agent.

The Department of Labor and Workforce Development has reviewed these rules and has determined that the rules should be readopted without amendment. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(b)

WORKFORCE DEVELOPMENT

Notice of Readoption

Work First New Jersey and Food Stamp Employment and Training Program

Readoption: N.J.A.C. 12:35

Authorized By: Robert Asaro-Angelo, Acting Commissioner,
Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), and 44:8-114.

Effective Date: March 15, 2018.

New Expiration Date: March 15, 2025.

Take notice that pursuant to the provisions of N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 12:35 were scheduled to expire on April 21, 2018.

A summary of the subchapters of N.J.A.C. 12:35 follows:

Subchapter 1 addresses the purpose and scope of the chapter and contains definitions of words and terms used throughout the chapter.

Subchapter 2 prohibits the replacement or displacement of a regular employee by a Work First New Jersey recipient who participates in the Community Work Experience Program (CWEP) or the Alternative Work Experience Program (AWEP), or by a Food Stamp Employment and Training Program (FSETP) participant. The subchapter also sets forth the complaint procedure for employees who believe that they have been adversely affected by a violation of N.J.A.C. 12:35-2.1, which is to say, that they have been adversely affected by the replacement or displacement of a regular employee by a Work First New Jersey recipient who participates in the CWEP or AWEP programs, or by an FSETP participant.

The Department of Labor and Workforce Development has reviewed this chapter and has determined that the rules should be readopted without amendment. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), this chapter is readopted and shall continue in effect for a seven-year period.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS

STATE BOARD OF MARRIAGE AND FAMILY THERAPY EXAMINERS

ALCOHOL AND DRUG COUNSELOR COMMITTEE

Continuing Education Contact Hour Requirements:

Legal Standards Related to the Practice of Alcohol and Drug Counseling in New Jersey

Adopted Amendment: N.J.A.C. 13:34C-5.2

Proposed: October 17, 2016, at 48 N.J.R. 2118(a).

Notice of Proposed Substantial Changes Upon Adoption to Proposed

Amendments: October 2, 2017, at 49 N.J.R. 3329(a).

Adopted: February 8, 2018, by the State Board of Marriage and Family Therapy Examiners, Lorraine M. Barry, Ed.S., Chairperson.

Filed: March 15, 2018, as R.2018 d.092, **with substantial changes** to proposal after additional notice and public comment, pursuant to N.J.S.A. 52:14B-4.10.

Authority: N.J.S.A. 45:2D-1 et seq.

Effective Date: April 16, 2018.

Expiration Date: March 3, 2024.

Summary of Public Comments and Agency Responses:

The official comment period to the original notice of proposed amendments ended December 16, 2016 (see 48 N.J.R. 2118(a)). The State Board of Marriage and Family Therapy Examiners (Board), Alcohol and Drug Counselor Committee (Committee) received comments from:

1. Diane Utterer, MPA, CPS, CEO & Executive Director, and Anthony Polizzi, LCADC, Lead Trainer, New Jersey Prevention Network; and

2. Elizabeth A. Conte, LPC, LCADC, ACS, Doctoral Candidate, Montclair State University, Division of Mental and Addiction Services, Office of Treatment and Recovery Support, Clinical Workforce Development Specialist.

The official comment period to the notice of proposed substantial changes upon adoption ended December 1, 2017 (see 49 N.J.R. 3329(a)). The Board received one comment from Emil Affsa III, LPC, LCADC, CCS.

1. Comments Received During Initial Comment Period Affecting Provision that Was Substantially Changed

1. COMMENT: One commenter supported the proposed requirement for licensees and certificate holders to complete during each biannual renewal period six continuing education hours on legal standards related to the practice of alcohol and drug counseling in New Jersey.

RESPONSE: The Committee thanks the commenter for its support.

2. COMMENT: Two commenters noted that the number of approved trainers on this topic has diminished greatly over the course of the past decade. One of the commenters believes that, due to the recommended change, there will be a significant increase in the need for additional approved trainers. The commenter suggests that the Committee expand the roster of active, clinical, and diverse trainers on the approved list of continuing education providers.

RESPONSE: The Committee notes that it does not approve individual trainers and is aware that the number of offerings for this course has declined over the years. In accordance with N.J.A.C. 13:34C-5.4, the Committee recognizes the following continuing education courses and programs: those approved by a regionally accredited institution of higher learning, the APCBNJ or any other ICRC member board; NAADAC, the Association for Addiction Professionals; American Society on Addiction Medicine; National Board of Certified Counselors; the American Counseling Association; the American Psychological Association; the American Psychiatric Association; the National Association of Social Workers; the American Association for Marriage and Family Therapy; the National Council on Compulsive Gambling; and the American Compulsive Gambling Counselor Certification Board. The Committee will work with these sponsors and others to provide additional training and outreach so that all those interested in providing the continuing education hours in legal standards related to the practice of alcohol and drug counseling in New Jersey are able to do so.

Summary of Agency-Initiated Changes Published in the Notice of

Proposed Substantial Changes Upon Adoption:

The Committee believes that during each biennial period licensees and certificate holders should take continuing education in legal standards related to the practice of alcohol and drug counseling in New Jersey. The Committee believes, however, that after the initial biennial period, licensees and certificate holders need to take, as a refresher, only three contact hours of the legal standards related to the practice of alcohol and drug counseling in New Jersey. In order to provide additional time to work with the sponsors and others to increase the number of offerings of this course, the Committee also proposes that the requirement for licensees and certificate holders to complete three contact hours of legal standards related to the practice of alcohol and drug counseling in New Jersey in each biennial period will begin with the biennial period commencing August 1, 2018. In addition, to provide licensees and certificate holders with more flexibility and more options throughout the State to take the required course, the Committee proposes to specify that in-person instruction includes webinars that are live (not previously recorded) and synchronous (the instructor and licensee or certificate holder interact with each other in real time). Consistent with its long-standing practice, the Committee also proposes to specify that the course in legal standards related to the practice of alcohol and drug counseling in New Jersey must be Committee-approved.

2. Comments Received upon Publication of Notice of Proposed Substantial Changes upon Adoption to Proposed Amendments to N.J.A.C. 13:34C-5.2(d)

3. COMMENT: The commenter stated that the Committee has the only regulations that require six initial hours in "legal standards related to the practice of alcohol and drug counseling" and then continues with three hours in the same subject for each biennial renewal period. The commenter recommended that the Committee change the requirement to be a minimum of five credits related to ethics in each biennial renewal period to be consistent with the requirements of the Professional

Counselor Examiners Committee (five credits in ethical and legal standards in the counseling profession) and the State Board of Social Work Examiners (five credits related to ethics). The commenter believes that uniformity in the regulations regarding continuing education should be the goal, particularly since the Committee, like that of the Professional Counselor Examiners Committee, is under the State Board of Marriage and Family Therapy Examiners.

RESPONSE: The Committee declines to change to five the number of continuing education contact hours for the legal standards related to the practice of alcohol and drug counseling in New Jersey required for each biennial renewal. The Committee believes that six contact hours in this subject matter is the appropriate amount that licensees and certificate holders should complete during the initial biennial period. In addition, the Committee believes that after the initial biennial period, licensees and certificate holders need to take, as a refresher, only three contact hours of the legal standards related to the practice of alcohol and drug counseling in New Jersey. The Committee notes that it requires three contact hours specific to the legal standards related to the practice of alcohol and drug counseling in New Jersey to ensure that licensees and certificate holders have an understanding of the current laws and regulations pertaining to the practice of alcohol and drug counseling. The Committee believes and expects that its licensees and certificate holders are practicing in an ethical manner and does not believe that it is necessary to mandate additional continuing education hours specifically in ethics. The Committee further notes that the existing rules pertaining to the practice of alcohol and drug counseling in New Jersey encompasses many of the ethical precepts governing the practice.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendment is governed by N.J.S.A. 45:2D-1 et seq., and is not subject to any Federal requirements or standards.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

SUBCHAPTER 5. CONTINUING EDUCATION

13:34C-5.2 Continuing education contract hour requirements

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

(d) All licensees and certificate holders shall complete at least six required contact hours of ***a Committee-approved*** continuing education ***course*** in legal standards related to the practice of alcohol and drug counseling in New Jersey ***during the initial biennial period***. ***Beginning August 1, 2018, for each biennial period after the initial biennial period, all licensees and certificate holders shall complete at least three required contact hours of a Committee-approved continuing education course in legal standards related to the practice of alcohol and drug counseling in New Jersey.***

1. These ***[six]*** contact hours may be used towards the required continuing education hours ***set forth in N.J.A.C. 13:34C-5.1***.

2. These ***[six]*** contact hours shall focus on N.J.S.A. 45:1-1 through 45:1-***[32]*55*** and 45:2D-1 through 45:2D-17 and this chapter.

***3. These contact hours shall require in-person instruction, which includes webinars that are live (not previously recorded) and synchronous (the instructor and licensee or certificate holder interact with each other in real time).**

4. An individual is not precluded from completing ***[this requirement]*** ***the six required contact hours for the initial biennial period*** prior to applying for licensure or certification, but the fulfillment of this requirement shall not be substituted for N.J.A.C. 13:34C-2.3(b)4v(1) and/or (2).

(e) All licensees and certificate holders shall complete a minimum of three contact hours of the 40 or 60 contact hours of continuing education, as applicable, required by N.J.A.C. 13:34C-5.1 in the subject area of social and cultural competence in every biennial period. For the purposes of this subsection, cultural competence includes, but is not limited to, an understanding of the cultural context of relationships; issues and trends in a diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and

physical characteristics, education, family values, religious and spiritual values, socioeconomic status, and unique characteristics of individuals, couples, families, ethnic groups, and communities, including any of the following:

1.-6. (No change.)

(f) (No change.)

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Notice of Readoption

Division of Alcoholic Beverage Control Rules

Readoption: N.J.A.C. 13:2

Authorized By: David P. Rible, Director, Division of Alcoholic Beverage Control.

Authority: N.J.S.A. 33:1-1 et seq. and 47:1A-1 et seq.; and Executive Order No. 9 (1963).

Effective Date: March 15, 2018.

New Expiration Date: March 15, 2025.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:2 were scheduled to expire on August 8, 2018. The rules at N.J.A.C. 13:2 establish the standards required by law for the regulation of the alcoholic beverage industry. Generally stated, these rules set forth the requirements for: issuance of State and municipal liquor licenses; renewal and transfer of such licenses; issuance of special permits by the Director of the Division; club licenses; plenary and farm winery licenses; wine blending licenses; plenary retail consumption licenses to non-profit musical or theatrical corporations; restricted breweries; and special permits for home manufacture of malt alcoholic beverages and wine. The rules also set forth rules of general application; rules governing employment by licensees, including solicitors employed by wholesalers; transportation of alcoholic beverages within, into, through, and out of the State; and rules concerning appeals, wholesaler discrimination, and disciplinary proceedings against licensees.

In addition, the rules set forth the standards for licensee training; conduct of licensees and permittees and use of licensed premises; sale and display of alcoholic beverages in original containers; trade member discrimination, marketing, and advertising; diversion, transshipment, and registered distribution; retail cooperative purchases; records; seizure hearings; brand registration; and advisory opinions. The rules also address consumer alcoholic beverage tasting events and samplings; limitations on hours for sale and delivery at retail for off-premises consumption; return of alcoholic beverages; and petitions for relief to the Director for failure to timely renew liquor license pursuant to N.J.S.A. 33:1-12.18 and petitions for relief to the Director to allow renewal of inactive licenses pursuant to N.J.S.A. 33:1-12.39.

The Division of Alcoholic Beverage Control has reviewed this chapter and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), this chapter is readopted and shall continue in effect for a seven-year period.

(b)

DIVISION OF CRIMINAL JUSTICE

Notice of Readoption

Solid and Hazardous Waste Information Awards

Readoption: N.J.A.C. 13:80

Authority: N.J.S.A. 13:1E-9.2, 13:1E-48.24, 13:1E-67.b, 13:1E-191.b, and 58:10A-49.c.

Authorized By: Gurbir Grewal, Attorney General, Department of Law and Public Safety.

Effective Date: March 12, 2018.

New Expiration Date: March 12, 2025.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:80 were scheduled to expire on May 3, 2018. The rules at N.J.A.C. 13:80 provide uniform procedures and guidelines for programs established by statute that offer monetary rewards to members of the public who report violations involving the improper transportation or disposal of solid, hazardous, low level radioactive, or regulated medical waste or improper discharges into our ocean waters.

The Attorney General has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without amendment and shall continue in effect for a seven-year period.

TRANSPORTATION

(a)

DIVISION OF OPERATIONS

Notice of Readoption

Roadside, Drainage, Unusual, and Disaster Maintenance

Readoption with Technical Changes: N.J.A.C. 16:38

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 27:7-1 et seq.

Authorized By: Diane Gutierrez-Scaccetti, Acting Commissioner,
Department of Transportation.

Effective Dates: March 12, 2018, Readoption;
April 16, 2018, Technical Changes.

New Expiration Date: March 12, 2025.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the Roadside Drainage, Unusual, and Disaster Maintenance rules found at N.J.A.C. 16:38 are readopted and shall continue in effect for a seven-year period. The rules were scheduled to expire on April 18, 2018. The Department of Transportation has reviewed the rules and determined that they should be readopted with technical changes to update contact information, because they are necessary, reasonable, adequate, and responsive for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

This chapter establishes responsibilities for maintenance and damage related to the State right-of-way and for the removal of objects on the highway.

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

CHAPTER 38

ROADSIDE, DRAINAGE, UNUSUAL, AND DISASTER MAINTENANCE

SUBCHAPTER 3. RESPONSIBILITY FOR MAINTENANCE

16:38-3.2 Trees

Abutting property owners are responsible for damage done to sidewalks by root systems of trees located within sidewalk areas or adjacent thereto. Removal or trimming of the tree, including roots, must be authorized by the Department through the [regional permits office] **Operations Permit Office** with concurrence by the local Shade Tree Commission within the municipality, if applicable. Contact information [for the regional offices] is as follows:

[For the Northern Region:

New Jersey Department of Transportation
200 Stierli Court
Mount Arlington, NJ 07856-1322
(973) 601-6610
(609) 588-6211 (Emergency only)

For the Central Region:]

New Jersey Department of Transportation
[100 Daniels Way
Freehold, NJ 07728-2670]
Operations Permit Office
1035 Parkway Avenue
1st Floor, E&O Bldg.
PO Box 600
Trenton, NJ 08625-0600
(732) 625-4330
(609) 588-6212 (Emergency only)

[For the Southern Region:

New Jersey Department of Transportation
1 Executive Campus
Cherry Hill, NJ 08002-4123
(856) 486-6688
(609) 588-6213 (Emergency only)]

PUBLIC NOTICES

EDUCATION

(a)

STATE BOARD OF EDUCATION

Notice of Receipt and Action of Petition for Rulemaking Youth Court

N.J.A.C. 6A

Petitioner: Nicole Crincoli.

Take notice that on February 28, 2018, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner requesting the State Board of Education amend Title 6A of the New Jersey Administrative Code to establish youth court programs in the State's schools.

The petitioner specifically requests for the State Board to add new rules at "N.J.A.C. 6A:5.1(a)" to institute youth court programs, which the petitioner stated is a restorative justice approach and an alternative, positive disciplinary system that seeks to interrupt the school-to-prison pipeline.

The petitioner stated youth court programs replicate the judicial system in a mock trial setting whereby students who commit minor school infractions appear before their peers serving as the judge, jury, and officers of the court. The petitioner also stated that participating students who have committed minor offenses are not suspended and are kept in school while accepting responsibility for their behavior.

The petitioner stated peer participants go through weeks of lesson plans and training that are geared toward civics and government and ultimately are tasked with determining an appropriate response for a particular circumstance or offense. The petitioner stated the youth court program also encourages peer participants to think critically and carefully and integrates numerous skills and standards found in the New Jersey Student Learning Standards for social studies.

The petitioner stated youth court also could be implemented through the Juvenile Justice Commission but is more properly suited for the Department of Education (Department) since students are first exposed to the criminal justice system in schools through zero-tolerance discipline policies.

N.J.A.C. 6A:16, Programs to Support Student Development, is the most likely chapter to locate rules related to youth court. However, N.J.A.C. 6A:16-5.1 contains rules for school safety and security plans and not school discipline.

The Department has been unable to discern what chapter and section the petitioner is requesting to amend, whether the petitioner is asking for the youth court program to be optional for school districts and/or charter schools or a requirement, and if a particular association or agency has created a model youth court program that the petitioner is seeking to replicate in New Jersey schools.

Therefore, the petitioner's request is denied.

(b)

STATE BOARD OF EDUCATION

Notice of Action on Petition for Rulemaking Interdistrict Public School Choice Scope

N.J.A.C. 6A:12-1.2

Petitioner: Robert Lorfink.

Take notice that on January 12, 2018, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the

above petitioner requesting the State Board of Education amend N.J.A.C. 6A:12-1.2 to conform the chapter's scope to the Interdistrict Public School Choice Program Act (Act).

The petitioner, who is an attorney, specifically requested the State Board adopt amendments to N.J.A.C. 6A:12-1.2(c), which currently prohibits a district board of education from maintaining at the same time both a tuition program pursuant to N.J.S.A. 18A:38-3 and a choice program in the grade levels that the school district has made available to choice students, and to delete the language restricting the prohibition to only grade levels that are part of the choice program.

The petitioner's request indicated the specific amendments to N.J.A.C. 6A:12-1.2(c) would more closely align the rule to the Act. The petitioner's request stated the current rule expands what the New Jersey Legislature provided in the Act at N.J.S.A. 18A:36B-21.b, which states a choice district shall not be eligible to enroll students on a tuition basis pursuant to N.J.S.A. 18A:38-3 while participating in the choice program.

The petitioner's request also stated the Legislature did not qualify the provision and, instead, required a school district to choose between a choice program and a tuition program.

The petitioner's request further stated N.J.A.C. 6A:12-1.2(c) alters the terms of N.J.S.A. 18A:36B-21.b and, therefore, cannot have any legal effect. The petitioner's request cited *Parsons ex rel. Parsons v. Mullica Twp. Bd. of Educ.*, 226 N.J. 297, 314 (2016) (quoting *Terry v. Harris*, 175 N.J. Super. 482, 496 (Law Div. 1980)) and *N.J. State Chamber of Commerce v. N.J. Elec. Law Enforcement Commission*, 82 N.J. 57, 82 (1980).

N.J.A.C. 6A:12-1.2(c) is not inconsistent with N.J.S.A. 18A:36B-21.b because the choice program was designed to allow participating school districts to define the specific program and grade level(s) that will be part of the choice program and designated as available to choice students. The statute states, in part, that "[a] choice district shall not be eligible to enroll students on a tuition basis pursuant to N.J.S. 18A:38-3 while participating in the interdistrict public school choice program."

The Department's interpretation in the rules is reasonable because the school(s) or grade(s) in a school district not included in a school district's choice program application, or not approved, are not part of the choice program. Once a program is approved by the Commissioner, choice students are limited to enrollment in the specific grades and programs only. Under the relevant statutory provision at N.J.S.A. 18A:36B-17.a(1), a school district's application to participate in the choice program must include, among other information, a description of programs and schools and the number of student openings in each school identified by grade level that are available for selection.

Throughout the Act, it is the choice program and not the entire school district that is delimited regarding student eligibility. For example, N.J.S.A. 18A:36B-20.b states, in part, "[a] choice district may evaluate a prospective student on the student's interest in the program offered by a designated school." Likewise, N.J.S.A. 18A:36B-23 states "[a] choice district shall establish and maintain a parent information center. The center shall collect and disseminate information about participating programs and schools and shall assist parents and guardians in submitting applications for enrollment of students in an appropriate program and school. The information about participating programs and schools shall be posted on the choice district's website."

This interpretation is consistent with school districts' application to participate in the choice program and is reflected in the grades and programs that choice districts have designated as choice programs.

For the reasons listed above, the petitioner's request is hereby denied.

ENVIRONMENTAL PROTECTION

(a)

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

Proposed Amendment to the Upper Raritan and Northeast Water Quality Management Plan

Take notice that the New Jersey Department of Environmental Protection (Department) seeks public comment on a proposed amendment to the Upper Raritan and Northeast Water Quality Management (WQM) Plan. This amendment proposal (Program Interest No. 435434, Activity No. AMD180001 & Program Interest No. 435442, Activity No. AMD180001), identified as Howard Avenue Neighborhood Project, submitted by Maser Consulting, P.A on behalf of the Township of Mine Hill would expand the sewer service area (SSA) of the Rockaway Valley Regional Sewage Authority (RVRSA) by 7.34 acres. The project includes the following existing single-family residential properties along Canfield Avenue, Baker Street, Howard Avenue, and Gillen Street in Mine Hill, Morris County: Block 903, Lots 1 and 2 (partial); Block 904, Lots 1, 2, 6 (partial), 7, 8, 9, 10, 11, 12, 13, 14, 14.01, 14.02, and 14.03; and Block 905, Lots 15 (partial), 16, 17, 18, 19, 20, 21, and 22. These properties are currently served by individual subsurface septic disposal systems that are in failing conditions. Expansion of the wastewater service area will allow the properties to be connected to the existing sanitary sewer main and alleviate the environmental concerns with the failing septic systems. This proposed amendment has been reviewed in accordance with the Water Quality Management Planning rules at N.J.A.C. 7:15 and represents the Department's decision to proceed further with the amendment application as provided in N.J.A.C. 7:15-3.5(g)5.

Pursuant to N.J.A.C. 7:15-4.4(d), sewer service may only be provided to areas that are not identified as environmentally sensitive areas (ESAs), certain coastal planning areas, or areas subject to U.S. Environmental Protection Agency (EPA) 201 Facilities Plan grant conditions, except as otherwise provided at N.J.A.C. 7:15-4.4(i) through (l).

Pursuant to N.J.A.C. 7:15-4.4(e), ESAs are any contiguous areas, based on a composite Geographic Information System (GIS) analysis, of 25 acres or larger consisting of any of the following features alone or in combination: areas mapped as threatened and endangered wildlife species habitat as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife (Landscape Maps) as Ranks 3, 4, or 5; Natural Heritage Priority Sites; Category One waters designated in the Department's Surface Water Quality Standard, N.J.A.C. 7:9B, based on the Department's maps of such waters and their corresponding 300-foot riparian zones based upon the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13; and wetlands as mapped pursuant to N.J.S.A. 13:19A-1 and 13:9B-25.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as ESAs, such as threatened and endangered wildlife species habitat identified pursuant to N.J.A.C. 7:15-4.4(e)1. Areas identified by the Landscape Maps as being suitable habitat for threatened and endangered species Rank 3 (State threatened), Rank 4 (State endangered), or Rank 5 (Federal endangered or threatened) are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as threatened or endangered wildlife habitat pursuant to N.J.A.C. 7:15-4.4(e)1, the Department utilized its Landscape Maps, version 3.3 at <http://www.nj.gov/dep/gis/listall.html>. There is no mapped threatened or endangered species habitat within the proposed SSA.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as ESAs, such as Natural Heritage Priority Sites identified pursuant to N.J.A.C. 7:15-4.4(e)2. Areas mapped as Natural Heritage Priority Sites are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as Natural Heritage Priority Sites pursuant to N.J.A.C. 7:15-4.4(e)2, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>.

<http://www.nj.gov/dep/gis/listall.html>. There is no mapped Natural Heritage Priority Sites within the proposed SSA.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as ESAs, such as Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3. Areas identified as Category One waters and their corresponding 300-foot riparian zones are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. There is no mapped Category One waters or their corresponding 300-foot riparian zones within the proposed SSA.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as ESAs, such as mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4. Areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. There is no mapped wetlands within the proposed sewer service area.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as coastal planning areas pursuant to N.J.A.C. 7:15-4.4(f). Areas mapped as Coastal Fringe Planning Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Planning Areas are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(f)1 and 2, to abate an existing imminent public health and safety issue, to accommodate infill development, or as necessary to create a linear boundary that coincides with recognizable geographic, political, or environmental features depicted in the Department's GIS coverage. To evaluate the existence of any coastal planning areas identified in N.J.A.C. 7:15-4.4(f), the Department evaluated the presence of coastal planning areas identified on the CAFRA Planning Map available at <http://www.nj.gov/dep/gis/install.html>. The project is not located in a CAFRA Planning site.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as areas subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). Areas with Federal 201 grant limitations that prohibit the extension of sewers into specified ESAs are excluded from SSAs, unless documentation can be provided demonstrating that a mapping revision or waiver has been obtained from the EPA, as provided under N.J.A.C. 7:15-4.4(g). To evaluate the existence of 201 Facilities Plan grant conditions that prohibit the expansion of SSAs to ESAs, the Department reviewed mapped wetlands utilizing its GIS data at <http://www.nj.gov/dep/gis/install.html>, flood plains using the Federal Emergency Management Agency (FEMA) flood plain mapping at <https://msc.fema.gov/portal>, and the EPA list of New Jersey counties with ESA grant conditions at <https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2>. RVRSA is subject to a 201 Facilities grant condition. However, because the project does not involve the disturbance of wetlands or ESAs, no waiver is required.

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department shall consider in the delineation of areas eligible for sewer service, the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans. The parcels proposed for inclusion in the SSA are as-built, long-existing buildings. The Township of Mine Hill is the applicant for this project and, the 24 existing homes are zoned correctly as Single Family Residential. In addition, the proposed amendment is in the Highlands Planning Area and, therefore, subject to review and recommendation regarding consistency with the Highlands Regional Master Plan (RMP). On January 18, 2018, the Highlands Council issued a letter to the Department stating that, since the project is in the Existing Community Zone of the Planning Area portion of Mine Hill Township, the project is consistent with the RMP. Based on this approval and the incorporated endorsements, the Department has determined that the proposed project is consistent with local zoning and the county and local master plans.

Pursuant to N.J.A.C. 7:15-3.5(j)2, for projects that propose to add 100 or more acres to the SSA, or where the additional SSA would generate 20,000 gallons per day (gpd) or more of wastewater, the applicant must prepare a modification to the wastewater treatment capacity analysis to include the proposed project or activity, pursuant to N.J.A.C. 7:15-4.5(b). The project plans to add 7.34 acres to the SSA, and the projected wastewater flow for the proposed project to be received by Rockaway Valley Regional Sewage Authority Facility is 7,200 gallons per day (gpd), based on flow calculated pursuant to N.J.A.C. 7:14A-23.3. Therefore, no wastewater treatment capacity analysis is required for this proposed amendment.

This notice is to inform the public that a plan amendment has been proposed for the Upper Raritan Northeast WQM Plan. All information related to the WQM Plan and the proposed amendment is located at:

Morris County Department of Planning & Development
30 Schuyler Pl, 4th Floor
Morristown, NJ 07963

AND

New Jersey Department of Environmental Protection
Office of Water Resources Management Coordination
PO Box 420, Mail Code 401-02A
401 East State Street
Trenton, New Jersey 08625-0420

The Department's file is available for inspection through the Open Public Records Act. Requests can be made online at <http://www.nj.gov/dep/opra/>.

Interested persons may submit written comments on the proposed amendment to the WQM Program Docket, at the Department address cited above. Comments should reference Program Interest No. 435434, Activity No. AMD180001 & Program Interest No. 435442, Activity No. AMD180001 and must be submitted within 30 days of the date of this public notice or within 15 days of the last public hearing, as described below. A copy should be sent to:

Virginia Michelin
Morris County Department of Planning & Development
30 Schuyler Pl, 4th Floor
Morristown, NJ 07963

AND

Paul M. Sterbenz, P.E., P.P.
Maser Consulting, P.A.
53 Frontage Rd, Ste 110
Hampton, NJ 08827

Interested persons may request in writing that the Department hold a non-adversarial public hearing on the amendment or extend the public comment period in this notice. Such request should reference Program Interest No. 435434, Activity No. AMD180001 & Program Interest No. 435442, Activity No. AMD180001 and must demonstrate sufficient public interest for the public hearing or extension of the comment period, as defined under N.J.A.C. 7:1D-5.2(d). The request must be submitted within 30 days of the date of this notice to the WQM Program Docket at the Department address cited above. Should the Department decide to hold a public hearing, notice of said hearing and the revised comment period's closing date will be published in a future issue of the New Jersey Register. If a non-adversarial public hearing for the amendment is held, the public comment period provided by this notice shall close 15 days after the last public hearing. All comments submitted prior to the close of the comment period shall be considered by Morris County and the Department in reviewing the amendment request.

Sewer service is not guaranteed by this amendment. This proposed amendment represents only one part of the permit process and other issues may need to be addressed. Inclusion in the sewer service area as a result of the approval of this amendment does not eliminate the need to obtain all necessary permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over this project/activity.

(a)

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

Proposed Amendment to the Monmouth County Water Quality Management Plan

Take notice that the New Jersey Department of Environmental Protection (Department) seeks public comment on a proposed amendment to the Monmouth County Water Quality Management (WQM) Plan. This amendment proposal (Program Interest No. 435462, Activity No. AMD170002), identified as Parker Chase, submitted by Tony DiLodovico on behalf of Crine Realty Inc., would expand the sewer service area (SSA) of the Western Monmouth Utilities Authority by approximately 14.4 acres to serve a proposed 15 five-bedroom single-family home subdivision. The proposed project site is in Marlboro Township, Monmouth County on a portion of Block 180, Lot 83.14, east of Tennent Road (County Route 3), and west of Deerfield Road. This proposed amendment has been reviewed in accordance with the Water Quality Management Planning rules at N.J.A.C. 7:15 and represents the Department's decision to proceed further with the amendment application as provided in N.J.A.C. 7:15-3.5(g)5.

Pursuant to N.J.A.C. 7:15-4.4(d), sewer service may only be provided to areas that are not identified as environmentally sensitive areas (ESAs), certain coastal planning areas, or areas subject to U.S. Environmental Protection Agency (EPA) 201 Facilities Plan grant conditions, except as otherwise provided at N.J.A.C. 7:15-4.4(i) through (l).

Pursuant to N.J.A.C. 7:15-4.4(e), ESAs are any contiguous areas, based on a composite Geographic Information System (GIS) analysis, of 25 acres or larger consisting of any of the following features alone or in combination: areas mapped as threatened and endangered wildlife species habitat as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife (Landscape Maps) as Ranks 3, 4, or 5; Natural Heritage Priority Sites; Category One waters designated in the Department's Surface Water Quality Standard, N.J.A.C. 7:9B, based on the Department's maps of such waters and their corresponding 300-foot riparian zones based upon the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13; and wetlands as mapped pursuant to N.J.S.A. 13:19A-1 and 13:9B-25.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as ESAs, such as threatened and endangered wildlife species habitat identified pursuant to N.J.A.C. 7:15-4.4(e)1. Areas identified by the Landscape Maps as being suitable habitat for threatened and endangered species Rank 3 (State threatened), Rank 4 (State endangered), or Rank 5 (Federal endangered or threatened) are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as threatened or endangered wildlife habitat pursuant to N.J.A.C. 7:15-4.4(e)1, the Department utilized its Landscape Maps, version 3.3 at <http://www.nj.gov/dep/gis/listall.html>. There is no mapped threatened or endangered wildlife species habitat within the proposed SSA.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as ESAs, such as Natural Heritage Priority Sites identified pursuant to N.J.A.C. 7:15-4.4(e)2. Areas mapped as Natural Heritage Priority Sites are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as Natural Heritage Priority Sites pursuant to N.J.A.C. 7:15-4.4(e)2, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. There are no Natural Heritage Priority Sites within the proposed SSA.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as ESAs, such as Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3. Areas identified as Category One waters and their corresponding 300-foot riparian zones are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3, the Department utilized its GIS data

at <http://www.nj.gov/dep/gis/listall.html>. There are no Category One waters or their corresponding 300-foot riparian zones on the subject site.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as ESAs, such as mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4. Areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. Pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided Freshwater Wetlands Letter of Interpretation/Verification File No. 1328-10-0001.2 FWW120001 (LOI) demonstrating that the Department had confirmed that certain adjustments to areas mapped as wetlands were appropriate to reflect the actual extent of wetlands and transition areas on the site. The LOI expired on December 7, 2017. However, because the wetlands conditions have not changed since the LOI was first issued, the Department determined that a reissuance would not be necessary. Accordingly, the Department has determined that it would rely on the delineation of the wetland areas on the property beyond the above expiration date.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as coastal planning areas pursuant to N.J.A.C. 7:15-4.4(f). Areas mapped as Coastal Fringe Planning Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Planning Areas are not to be included in SSAs, except, as provided under N.J.A.C. 7:15-4.4(f)1 and 2, to abate an existing imminent public health and safety issue, to accommodate infill development, or as necessary to create a linear boundary that coincides with recognizable geographic, political, or environmental features depicted in the Department's GIS coverage. To evaluate the existence of any coastal planning areas identified in N.J.A.C. 7:15-4.4(f), the Department evaluated the presence of coastal planning areas identified on the CAFRA Planning Map available at <http://www.nj.gov/dep/gis/listall.html>. The subject site is not located within any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Planning Areas.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as areas subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). Areas with Federal 201 grant limitations that prohibit the extension of sewers into specified ESAs are excluded from SSAs, unless documentation can be provided demonstrating that a mapping revision or waiver has been obtained from the EPA, as provided under N.J.A.C. 7:15-4.4(g). To evaluate the existence of 201 Facilities Plan grant conditions that prohibit the expansion of SSAs to ESAs, the Department reviewed the EPA list of New Jersey counties with ESA grant conditions at <https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2>. There are no 201 Facilities Plan grant conditions for the proposed project site.

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department shall consider in the delineation of areas eligible for sewer service, the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans. On January 7, 2015, the Marlboro Township Planning Board issued resolution No. PB 1110-14 granting preliminary subdivision approval with variances for the proposed project. The applicant will apply for final subdivision approval once it receives wetlands permits issued by the Department. Further site plan approval will not be required for this proposed project as zoning compliance is addressed in the above-referenced resolution. The proposed project site was part of a December 24, 1985, settlement agreement that permitted development at a higher density. On August 30, 2017, the Monmouth County Planning Board issued a Staff Summary Report indicating that the proposed project is consistent with the Monmouth County Master Plan.

Pursuant to N.J.A.C. 7:15-3.5(j)2, for projects that propose to add 100 or more acres to the SSA, or where the additional SSA would generate 20,000 gallons per day (gpd) or more of wastewater, the applicant must prepare a modification to the wastewater treatment capacity analysis to include the proposed project or activity, pursuant to N.J.A.C. 7:15-4.5(b). The project plans to add 14.4 acres to the SSA, and the projected wastewater flow for the proposed project to be received by the Western

Monmouth Utilities Authority is 4,500 gallons per day (gpd), based on flow calculated pursuant to N.J.A.C. 7:14A-23.3. Therefore, no wastewater treatment capacity analysis is required for this proposed amendment.

This notice is to inform the public that a plan amendment has been proposed for the WQM Plan. All information related to the WQM Plan and the proposed amendment is located at:

Monmouth County Division of Planning
Hall of Records Annex
One East Main Street
Freehold, NJ 07728
AND
New Jersey Department of Environmental Protection
Office of Water Resources Management Coordination
PO Box 420, Mail Code 401-02A
401 East State Street
Trenton, New Jersey 08625-0420

The Department's file is available for inspection through the Open Public Records Act. Requests can be made online at <http://www.nj.gov/dep/opra/>.

Interested persons may submit written comments on the proposed amendment to the WQM Program Docket, at the Department address cited above. Comments should reference Program Interest No. 435462, Activity No. 170002 and must be submitted within 30 days of the date of this public notice or within 15 days of the last public hearing, as described below. A copy should be sent to:

Ms. Linda Brennen
Monmouth County Division of Planning
One East Main Street
Freehold, NJ 07728
AND
Mr. Tony DiLodovico
Tony D Environmental Permitting LLC
1 Briarwood Court
Jackson, NJ 08527

Interested persons may request in writing that the Department hold a non-adversarial public hearing on the amendment or extend the public comment period in this notice. Such request should reference Program Interest No. 435462, Activity No. AMD170002 and must demonstrate sufficient public interest for the public hearing or extension of the comment period, as defined under N.J.A.C. 7:1D-5.2(d). The request must be submitted within 30 days of the date of this notice to the WQM Program Docket at the Department address cited above. Should the Department decide to hold a public hearing, notice of said hearing and the revised comment period's closing date will be published in a future issue of the New Jersey Register. If a non-adversarial public hearing for the amendment is held, the public comment period provided by this notice shall close 15 days after the last public hearing. All comments submitted prior to the close of the comment period shall be considered by Monmouth County and the Department in reviewing the amendment request.

Sewer service is not guaranteed by this amendment. This proposed amendment represents only one part of the permit process and other issues may need to be addressed. Inclusion in the sewer service area as a result of the approval of this amendment does not eliminate the need to obtain all necessary permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over this project/activity.

(a)

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

Adopted Amendment to the Upper Delaware Water Quality Management Plan

Take notice that on March 20, 2018, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and

the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.5), an amendment (Program Interest No. 435437, Activity No. 160004) to the Upper Delaware Water Quality Management Plan (WQMP) was adopted by the Department of Environmental Protection (Department). This amendment, submitted by Grotto Engineering Associates, LLC on behalf of Heath Village Retirement Community, expands the sewer service area (SSA) by 47 acres to include a portion of Block 19, Lots 5, 6, and 7 in Washington Township, Morris County (Township). The project, identified as Heath Village West, is an application to propose to develop the property as a retirement community containing 144 two-bedroom units, a 108-bed healthcare center, a community center for use by the residents of the retirement community, and other site improvements and amenities. Preliminary notice was published in the New Jersey Register on December 18, 2017, at 49 N.J.R. 4047(a). A comment was received during the comment period, and will be addressed within this notice.

COMMENT: Development on these lands should not be allowed. Both the bald eagle and wood turtle deserve full protection and not mitigation, which is often abandoned after some time. This is particularly true of mitigation that includes mowing requirements. The commitment to mowing is offered simply to obtain approval, and there is no indication that any steps are or will be taken to impose penalties for any owner who obtains approval based on a suggested mitigation measure, only to abandon the mitigation activity after a few years of compliance. (Jean Public)

RESPONSE: As provided at N.J.A.C. 7:15-4.4(k), the Department allows mitigation only when it is determined that the impacts to endangered and threatened wildlife species habitat cannot be avoided, and that the proposed project or activity includes implementation of conservation measures that will minimize to the maximum extent practicable all adverse modification of suitable habitat. If impact cannot be avoided and any impact is minimized to the maximum extent practicable, the mitigation must result in no net loss of habitat value to the endangered or threatened species, including the local population of that species. N.J.A.C. 7:15-1.5 defines "no net loss of habitat value" as no net reduction in the capacity of an area to support a population of any endangered or threatened wildlife species similar in size and health to any such population that the same area can support prior to completing the regulated activity.

As described in the preliminary notice for this amendment to add 47 acres to the SSA, the applicant provided a habitat impact assessment (HIA) providing for the conservation of 54.71 acres, as well as a series of mitigative steps to compensate for any potential impacts to Wood Turtle habitat within the riparian zone of the Musconetcong River. In addition, on September 7, 2017, Amy S. Greene Environmental Consultants submitted an Open Space Management Plan (OSMP) on behalf of the applicant. The OSMP indicated that the applicant is responsible for maintaining and monitoring the OSMP and submitting annual reports to the Township, to whom the conservation easement will be granted. Among these maintenance and monitoring activities is the requirement to mow annually and maintain a log of mowing activities. In addition, the applicant has granted the Department's Endangered and Non-Game Species Program limited access to the conservation easement to conduct wildlife surveys and studies. Based on these proposed measures, the Department expects that the applicant will perform the required mitigation activities.

Pursuant to N.J.A.C. 7:15-4.4(d), sewer service may only be provided to areas that are not identified as environmentally sensitive areas (ESAs), certain coastal planning areas, or areas subject to U.S. Environmental Protection Agency (EPA) 201 Facilities Plan grant conditions, except as otherwise provided at N.J.A.C. 7:15-4.4(i) through (l).

Pursuant to N.J.A.C. 7:15-4.4(e), ESAs are any contiguous areas, based on a composite Geographic Information System (GIS) analysis, of 25 acres or larger consisting of any of the following features alone or in combination: areas mapped as threatened and endangered wildlife species habitat as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife (Landscape Maps) as Ranks 3, 4, or 5; Natural Heritage Priority Sites; Category One waters designated in the Department's Surface Water

Quality Standard, N.J.A.C. 7:9B, based on the Department's maps of such waters and their corresponding 300-foot riparian zone based upon the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13; and wetlands as mapped pursuant to N.J.S.A. 13:19A-1 and 13:9B-25.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as environmentally sensitive areas, such as threatened and endangered wildlife species habitat identified pursuant to N.J.A.C. 7:15-4.4(e)1. Areas identified by the Landscape Maps as being suitable habitat for threatened and endangered species Rank 3 (State threatened), Rank 4 (State endangered), or Rank 5 (Federal endangered or threatened) are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped pursuant to N.J.A.C. 7:15-4.4(e)1 as threatened or endangered wildlife habitat, the Department utilized Landscape Maps version 3.3 at <http://www.nj.gov/dep/gis/listall.html> and determined that portions of the site include Rank 3 Wood Turtle and Rank 4 Bald Eagle habitat.

Where a proposed site includes suitable habitat for an identified endangered or threatened wildlife species, N.J.A.C. 7:15-4.4(k) provides that areas designated as ESAs based on the Landscape Maps may be included in SSAs provided the Department determines, based upon a review of data provided by the applicant as part of an HIA, that the proposed activity avoids the endangered or threatened wildlife species habitat, will result in insignificant or discountable effects on the activities of the species (such as not being critical to survival or a local population), or includes some adequate degree of conservation measures that will minimize to the maximum extent practicable all adverse modification of suitable habitat and will mitigate for any such adverse modification. N.J.A.C. 7:15-4.7 provides the information that must be submitted as part of an HIA for the Department to review. On July 26, 2017, the applicant submitted an HIA evaluating impacts of the proposed project on the habitat for Wood Turtle and Bald Eagle. None of the acreage proposed for development is mapped for Bald Eagle, therefore, the project will avoid the Bald Eagle habitat altogether. In addition, the HIA proposed the following onsite conservation measures to mitigate for any adverse modification of Wood Turtle habitat:

1. The establishment of a conservation easement to encompass a total of 54.71 acres of mapped Wood Turtle habitat that would increase the "preservation-to-impacted" acreage mitigation ratio to 2:1;

2. Construction of one artificial nesting mound for Wood Turtles within the riparian zone of the Musconetcong River;

3. The addition of three supplemental food planting areas, encompassing approximately 40,000 square feet in total, within 90 meters of the Musconetcong River. Food planting areas will be seeded with floodplain seed mix and supplemented with approximately 1,650 additional shrubs and herbs including raspberry, cinquefoil, wild strawberry, and violet;

4. The establishment of a long-term mowing landscaping commitment, for at least 20 years, in which areas within 300 feet of the Musconetcong River will be mowed annually between November 30 and March 1 to minimize potential impacts to Wood Turtles.

5. The granting of limited access to the Department to the conservation easement, provided sufficient prior notification has been given to applicant, for purposes of conducting wildlife surveys and studies.

In total, an area of 54.71 acres of suitable habitat would be maintained on site to compensate for the impact to Wood Turtle habitat. This proposed amendment is subject to the implementation of the above-referenced conservation measures.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as environmentally sensitive areas, such as Natural Heritage Priority Sites identified pursuant to N.J.A.C. 7:15-4.4(e)2. To evaluate areas mapped as Natural Heritage Priority Sites pursuant to N.J.A.C. 7:15-4.4(e)2, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. Areas mapped as Natural Heritage Priority Sites are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). There are no Natural Heritage Priority Sites located on the subject site.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as environmentally sensitive areas, such as Category One waters and their corresponding 300-foot riparian zones

pursuant to N.J.A.C. 7:15-4.4(e)3. To evaluate the existence of Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. Areas identified as Category One waters and their corresponding 300-foot riparian zones are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). There are no Category One waters or corresponding 300-foot riparian zones located on the subject site.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as environmentally sensitive areas, such as mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4. Areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in the SSAs, except as provided at N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html> and identified mapped wetlands on the subject sites. Pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided a Freshwater Wetlands Letter Interpretation/Line Verification File No. 1438-03-0018.1, FWW 150001 confirming the extent of wetlands and transition areas on the site. The Department and the applicant acknowledge that a riparian zone permit is required in accordance with Flood Hazard Area Control Act rules, N.J.A.C. 7:13. The applicant also intends to apply for: a Freshwater Wetlands General Permit 10A pursuant to N.J.A.C. 7:7A-10A for proposed disturbance to State open waters, freshwater wetlands, and wetland transition areas associated with the proposed access road crossing and associated culvert construction and a Freshwater Wetlands General Permit No. 17 for proposed disturbance to wetland transition areas associated with the construction of a pedestrian trail pursuant to N.J.A.C. 7:7A-5.17. While there may be other wetlands located on Block 19, Lots 5, 6, and 7, none of those instances of wetlands are within the SSA.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as coastal planning areas pursuant to N.J.A.C. 7:15-4.4(f). Areas mapped as Coastal Fringe Planning Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Planning Areas are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(f)1 and 2, to abate an existing imminent public health and safety issue, to accommodate infill development, or as necessary to create a linear boundary that coincides with recognizable geographic, political, or environmental features depicted in the Department's GIS coverage. To evaluate the existence of any coastal planning areas identified in N.J.A.C. 7:15-4.4(f), the Department evaluated the presence of coastal planning areas on CAFRA Planning Map available at <http://www.nj.gov/dep/gis/listall.html>. The subject site is not located within any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Planning Areas.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSAs if they are not identified as areas subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). Areas with Federal 201 grant limitations that prohibit the extension of sewers into specified ESAs are excluded from the SSA, unless documentation can be provided demonstrating that a mapping revision or waiver has been obtained from the EPA, as provided under N.J.A.C. 7:15-4.4(g). To evaluate the existence of 201 Facilities Plan grant conditions that prohibit the expansion of SSAs to ESAs, the Department reviewed the EPA list of New Jersey counties with ESA grant conditions at <http://www3.epa.gov/region02/water/sewer.html>. There are no 201 Facilities Plan grant conditions that provide for the restriction of sewer service to ESAs.

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department shall consider in the delineation of areas eligible for sewer service, the land uses allowed in zoning ordinances and future land uses shown in the municipal or county master plan. Based on review of the Washington Township Zoning Ordinance RO-03-16, the proposed project is in the Musconetcong Age-Restricted Housing Overlay Zone. In addition, Heath Village West is located within the Highlands Planning Area, which requires a determination of consistency with the Highlands Regional Master Plan (RMP). On April 7, 2017, the Highlands Council submitted a letter to the Department that the proposed project is in a Protection Zone and in a deficit HUC-14 watershed. Accordingly, the Highlands Council required the approval of a Scope of Work for a Water

Use and Conservation Management Plan (WUCMP) before it would issue consent on the WQMP amendment. On October 11, 2017, the Highlands Council issued a letter to the Department that the Scope of Work for the WUCMP had been approved, and that the proposed project is now consistent with the Highlands RMP.

Pursuant to N.J.A.C. 7:15-3.5(j)2, projects that propose to add 100 or more acres to the SSA or where the additional SSA would generate 20,000 gpd or more of wastewater, a modification to the wastewater treatment capacity analysis prepared in accordance with N.J.A.C. 7:15-4.5(b) to include the proposed project or activity, is required. The project plans to increase the SSA by 47 acres on portions of Block 19, Lots 5, 6, and 7 and the projected wastewater flow for the proposed project, anticipated to be received by Hackettstown Municipal Utilities Authority WPCP, is 46,607 gallons per day (gpd) based on flow calculations in accordance with N.J.A.C. 7:14A-23.3. The Hackettstown Municipal Utility Authority is currently permitted to discharge up to 3.3 Million Gallons per Day (MGD) under New Jersey Pollutant Discharge Elimination System (NJPDES) permit NJ0021369. Based on the highest average of monthly flow from NJPDES Discharge Monitoring Reports for the 12-month period of March 2015 to February 2016, the existing wastewater flow discharged from Hackettstown Municipal Utility Authority was calculated to be 2.037 MGD. Therefore, the proposed additional flow should not cause the facility to exceed its permitted capacity.

N.J.A.C. 7:15-3.5(g)6 requires the applicant to request a written statement of consent from all identified governmental entities, sewerage agencies, and Board of Public Utilities-related sewer and water utilities that may be affected by, or otherwise have a substantial interest in, approval of the amendment proposal. Accordingly, the Department instructed the applicant to request written statements of consent from Hackettstown Municipal Utilities Authority WPCP, Washington Township, and Morris County. On January 9, 2018, the Hackettstown Municipal Utilities Authority WPCP issued Resolution NO. 18-3266 in support of the proposed amendment. On January 18, 2018, the Morris County Board of Chosen Freeholders confirmed via phone that the Board would not offer a position regarding the proposed amendment. On January 24, 2018, Washington Township issued a letter confirming that the Township had no position on the proposed amendment.

Sewer service is not guaranteed by this amendment. This amendment represents only one part of the permit process and other issues may need to be addressed. Inclusion in the sewer service area as a result of the approval of this amendment does not eliminate the need to obtain all necessary permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over this project/activity.

(a)

GREEN ACRES PROGRAM DIVISION OF PARKS AND FORESTRY NEW JERSEY STATE HOUSE COMMISSION

Notice of Public Hearings on Proposed Exchange of Property with the County of Ocean (Barnegat Township and Stafford Township, Ocean County)

Take notice that in accordance with N.J.S.A. 13:1D-51 through 58, the State of New Jersey, Department of Environmental Protection (NJDEP), Green Acres Program, will hold two **public hearings** to seek comments on a proposed exchange of property with the County of Ocean (County) in Barnegat and Stafford Townships, Ocean County. In accordance with N.J.S.A. 52:31-1.1, the second public hearing will be conducted jointly with the State House Commission.

The County and the NJDEP propose to exchange approximately 269 acres of land owned by the County for approximately 192 acres of land owned by the NJDEP. The County's general objective for the proposed land exchange is to expand its holdings around the historic Cedar Bridge Tavern Site in Barnegat Township. The NJDEP's general objectives are to fill gaps in State ownership in Barnegat and Stafford Townships and

create a larger contiguous parcel for administration as part of the State park system. All the lands involved in the proposed exchange are undeveloped public parkland, and will remain as public parkland after the exchange.

The NJDEP properties proposed to be conveyed to the County are designated for tax purposes as Block 45, Lot 1, Block 51, Lot 4.01, and Block 52, Lot 6.05 in Barnegat Township, Ocean County. The street addresses for these properties are 177 Old Halfway Road in Barnegat Township (for Block 45, Lot 1), 221 Old Cedar Bridge-Barnegat Road in Barnegat Township (for Block 52, Lot 6.05), and 50 Warren Grove Road in Barnegat Township (for Block 51, Lot 4.01). These lots are currently managed by the Division of Parks and Forestry as part of Bass River State Forest.

The County properties proposed to be conveyed to the NJDEP are: Block 50, Lots 5 and 9 and Block 51, Lot 10 in Barnegat Township, Ocean County (totaling 253.87 acres) and Block 2, Lot 6 in Stafford Township, Ocean County (15.62 acres.) The street addresses for these properties are 50 Route 539 in Barnegat Township (for Block 51, Lot 10), 89 Route 539 in Barnegat Township (for Block 50, Lot 5), 109A Yellow Dam Road in Barnegat Township (for Block 50, Lot 9) and Cedar Bridge Road at Route 539 in Stafford Township (for Block 2, Lot 6). These lots are known locally as the Wading River East Branch property.

If the proposed exchange is completed, all properties will remain as open space and will be available for public use. The lands to be conveyed by the NJDEP to the County will be subject to a conservation easement and/or Green Acres restrictions. The lands to be conveyed by the County to the NJDEP will be incorporated into Bass River State Forest for use in accordance with the NJDEP's park management rules.

A copy of a report analyzing the proposed exchange, including maps and a more detailed description of the proposal, is available online at www.nj.gov/dep/greenacres/notices.html.

At the conclusion of the public hearing process, the approval of the NJDEP Commissioner and the State House Commission will be needed for the proposed exchange. Pursuant to N.J.S.A. 13:1D-52, such approval cannot occur before September 2018.

The **first public hearing** on the proposed exchange will be conducted by the NJDEP and will be held on:

May 16, 2018, at 7:00 P.M. at the
Cloverdale County Park, Education Center
34 Cloverdale Road
Barnegat, NJ 08005
(609) 607-1861

The hearing record for the first public hearing will close on May 30, 2018. Interested persons may obtain information from Sean Moriarty in the Green Acres Program and may submit written comments to Mr. Moriarty until the close of business on May 30, 2018.

The **second public hearing** will be conducted jointly by the NJDEP and the State House Commission and will be held on:

May 31, 2018, at 3:30 P.M. at the
New Jersey Department of Environmental Protection
501 East State Street
4th Floor Large Conference Room
Trenton, NJ 08625
(609) 984-0500

The hearing record for the second public hearing will close on June 14, 2018. Interested persons may obtain information from Sean Moriarty in the Green Acres Program and may submit written comments to Mr. Moriarty until the close of business on June 14, 2018.

Persons wishing to make oral presentations at either of the public hearings are asked to bring a written copy of their comments to the hearing for use by the NJDEP and the State House Commission. The NJDEP will provide copies of all written comments to the State House Commission.

For further information on the proposed land swap, please contact:

Sean Moriarty, Esq., Regulatory Officer
Bureau of Legal Services and Stewardship
New Jersey Department of Environmental Protection
Green Acres Program
Mail Code 501-01

PO Box 420
Trenton, New Jersey 08625-0420
(609) 984-0500
Sean.Moriarty@dep.nj.gov

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LAND USE MANAGEMENT LAND USE REGULATION PROGRAM

Notice of Rejection of New and Changed State Plan Policy Map Planning Area Boundaries and Designation of Regional Center, Core and Node Community Development Boundaries Formally Approved by the New Jersey State Planning Commission as the Boundaries for Coastal Planning Areas and CAFRA Centers, Nodes, and Cores under N.J.A.C. 7:7-13.16

Township of Lakewood, Ocean County, New Jersey

Take notice that, in accordance with N.J.A.C. 7:7E-13.16, the New Jersey Department of Environmental Protection (Department) has determined to reject the State Planning Commission action to approve new and changed Planning Area, Regional Center, Core, and Node Community Development Boundaries of the State Plan Policy Map for the Township of Lakewood, Ocean County, New Jersey (Township) for use in determining impervious cover limits and vegetative cover requirements for Coastal Area Facility Review Act (CAFRA) regulated developments in the CAFRA area in accordance with N.J.A.C. 7:7-13. The Department has evaluated the boundaries and determined that they are inconsistent with the purposes of CAFRA, N.J.S.A. 13:19-1 et seq., and the Coastal Zone Management Rules (CZM Rules), N.J.A.C. 7:7 and are rejected because the Township has not adequately addressed its existing and projected needs for public potable water supplies. This determination is detailed below.

The boundaries of the State Plan Policy Map effective as of August 1, 1999, as incorporated by reference at N.J.A.C. 7:7-13.16(a), and the applicable impervious cover limits and vegetative cover requirements under the CZM Rules shall continue to be operative as a result of the Department's determination under N.J.A.C. 7:7-13.16(b) that the State Planning Commission's action that approved new and changed Planning Area, Regional Center, Core, and Node Community Development Boundaries in the Township is not consistent with the purposes of CAFRA and the CZM Rules.

State Development and Redevelopment Plan and CZM Coordination

In February 2000, as part of its continued effort to coordinate the rules adopted pursuant to CAFRA with the State Development and Redevelopment Plan (State Plan) in accordance with 1993 amendments to CAFRA, the Department, considering centers identified in the 1992 State Plan and input from counties and municipalities in the coastal area, delineated coastal centers (see 31 N.J.R. 2042(a); 32 N.J.R. 503(a)). The designated coastal centers were divided into two groups; coastal centers located on barrier islands, oceanfront spits, and peninsulas, that were codified at the time in Appendix 3, and coastal centers located on the mainland, codified in then Appendix 2. While the barrier island, oceanfront spits, and peninsula coastal centers in Appendix 3 were not given an expiration date because these areas were already intensively developed, a five-year expiration date was imposed on the boundaries of coastal centers located on the less developed mainland. These coastal centers were adopted by the Department as an interim measure to accommodate planned imminent development until the municipalities containing coastal centers on the mainland had been given the opportunity to obtain center designation through the State Planning process, which is a prerequisite to obtaining CAFRA center status. The interim coastal centers designated at that time were scheduled to expire in five years to allow for more planning and review. Among the interim

mainland coastal centers designated at that time was the Lakewood coastal regional center. In 2006, the interim coastal centers, which had expired in February of 2005, were re-established for a further limited period to allow additional time for municipalities to complete the plan endorsement process necessary to seek approval of CAFRA centers, CAFRA cores, CAFRA nodes, and planning area boundaries in accordance with the CZM Rules (see 37 N.J.R. 2351(a); 38 N.J.R. 928(c)). The term of the initially approved interim coastal centers was subsequently extended by legislative action, as described further below.

Plan Endorsement

In August 2005, after the Department proposal to re-establish the mainland coastal centers, the Township of Lakewood (Township) filed a petition with the New Jersey State Planning Commission, pursuant to N.J.A.C. 5:85, seeking Plan Endorsement of its planning documents and an amendment to the State Plan Policy Map to designate a large portion of the municipality a Metropolitan Planning Area (PA1), changing from the existing Suburban Planning Area (PA2) designation. The petition additionally sought approval of a Regional Center, three Designated Cores, three Highway Cores, and two Industrial Nodes within the Township. The petition for Plan Endorsement was deemed complete and a consistency review was issued by the Office of Smart Growth on May 23, 2006. However, significant consistency issues were identified and the Office of Smart Growth (now the Office of Planning Advocacy (OPA)), advised the Township that, until those issues were resolved, the Commission staff could not recommend the Township's petition for endorsement to the State Planning Commission. Along with the consistency review, the staff provided Lakewood Township with a Draft Action Plan that provided timelines for completing tasks outlined in the consistency review. This analysis of May 23, 2006, also specifically noted that the Township must provide documentation that water supply capacity exists for growth proposed by their Master Plan and must identify existing and proposed water supply sources.

In the intervening years, from 2006 until 2017, the Township moved to address the issues outlined in the May 2006 consistency review. The recession that affected the State's economy brought about several legislated extensions of permits and approvals issued by the State, including the Lakewood mainland coastal center designation established by the Department in 2000. This designation enabled CAFRA projects in the Township located within the designated mainland coastal center boundary to have up to 80 percent impervious cover. As indicated above, a five-year operative term was initially established for the boundaries of coastal centers located on the less developed mainland (mainland coastal centers), with the five-year term originally expiring February 7, 2005. This five-year term was intended to provide sufficient time for municipalities to obtain center designation through the State Planning process and ultimately achieve CAFRA center status. In consideration that some local governments, including Lakewood Township, had committed substantial time and money on diligent efforts to obtain plan endorsement from the State Planning Commission, the Department determined it appropriate to re-establish the boundaries of certain mainland coastal centers that expired on February 7, 2005, for a limited term and in limited circumstances. These, re-established mainland coastal centers remained effective until March 15, 2007. In September 2008, the Permit Extension Act of 2008 (Act) was enacted. This Act re-established certain mainland coastal centers, including Lakewood Township's Mainland Coastal Center. The Act initially extended the expiration of approvals covered by the Act, including mainland coastal centers, to July 1, 2010. The Permit Extension Act of 2008 was subsequently extended on January 18, 2010. Because of the 2010 amendments to the Permit Extension Act of 2008, the boundaries of certain mainland coastal centers were once again extended through March 15, 2013. On September 19, 2012, the Permit Extension Act of 2008 at N.J.S.A. 40:55D-136.2 through 136.6 was further amended by P.L. 2012, c. 48. P.L. 2012, c. 48 further extended center designations in municipalities that had applied to the State Planning Commission for plan endorsement as of March 15, 2007, and were in compliance with the provisions of existing N.J.A.C. 7:7E-5B.6, including Lakewood Township. In accordance with P.L. 2012, c. 48, these centers expired December 31, 2015. However, P.L. 2016, c. 14, extended the Permit

Extension Act for Sandy-impacted counties, which included Ocean County, until December 31, 2016. All mainland coastal centers have now expired.

The impervious cover limits and vegetative cover requirements for the expired mainland coastal centers in the CAFRA area are subject to N.J.A.C. 7:7-13.17(c), (e), or (f). The Coastal Suburban and Coastal Fringe Planning Areas, which had underlain the expired Mainland Coastal Center became the operative Coastal Planning designations for CAFRA projects within a sewer service area with a maximum impervious cover limit of 30 percent and five percent, respectively.

Summary of State Plan Policy Map Changes

Through deliberations with the public, Township elected and professional officials, the former Office of Smart Growth, OPA, the Department, and other State agencies, the Township agreed to revise their initial petition seeking Planning Area boundary changes and new Center, Core, and Node boundaries to more closely reflect the Township's planning goals and objectives. Instead of seeking to designate a large portion of the Township as a Metropolitan Planning Area, the Township determined that it would seek to gain designation of a Regional Center, encompassing the urbanized area of downtown Lakewood; six Cores, two along State Route 70, one along U.S. Route 9, one at Cedar Bridge, which includes a minor league ballpark, one in the Oak Street area, and one known as Cross and Prospect Street Core; and two Industrial Nodes, the James/Prospect and Lakewood Industrial Park nodes, all of which would overlay a Suburban Planning Area. Planning Area changes sought by the Township included the refinement of the Suburban Planning Area limits to more closely align with the provision of sewage collection systems and the extent of developed parcels, the expansion of the extent of the Environmentally Sensitive Planning Area, and the refinement of the existing limits of the Environmentally Sensitive Planning Area to include environmentally sensitive lands and waters and to exclude significantly developed areas not otherwise located in environmentally sensitive areas. The overall net change in the extent of Planning areas is a decrease in the extent of the Suburban Planning Area of 1,566 acres, the elimination of the Fringe Planning Area, which had encompassed 1,394 acres, and a 2,975 acre increase of the extent of Environmentally Sensitive Planning Area.

Plan Endorsement: State Planning Commission Action

The Township's petition, plans, supporting documents, and maps identifying the proposed Center, Cores, Nodes, and Planning Area boundaries, as amended since initial filing, were subject to a 45-day public comment period. The OPA Executive Director and staff reviewed the petition and amendments filed by the Township, as well as the comments received from the State agency partners and the public, and determined that the petition conditionally met the requirements of N.J.A.C. 5:85 for Plan Endorsement. The OPA Executive Director and staff developed a report dated February 10, 2016, which concluded that the Township's land use planning conditionally met the criteria for Plan Endorsement and the designation of the Lakewood Regional Center, Cores, Nodes, and other planning area changes, in accordance with the requirements of N.J.A.C. 5:85-7 for Plan Endorsement. The report recommended that the State Planning Commission conditionally approve the petition submitted by the Township as consistent with the State Plan.

The report was submitted to the State Planning Commission's Plan Implementation Committee (PIC) on February 17, 2016. The report recommended that the State Planning Commission conditionally approve the petition and the revised Planning Implementation Agreement (PIA) submitted by the Township as consistent with the State Plan. At the subsequent State Planning Commission meeting held the same day, the full Commission acted to conditionally approve the Township's petition for endorsement.

In making this determination, the State Planning Commission considered the petition submitted by the Township of Lakewood (including the PIA), the findings of the staff and OPA Executive Director regarding the petition, the recommendations of the Commission's PIC regarding the petition, and all the comments and written correspondence submitted to OPA and the State Planning Commission regarding the petition.

The resolution of the State Plan Commission action adopted on February 17, 2016, stipulated, and the PIA referenced in the resolution detailed, that Township's endorsement was conditioned upon the Township completing the following actions:

- Revise and adopt the official zoning map, Township zoning ordinances, and the Master Plan (where necessary) to reflect changes to centers, planning areas, cores, and nodes based on the Township Smart Growth Plan approval;
- Adopt ordinances, including a Riparian Corridor Ordinance, a Water Conservation Ordinance, and a Wellhead Protection Ordinance;
- Adopt an updated Circulation Element as part of its Master Plan, which includes a clear statement recognizing the role of State roads for conveying through rather than local traffic, providing access to local businesses on local roads, and acknowledging that the State does not have the funds to widen Route 9 in the foreseeable future and that the Township should continue to investigate alternative north-south roadways to lessen the traffic congestion on Route 9; and
- Implement mechanisms by the Township to permanently protect lands outside of the sewer service area.

The State Plan Commission's conditional approval specified that the above actions were to be completed within 18 months of its approval, or by the end of August of 2017. The Commission also authorized the OPA Executive Director to amend the State Plan Policy Map after the Township completed the actions required to make the petition consistent with the requirements of plan endorsement.

The PIA adopted as part of the conditional resolution of approval by the State Plan Commission also specifically noted that the Township must coordinate with Lakewood Township Municipal Utilities Authority (LTMUA) and New Jersey American Water to develop a 10-year plan to ensure adequate water supply, including adequate firm capacity, for existing development and future growth. A period of one-to-two years from the February 17, 2016 resolution was provided within which to develop this plan. Accordingly, the latest the plan was to be complete was by February of 2018.

As the actions needed to be completed to make the Township's petition consistent with the requirements of plan endorsement were not completed by the established deadline, but progress was being made by the Township, the State Planning Commission, on August 14, 2017, voted to provide the Township with a four-month extension within which to complete the requisite tasks.

On December 7, 2017, the Township updated and adopted its Land Use and Development Regulation Ordinance and provided a digital version of its zoning ordinance to the OPA. The completion of this task and provision of documentation to OPA were determined by the Director to satisfy the conditional approval of Township's petition for Plan Endorsement. On December 7, 2017, the Commission conditionally adopted the petition for the Township's Plan Endorsement to amend the State Policy Plan Map. On January 16, 2018, pursuant to the State Planning Rules at N.J.A.C. 5:85-1.7(i), the Commission formally approved and effectuated the revised boundary through publication in the New Jersey Register and the Township's Plan Endorsement became final and the State Plan Policy Map was amended to reflect the Township's Centers, Cores, Nodes, and Planning Areas. In accordance with the CZM Rules, at N.J.A.C. 7:7-13.16(h), the Department then initiated review of the SPC-approved boundaries, center, cores, and nodes pursuant to the rules at N.J.A.C. 7:7-13.16 to determine whether to accept, reject, or modify the Commission action.

The Department's analysis of the changes as approved by the State Planning Commission follows.

Ocean County, The Township of Lakewood Coastal Suburban Planning Area, Coastal Environmentally Sensitive Planning Area, CAFRA Regional Center, CAFRA Cores and CAFRA Nodes

The Township is a suburban community in Ocean County that has sought to incorporate Smart Growth practices for future development and redevelopment into its planning documents for those lands that lie within the jurisdiction of CAFRA.

A natural resources inventory informed the development of the Township's 2013 Smart Growth Plan and 2017 Master Plan, which collectively note that nearly one-third of the Township's land area is dedicated to open space and recreation. As required in the PIA, and as a condition of Plan Endorsement established by the State Plan Commission, the Township worked with the Department to preserve municipally owned parcels that lie outside the adopted sewer service area within the Kettle Creek watershed, Crystal Lake Preserve area, and adjacent to the Metedeconk River and its tributaries. The Department sought and the Township agreed to place conservation restrictions on publicly owned lands that are not within the adopted sewer service area.

The Lakewood Smart Growth Plan outlined a non-contiguous clustering approach to facilitate the realization of the Township's vision for the preservation and expansion of open space and recreation lands. The intent is to allow for development to be concentrated in cores and centers while preserving forest vegetation in larger blocks. As suggested in the 2017 Lakewood Township Master Plan, this approach was implemented by the adoption of a non-contiguous clustering ordinance by Township.

The Township has adopted a storm water management ordinance, which complies with the performance standards of the Department's Stormwater Management Rules at N.J.A.C. 7:8. This ordinance has been promulgated as Chapter 32 of the Lakewood Township Code.

The Township has an adopted chapter of the Ocean County Wastewater Management Plan, which has been approved by the Department. The Ocean County Wastewater Management Plan acknowledges the Township's 2013 Smart Growth Plan, projected growth, and participation in the Plan Endorsement process. The sanitary sewer service area that is depicted in the 2013 Smart Growth Plan is the same as is depicted in the approved Ocean County Wastewater Management Plan.

The Township prepared and adopted a water conservation ordinance, which will help to ensure the efficient use of available water resources. The Township has also adopted a wellhead protection ordinance and a stream corridor protection plan and ordinance.

Public water supplies in the Township are provided by the Lakewood Township Municipal Utilities Authority (LTMUA) and the New Jersey American Water. The Township PIA requires the Township to coordinate with LTMUA and New Jersey American Water to develop a 10-year Lakewood Township Municipal Water Supply Plan (Plan) to ensure adequate water supply, including adequate firm capacity, for existing development and future growth projected to occur within the Township.

On February 5, 2018, the Township submitted a draft, incomplete Plan. The draft Plan summarizes the Township's existing population and demand analysis, includes projected population, future demands, and a Ten-Year Water Source Planning Summary to outline planned future growth and development. However, the draft Plan does not provide the information necessary to evaluate whether there is an adequate water supply for the projected growth. The incomplete draft Plan contains inconsistencies and incorrect information, including average household size, average residential daily per capita usage, 10-year population projections, etc. The draft Plan is also incomplete as it does not include critical information for the areas of the Township served by New Jersey American Water. These sections are blank and noted as "to be provided."

The New Jersey Water Supply Management Act, N.J.S.A. 58:1A-1 et. seq., directs the Department to develop and periodically revise the New Jersey Statewide Water Supply Plan (NJSWSP) in order to provide information to support and inform long-term water supply planning determinations taking into consideration projected population demands and to outline potential future water supply concerns. The current NJSWSP (2017-2022), includes a detailed Statewide water resource and infrastructure availability analysis. That analysis utilizes relevant water supply data, examines growth projections, and provides recommendations on how those water supply demands can be met. In accordance with the Water Allocation Permits rules, N.J.A.C. 7:19-2.2(h), if a proposed diversion is not in accordance with the NJSWSP, the Department will deny the application.

The Township is located in Water Supply Critical Area 1, which is an area of critical water supply concern where the Department has determined that adverse conditions exist, such that special measures are required to ensure the integrity and viability of the water supply source and to protect the public health safety and welfare, N.J.S.A. 58:1A-6. See also N.J.A.C. 7:19-8. New or increased withdrawals from regulated Critical Area aquifers are not permitted, except in limited circumstances as outlined in N.J.A.C. 7:19-8.3(i). As outlined in the NJSWSP, the unconfined aquifer system underlying and adjacent to the Township shows limited current and projected future availability of sustainable water supply due to specific concerns about new depletive and consumptive losses upstream of existing surface water diversions. Diversions from surficial unconfined aquifers can have a significant impact on nearby surface water bodies, which downstream users depend on for their water supply. New depletive and consumptive losses are diversions that are not returned to the surface or ground water at or near the point from which they are taken. These depletive and consumptive losses may have a significant negative impact on the quantity and quality of ground water and surface water bodies, as well as negative implications on downstream users reliant upon this water source.

As indicated in the NJSWSP relevant chapters and appendices, this region, in general, has limited water supply options to meet current demand, as well as projected future potable water supply demands based on population estimates that are significantly lower than those outlined in Lakewood Township's draft Plan and Master Plan. Based upon information provided in the Township's draft Plan, existing population considered in conjunction with projected growth to be supplied by LTMUA during the upcoming year equates to an additional demand volume in excess of LTMUA's current available supply. The Department anticipates that a water supply deficit will likely occur based on information supplied directly from LTMUA as part of its own Safe Drinking Water Master Permit application. The Master Permit issued on October 16, 2017, identified that LTMUA had a surplus supply on an annual basis of 6.7 million gallons. However, based on the draft Plan, LTMUA's projected increase in demand is equivalent to 40.25 million gallons on an annual basis.

The Township's draft Plan outlines potential water supply alternatives that LTMUA is pursuing or may pursue to increase their available capacity with the main reliance on the approval of a major modification application to LTMUA's Water Allocation permit. That reliance is misplaced. This major modification application, declared administratively complete on November 21, 2016, requests a significant increase in the LTMUA's monthly and annual allocation in new and existing sources in the unconfined aquifer system. The Department previously declared the application technically incomplete in a letter dated December 27, 2016. Department representatives met with LTMUA on July 6, 2017, and summarized the technical concerns and deficiencies in the application in a letter dated July 19, 2017. LTMUA submitted a technical response to the Department's deficiency letters, which was received on July 26, 2017. LTMUA's technical response was reviewed by Department staff and a meeting was held on November 13, 2017, to discuss the outstanding technical deficiencies. On November 17, 2017, the Department issued a meeting summary letter that outlined multiple reasons why the Department was, and is, unable to approve the LTMUA's major modification application request in accordance with N.J.A.C. 7:19. The December 27, 2016, July 6, 2017, and November 17, 2017, letters all identified technical deficiencies with the major modification application including adverse impacts to downstream users being able to fully utilize their allocation, reduction of base flow in the South Branch of the Metedeconk River, a Category 1 waterbody, which may allow for salt water intrusion rendering the water unfit for use, and the hydraulic impact on contaminated sites, as the LTMUA proposed demand for water from the aquifer would likely alter the direction of contaminated ground water and have an impact on the remediation of contaminated sites in the area. The Department indicated that, if there was no progress in resolving these technical issues, it would take steps to deny the application. The draft Plan submitted by the Township included a statement that "NJDEP has indicated to the LTMUA that, after the current application, no further increases to allocation should be expected." Considering that the Department did not approve a prior,

smaller requested increase in allocation in 2006, and informed LTMUA in the November 17, 2017 letter that it intends to deny the current allocation increase unless the significant technical and regulatory concerns are adequately addressed, this statement in the draft Plan was, and is, inconsistent with the administrative record.

Based on review of the incomplete draft Plan, the Township has not demonstrated that an adequate water supply exists for the immediate future demands, as well as future growth. Therefore, the Department has determined that Lakewood Township has not fulfilled this condition of the PIA.

Planning Area Changes

The State Plan Policy Map changes that were approved by the State Planning Commission resulted in the refinement of the Suburban Planning Area limits to more closely align with the provision of sewage collection systems and the extent of developed parcels, the expansion and the refinement of the existing limits of the Environmentally Sensitive Planning Area to include environmentally sensitive lands and waters. The Township has gained designation by the State Plan Commission of a Regional Center, encompassing the urbanized area of downtown Lakewood; six Cores, two along State Route 70, one along U.S. Route 9, one at Cedar Bridge, which includes an office park and the minor league ballpark, one in the Oak Street area, and one known as Cross and Prospect Street Core; and two Industrial Nodes, the James/Prospect and Lakewood Industrial Park nodes. The State Plan Commission-approved Regional Center, Cores, and Nodes are all located within the existing Coastal Suburban Planning Area.

The State Plan Commission-approved State Plan Map changes would, if a source or source(s) of adequate water supply were documented for current and projected growth, be consistent with CAFRA and the CZM Rules. The current areas subject to CAFRA within the Township are currently within the Coastal Suburban, Coastal Environmentally Sensitive, and Coastal Fringe Planning Areas. The overall net change that would occur in the extent of Coastal Planning areas if the changes approved to the State Plan Policy Map were accepted as consistent with CAFRA and the CZM Rules would be a decrease in the extent of the Coastal Suburban Planning Area of 1,566 acres, the elimination of the Coastal Fringe Planning Area which currently encompasses 1,394 acres, and a 2,975 acre increase in the extent of Coastal Environmentally Sensitive Planning Area. The designated State Plan Policy Map Environmentally Sensitive Planning Areas primarily encompass tracts of lands outside of the adopted sewer service area, which are undeveloped wetlands and riparian corridors. The designation of these areas as Coastal Environmentally Sensitive Planning Areas would, if approvable, help in the protection of Barnegat Bay and its contributory waters. An expanded Coastal Environmentally Sensitive Planning Area generally would, if approvable, encompass the last largely undeveloped tracts in the Township east of the Garden State Parkway.

If adequate water supply was demonstrated by the Township for current and projected growth, the Department would determine the establishment of a Regional Center, three Designated Cores, three Highway Cores, two Industrial Nodes, and Planning Area State Plan Map amendments throughout the municipality to be consistent with the Planning Area policy objectives established at N.J.A.C. 7:7-13.15(c). These policies encourage mixed-use development and redevelopment in compact centers, to guide opportunities for economic development and employment in centers, and to ensure adequate wastewater treatment capacity.

Regional Center

The Lakewood Downtown Regional Center is the historic heart of the Township and contains an identifiable commercial district surrounded by high to moderate density residential neighborhoods. The Township's downtown has historically served as the cultural, service, and employment center in the region. The downtown is supported by institutional, civic, recreational, and other uses, including the municipal building, the post office, two institutions of higher education, a performing arts theater, and other community focal points.

The general goals and objectives for the Downtown Regional Center are to promote continued revitalization and redevelopment of the downtown, provide sufficient parking, and enhance pedestrian

circulation and safety. The main design approach for the Downtown Regional Center is to maintain the historic character of downtown through high-quality building design and ensure that it remains pedestrian-friendly through circulation and streetscape improvements.

Redevelopment and rehabilitation of the Township's downtown will include reclaiming brownfields for beneficial economic development, the adaptive reuse of existing developed sites, promoting infill development where appropriate, and by promoting smart growth planning principles. The State Planning Commission identifies and supports economic clusters and encourages further development of such clusters. The State Planning Commission recognizes that centers serve an important purpose for the State and regional economy by providing a significant source of employment and accordingly recommends that they be protected and supported. The regional center has existing sanitary sewer areas with public water provided by New Jersey American Water and the LTMUA.

Due to its location within the CAFRA regulated area, the Department has reviewed the Lakewood Regional Center community development boundaries designated by the State Planning Commission, and believes that they are appropriate, as the area encompassed is primarily developed, and includes some developable lands and properties with redevelopment and infill potential. After review, the Department has determined that the Lakewood CAFRA Regional Center designation would be consistent with the purposes of the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., and the Coastal Zone Management rules at N.J.A.C. 7:7, if adequate water supply for current and projected growth was demonstrated. The Lakewood CAFRA Regional Center is consistent with the CAFRA decision-making process established at N.J.A.C. 7:7-1.7, specifically because the new Center is designed to concentrate rather than disperse the pattern of coastal residential, commercial, industrial, and resort development. Further, the designation would meet the policy objectives of the Coastal Suburban and Environmentally Sensitive Planning Areas established at N.J.A.C. 7:7-13.15(c) and (f), if adequate water supply for current and projected growth was demonstrated.

Cores

Six cores are being designated in the Township: The Cross Street and Prospect Ave Core, the Oak Street Core, the Cedarbridge Core, the U.S. Route 9 Core, and the East and West New Jersey Route 70 Cores.

The Cross and Prospect Street Core is a new mixed-use core that incorporates the principles of smart growth and promotes sustainable development practices. The overall approach is to create a transition of densities and intensity of use, with buffers and lower densities to the south and east adjacent to adjoining neighborhoods and higher densities, and mixed-use to the west and north along Prospect Street across from the existing industrial park. The Oak Street Core is located to the east of Route 9 in the south-central portion of Lakewood and is generally bounded by Pine Street to the North and the Kettle Creek to the South. This area of the Township includes three affordable housing developments that have been approved by the Township, as well as several new schools and the recently opened John F. Patrick Sports Complex. A habitat preservation area is in the Environmentally Sensitive Planning Area encompassing part of the headwaters of the Kettle Creek in the southern part of this core. The intent of this core is to incorporate existing and approved developments and community facilities into a new mixed-use core in a comprehensive and coordinated plan that promotes smart growth and sustainability. Uses will include a mix of single- and multi-family housing; affordable housing; a new local park and recreation facility; neighborhood commercial areas; and public amenities and services. To address the need for additional housing to accommodate anticipated population growth, residential densities in the core are proposed to be higher than in surrounding neighborhoods. The core will be linked to other portions of the Township through additional road improvements, pedestrian and bicycle linkages, and local transit stops. A new boulevard and parkway will link the Oak Street Core to the Cedarbridge Core. Proposed mixed-use areas will support neighborhood commercial development to meet the needs of the residents of the core. The Cedarbridge Core is an area planned for mixed-use development bounded by Cedar Bridge Avenue to the North, New Hampshire Avenue

to the East, Pine Street to the South, and Vine Street Avenue to the West. The area was previously designated in need of redevelopment by the Township. It incorporates the existing Blue Claws minor league baseball stadium, associated parking lot, as well as the two collector roads and a planned office park. The area is located proximate to existing and planned residential neighborhoods, the Lakewood Industrial Park and Campus, the Lakewood Airport, planned retail commercial development to the North, and the Township's new Department of Public Works facility. An adjacent area has been required by CAFRA permits previously issued to be preserved as open space as it contains extensive wetlands and buffer areas.

Three State Plan Policy Map highway cores are designated in the Township: U.S. Route 9, and New Jersey Route 70 West and East. These highway cores are situated along the major arterial roadways of the Township. These cores will be enhanced through improved site design, as well as infill development and redevelopment that promotes smart growth and sustainability. The U.S. Route 9 Core contains the Kimball Medical Center, a local and regional employment center and service provider. A new hospital support zone is proposed for the area surrounding the medical center. Other smaller businesses and retail centers are located on this highway and are located in the core.

The New Jersey Route 70 Cores currently include a variety of commercial businesses and provide sites for additional uses that serve local and regional shopping needs.

The Department has determined that Core designations for these areas in the Township of Lakewood would be consistent with the purposes of the CAFRA and the CZM Rules, if adequate water supply for current and projected growth was demonstrated.

Industrial Nodes

Two Industrial Nodes are designated by the State Planning Commission in the Township: the Lakewood Industrial Park and Campus and the James and Prospect Streets Industrial Park. As recognized Industrial Nodes in the State Plan, the industrial parks serve as a regional and local center of employment. They are also located in the Township's Urban Enterprise Zones. The Lakewood Industrial Park and Campus includes the Lakewood Airport. It is served by freight rail to facilitate alternative methods of goods movement.

The State Plan recognizes that these nodes serve an important purpose for the State and regional economy by providing a significant source of employment and accordingly recommends that these uses be protected and supported. Consistent with the criteria of the State Plan, the two Nodes are located within existing sanitary sewer areas and have public water supply services. The James and Prospect Streets Industrial Park is served by the New Jersey American Water, while the Lakewood Industrial Park is served by the LTMUA. Both nodes are near highway transportation corridors with access to the regional highway network. The James and Prospect Streets Industrial Park lies adjacent to a railroad right of way.

The Department has determined that the Node designation for this area in the Township of Lakewood would be consistent with the purposes of the CAFRA and the CZM Rules, if adequate water supply for current and projected growth was demonstrated. The Nodes would be consistent with the CAFRA decision-making process established at N.J.A.C. 7:7-1.4 and 13.15(c) because the Nodes are designed to concentrate rather than disperse the pattern of coastal development.

CONCLUSION

The Department has reviewed plans, reports, maps, and other materials submitted by the Township of Lakewood, local and State open space inventories, County and municipal plans and ordinances, coastal and freshwater wetlands inventories, and Landscape Project maps in order to determine the consistency of the Lakewood Regional Center, Cores, Nodes, and changed State Plan Policy Map designations with the purposes of the CAFRA and the CZM Rules. The Department finds that the delineated community development boundaries approved by the State Planning Commission as part of the Township's Plan Endorsement Petition encompass existing and planned development and redevelopment, and recognize the extent of environmentally sensitive lands and waterways. The designated Lakewood Regional Center, Core, Node, and changed State Plan Policy Map designations concentrate the

pattern of coastal residential, commercial, and resort development, and provide additional protection to vulnerable coastal uplands and wetlands. The Lakewood Regional Center, Core, Node, and changed State Plan Policy Map designations would be consistent with CAFRA and the CZM Rules, particularly the CAFRA decision-making process established at N.J.A.C. 7:7-1.4, if adequate water supply for current and projected growth was demonstrated.

The Lakewood Regional Center, Core, and Node designations encourage the incorporation of Smart Growth designs into development and redevelopment projects, and in more compact forms due to the higher impervious cover limits and development potential possible in these designated CAFRA growth areas. The CZM Rules also allow impervious cover limits in CAFRA Centers, Cores, and Nodes to be calculated based upon the total land area of the site rather than net land area, thus, increasing the development potential of the site.

As noted, the Township has not provided documentation, as specifically requested by the Department since 2006, that it has planned to ensure an adequate public water supply within the public water supply service areas that serve Lakewood Township. Currently, the LTMUA is unable to provide service to new projects seeking CAFRA project approval in the LTMUA service area and does not have provisions in place to ensure adequate public water supplies to accommodate the projected growth envisioned by the Township. As a result, although the Township has made great strides to plan for and accommodate growth in a manner otherwise consistent with the intent and provision of CAFRA, the Department has determined that the Township has not comprehensively addressed the need for an adequate public water supply to serve its planned growth and has evaluated the boundaries and determined that, as a result of inadequate consideration of water supply planning, they are inconsistent with the purposes of the CAFRA and the CZM Rules and are rejected for use in determining impervious cover limits and vegetative cover requirements for CAFRA regulated developments in accordance with N.J.A.C. 7:7-13. Pursuant to the applicable standards, should the Township satisfy the outstanding actions required under the PIA, the Department may then re-evaluate its determination on the boundaries approved by the SPC in accordance with the applicable rules.

LAW AND PUBLIC SAFETY

(a)

JUVENILE JUSTICE COMMISSION

Notice of Availability of Funds

New Jersey Juvenile Detention Alternatives Initiative (JDAI) Innovation Funds

Take notice that in compliance with N.J.S.A. 52:14-34.4, the Juvenile Justice Commission hereby announces the availability of the following program funds:

a. Name of program: New Jersey Juvenile Detention Alternatives Initiative (JDAI) Innovation Funding.

b. Purpose: The purpose of JDAI Innovations Funding is to provide an additional resource and support to those JDAI sites that have demonstrated an active commitment to the implementation of JDAI Core Strategies. Funding must be dedicated to institutionalizing JDAI policy, practice, and programming through the JDAI Core Strategy categories as follows:

- 1) Detention Admissions Policies/Practice
- 2) Case Processing/ Reducing Delay
- 3) Special Cases/Violations
- 4) Detention Alternatives
- 5) Racial/Ethnic Disparities/Disproportionate Minority Confinement
- 6) Conditions of Confinement
- 7) Collaboration and Leadership
- 8) Using Data

c. Amount of money in the fund: \$2,280,000 (State Fiscal Years 2019 and 2020, Appropriations: JDAI Innovations Funding and Alternatives to Incarceration). Funding allocations are for the one-year period January 1, 2019 through December 31, 2019. Future State legislative appropriations for this grant program are subject to appropriation and availability of sufficient funds.

d. Organizations that may apply for funding under this program: Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Mercer, Middlesex, Monmouth, Ocean, Passaic, Salem, Somerset, Sussex, Union, and Warren County's Youth Services Commissions or another body approved by the Juvenile Justice Commission Executive Director as the designated body to perform the duties and services of a County Youth Services Commission, on behalf of the County's Council on Juvenile Justice System Improvement.

e. Qualifications needed by an applicant to be considered for funding: To be considered for funding, an applicant must minimally meet the eligibility criteria as described in the full application and submit a Letter of Intent/Eligibility Checklist on or before May 11, 2018, following the format in the full application.

Core Eligibility Criteria include:

- An active JDAI Site throughout 2017.

- The JDAI site held a combined total of 12 County Council on Juvenile Justice System Improvement meetings and Subcommittee meetings in the past year. At least four of these meetings must have been full Council meetings, and at least four of these meetings must have been Subcommittee meetings.

- County Council has demonstrated a commitment to the JDAI Core Strategy of relying on data to drive system-improvement, in that the site a) produces the detention data minimally required to conduct such systems-analysis; and b) has put in place mechanisms that rely on local participation for producing these data.

- The JDAI site regularly produces required detention alternative data.

f. Procedures for eligible organizations to apply:

Letter of Intent/Eligibility: Following the format provided in the full application package, complete and submit one Letter of Intent/Eligibility Checklist on or before May 11, 2018. One original (with original signatures) and six copies of the Eligibility Checklist must be submitted.

Application: The Applications, including the Letter of Intent/Eligibility Checklist format, will be mailed simultaneously with the posting notice in the New Jersey Register. Applications will be mailed to each identified County Youth Services Commission Office and the chair/co-chairs of the County Council on Juvenile Justice System Improvement. Additional copies of the application are available by contacting the Juvenile Justice Commission, YSC Grants Management Unit at (609) 341-3632. One original (with original signatures) and six copies of the application must be received by August 3, 2018.

g. Address of the State agency receiving the applications:

Courier Services, US Postal Service, Fed Ex, UPS, or Hand Delivery

Safiya L. Baker, Manager
Juvenile Justice Commission
1001 Spruce Street, Suite 202
Ewing, NJ 08638

h. Deadline by which applications must be submitted:

Letter of Intent/Eligibility Checklist: All Letters of Intent/Eligibility Checklists must be received, not postmarked, by 3:00 P.M. on May 11, 2018.

Application: All applications must be received, not postmarked, by 3:00 P.M. on August 3, 2018.

i. Date by which notices shall be mailed of approval or disapproval of applications:

Letter of Intent/Eligibility Checklist: Applicants will receive a response to their Letter of Intent/Eligibility Checklist by approximately June 15, 2018.

Application: Applicants will receive a response regarding the results of the application review by approximately October 5, 2018.

(a)

JUVENILE JUSTICE COMMISSION Notice of Availability of Funds State/Community Partnership Grant Program and Family Court Services Program

Take notice that in compliance with N.J.S.A. 52:14-34.4, the Juvenile Justice Commission hereby announces the availability of the following grant program funds, which are accessed through one Comprehensive Plan Update and Application process:

a. Name of program: Calendar Year (CY) 2019 State/Community Partnership Grant Program and Calendar Year (CY) 2019 Family Court Services Program.

b. Purpose: The State/Community Partnership Grant Program and the Family Court Services Program offer grants to each county through their county youth services commissions to plan and implement community-based sanctions and services for juveniles adjudicated or charged as delinquent and delinquency prevention programs as provided for in N.J.A.C. 13:90. County youth services commissions use these grant funds to develop continuums of care covering the categories of prevention, diversion, detention, disposition, and reentry during the grant period.

c. Amount of money in the fund: Total amount cannot be determined at this time. The Juvenile Justice Commission will notify each county of its respective CY 2019 allocation when State Fiscal Years 2019 and 2020 budgets are finalized. All funds will be based on a formula. These funding allocations are for the one-year period of January 1, 2019 through December 31, 2019. Future State legislative appropriations for these grant programs are subject to appropriation and availability of sufficient funds. Every county that submits a timely and complete Plan and Application will receive a formula award.

d. Organizations that may apply for funding under this program: Each County through their county youth services commission may apply for funding.

e. Qualifications needed by an applicant to be considered for funding: To be considered for funding, an eligible applicant must submit a completed CY 2019 Comprehensive Plan Update and CY 2019 Comprehensive Application, in accordance with the requirements of the program.

f. Procedures for eligible organizations to apply:

Counties are to submit their CY 2019 Comprehensive County Plan Update and CY 2019 Comprehensive Application when applying for State Community Partnership Grant Program funds and Family Court Services funds. The Plan Update and Application will be mailed to each county Youth Services Commission Office simultaneously with the posting of this notice in the New Jersey Register. Additional copies of the Plan Update and Application are available at <http://www.nj.gov/oag/jjc/noafs.htm>.

Applicants must complete and submit a Plan Update and Application by August 31, 2018. One original single-sided (with original signatures) and six copies of the Plan Update and Application must be submitted.

g. Address of the State agency receiving the applications:

Courier Services, US Postal Service, Fed Ex, UPS, or Hand Delivery

Safiya L. Baker, Manager
Juvenile Justice Commission
Youth Services Grants Management Unit
1001 Spruce Street, Suite 202
Ewing, NJ 08638

h. Deadline by which applications must be submitted:

All Plan Updates and Applications must be completed and received, not postmarked, on or before August 31, 2018 by 3:00 P.M.

i. Date by which notices shall be mailed of approval or disapproval of applications: Within approximately 30 days of receipt of a completed Plan Update and Application.

(b)

DIVISION OF CONSUMER AFFAIRS

Drug Control Unit

Notice of Conferences for Solicitation of Informal Public Input Regarding Classification of Marijuana Under State Law

Take notice that the Division of Consumer Affairs (Division) will hold four informal conferences for the purpose of permitting interested persons to present their views regarding how marijuana is classified under State law.

Controlled dangerous substances are scheduled on a scale from I to V, and how a drug is scheduled determines how strictly it is regulated. Marijuana is currently classified as a Schedule I drug, alongside heroin and LSD. Schedule I—the most strictly regulated category—is reserved for substances that have a high potential for abuse and no accepted medical use for treatment in the United States (or without accepted safety for treatment under medical supervision).

As part of its review of marijuana's continued classification as a Schedule I substance in New Jersey, the Division intends to consider evidence of marijuana's potential for abuse and accepted medical uses as set forth in the Controlled Dangerous Substances Act (N.J.S.A. 24:21-3).

Conference participants are requested to offer their views on the following:

1. Marijuana's actual or relative potential for abuse;
2. Scientific evidence of marijuana's pharmacological effect, if known;
3. State of current scientific knowledge regarding marijuana;
4. Marijuana's history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. What, if any, risk there is to the public health;
7. Marijuana's psychic or physiological dependence liability; and
8. Whether the substance is an immediate precursor of a substance already controlled under N.J.S.A. 24:21-1 et seq.

The conferences will be held on Thursday, April 19, 2018, and Tuesday, April 24, 2018. The conferences will be held each day from 9:30 A.M. to 12:30 P.M. and 1:30 P.M. to 4:30 P.M. A court reporter will be present to record the proceedings. Requests to speak, indicating which conference the individual wishes to attend, should be submitted in writing to Maryann Sheehan, Director of Legislative and Regulatory Affairs, Division of Consumer Affairs, PO Box 45027, Newark, NJ 07101 or electronically at: www.njconsumeraffairs.gov/Proposals/Pages/default.aspx no later than April 12, 2018. Individual speakers are requested to provide a copy of their prepared remarks to the Division at the time of registration and on the day of the conference. Individuals will not be permitted to pre-register for, or speak at, more than one conference. Specific presentation times will be assigned. Individual presentations will be limited to 10 minutes. Based upon the number of individuals who request to speak, the Division reserves the right to reduce the allotted time to speak and/or to schedule additional conferences on future dates. Those who do not pre-register to speak will be given an opportunity to do so only as time permits. For those who prefer to submit only written comments, they may be forwarded to Maryann Sheehan, Director of Legislative and Regulatory Affairs, New Jersey Division of Consumer Affairs, PO Box 45027, 124 Halsey Street, 7th floor, Newark, New Jersey 07101, or electronically at: www.njconsumeraffairs.gov/Proposals/Pages/default.aspx no later than April 12, 2018.

Conference dates and locations are as follows:

Thursday, April 19, 2018

PUBLIC NOTICES

LAW AND PUBLIC SAFETY

124 Halsey Street
Sixth Floor
Morris Room
Newark, NJ 07101
and
Tuesday, April 24, 2018
Richard J. Hughes Justice Complex

25 Market Street
Attorney General's Library-6th Floor
Trenton, NJ 08611

Please note that the notice for these hearings published on April 2, 2018, indicated that the second conference will be held "Monday" April 24, 2018, not "Tuesday," which is corrected in this notice.

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

- ◆ The **Register Index of Rule Proposals and Adoptions** lists by New Jersey Administrative Code (N.J.A.C.) Citation all pending Proposals: those published within the past 12 months, but not adopted by the proposing agency and filed with the Office of Administrative Law. If unadopted one year after publication in the **Register**, an agency Proposal expires and is noted as “Expired” in the **Index**. The Proposal Notice N.J.R. Citation for each Proposal entry is the **Register** page number where that Proposal was published. Use the **N.J.R. Citation Locator** at the head of the **Index** to find the issue of publication.
- ◆ The **Index** also shows the **Rule Adoptions** promulgated in this issue of the **New Jersey Register**. The Proposal entry for each Adoption has been completed by the addition of an Office of Administrative Law Document Number (R.2018 d.) and an Adoption Notice N.J.R. Citation (**Register** page number). Previous adoption entries are deleted from the **Index** with each new **Register**. An Emergency Adoption and certain Exempt adoptions, however, remain listed until either the adoption of a Concurrent Proposal or the expiration of the regulatory effective period.
- ◆ **Rule Adoptions** in each semi-monthly **Register** are published concurrently as a **New Jersey Administrative Code Supplement** with the same date as the **Register** of promulgation. See **Administrative Code** historical notes and section annotations for a record of rule changes. See, also, previous **Register Indexes**.
- ◆ The **Index** also notes the **Register** publication of administrative changes and corrections to the **Administrative Code** and extensions of the public comment period on pending Proposals.

NEW JERSEY ADMINISTRATIVE CODE RESEARCH NOTE: The **Official Edition** of the **New Jersey Administrative Code** is published and distributed under the direction of the Office of Administrative Law by LexisNexis Matthew Bender, Charlottesville, Virginia. **Administrative Code Supplements** are published concurrently with the promulgation of new rules and amendments in the semi-monthly **New Jersey Register**.

Supplement April 2, 2018 is the current update to the **Administrative Code**. Below is a list of the **most recent Supplement for each Title** of the Administrative Code.

1	February 5, 2018	6A	March 19, 2018	11	March 5, 2018	15A	February 5, 2018
2	April 2, 2018	7	April 2, 2018	12	March 19, 2018	16	March 5, 2018
3	February 5, 2018	8	April 2, 2018	12A	February 5, 2018	17	March 19, 2018
3A	February 5, 2018	9	February 5, 2018	13	March 5, 2018	18	April 2, 2018
4A	March 19, 2018	9A	February 5, 2018	14	February 5, 2018	19	March 5, 2018
5	March 5, 2018	10	April 2, 2018	14A	February 5, 2018	19K	February 5, 2018
5A	February 5, 2018	10A	February 5, 2018	15	February 5, 2018	EO/Index	April 2, 2018
6	February 5, 2018						

N.J.R. CITATION LOCATOR

N.J.R. Citation	Issue of Publication	N.J.R. Citation	Issue of Publication
49 N.J.R. 583 through 686	April 3, 2017	49 N.J.R. 3381 through 3458	October 16, 2017
49 N.J.R. 687 through 828	April 17, 2017	49 N.J.R. 3459 through 3562	November 6, 2017
49 N.J.R. 829 through 1116	May 1, 2017	49 N.J.R. 3563 through 3642	November 20, 2017
49 N.J.R. 1117 through 1270	May 15, 2017	49 N.J.R. 3643 through 3804	December 4, 2017
49 N.J.R. 1271 through 1574	June 5, 2017	49 N.J.R. 3805 through 4062	December 18, 2017
49 N.J.R. 1575 through 1758	June 19, 2017	50 N.J.R. 1 through 274	January 2, 2018
49 N.J.R. 1759 through 1956	July 3, 2017	50 N.J.R. 275 through 692	January 16, 2018
49 N.J.R. 1957 through 2300	July 17, 2017	50 N.J.R. 693 through 880	February 5, 2018
49 N.J.R. 2301 through 2594	August 7, 2017	50 N.J.R. 881 through 928	February 20, 2018
49 N.J.R. 2595 through 2828	August 21, 2017	50 N.J.R. 929 through 1010	March 5, 2018
49 N.J.R. 2829 through 3004	September 5, 2017	50 N.J.R. 1011 through 1072	March 19, 2018
49 N.J.R. 3005 through 3272	September 18, 2017	50 N.J.R. 1073 through 1124	April 2, 2018
49 N.J.R. 3273 through 3380	October 2, 2017	50 N.J.R. 1125 through 1186	April 16, 2018

N.J.A.C.	PROPOSAL NOTICE	DOCUMENT	ADOPTION NOTICE
CITATION	N.J.R. CITATION	NUMBER	N.J.R. CITATION

ADMINISTRATIVE LAW – TITLE 1

1:30-1.1—1.8, 1.10, 1.12—1.15, 2.1, 2.4, 2.6—2.10, 3.1—3.3, 4.1, 5, 6	Rules for agency rulemaking	50 N.J.R. 1015(a)
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AGRICULTURE – TITLE 2

2:24-1.1, 2.3, 3.1, 6.4, 7	Diseases of bees	49 N.J.R. 3565(a)
2:76-22	State Agriculture Development Committee: rural microenterprise activity on preserved farms	49 N.J.R. 3463(a)

BANKING – TITLE 3

3:3	Organizational rules	49 N.J.R. 3647(a)
3:34	Governmental unit deposit protection rules	49 N.J.R. 3386(a)

CHILDREN AND FAMILIES – TITLE 3A

No active proposals.

CIVIL SERVICE – TITLE 4A

4A:3-3.9, 5.2—5.4, 5.7, 5.9	Classification, services, and compensation; leaves, hours of work, and employee development	49 N.J.R. 2616(a)
4A:6-1.21A, 1.21B, 4.10, 5.2	Classification, services, and compensation; leaves, hours of work, and employee development	49 N.J.R. 2616(a)

COMMUNITY AFFAIRS – TITLE 5

5:1	Standards of conduct rules	49 N.J.R. 3573(a)
5:2	Organizational rules	49 N.J.R. 2619(a)
5:23-2.15, 2.20, 3.2, 3.4, 3.14, 4.4, 4.5, 4.12, 4.13, 4.14, 4.18, 4D.3, 4D.4, 6.2, 71	Uniform Construction Code rules	49 N.J.R. 2332(a)
5:30-15.4	Local Finance Board: authorization for compensated absence payments	49 N.J.R. 2622(a)
5:30-18	Local Finance Board: employee compensation disclosure	49 N.J.R. 1969(a)
5:41	Homelessness Prevention Program rules	49 N.J.R. 2351(a)
5:42	State Rental Assistance Program rules	49 N.J.R. 2352(a)
5:43	Neighborhood Preservation Balanced Housing Program rules	49 N.J.R. 3574(a)
5:44	Local Housing Authority and Municipal Redevelopment Agency Training Program and Executive Director Review rules	49 N.J.R. 3575(a)
5:71	Division of Fire Safety: Fire Code enforcement rules	50 N.J.R. 705(a)
5:73	Division of Fire Safety: standards for fire service training and certification	50 N.J.R. 706(a)
5:80-5.1, 5.9, 6, 9.13, 9.14, 10, 22, 24, 32	New Jersey Housing and Mortgage Finance Agency rules	49 N.J.R. 1595(a)
5:101	Garden State Historic Preservation Trust Fund Grants Program rules	50 N.J.R. 279(a)
MILITARY AND VETERANS' AFFAIRS – TITLE 5A		
5A:3	Office of the Adjutant General: New Jersey Distinguished Service Medal rules	49 N.J.R. 3405(a)

EDUCATION – TITLE 6/6A

6A:8	Standards and assessment	50 N.J.R. 707(a)
6A:8-1.3, 5.3	Standards and assessment: State Seal of Biliteracy	49 N.J.R. 3406(a)

ENVIRONMENTAL PROTECTION – TITLE 7

7:1E-5.7	Heating Oil Tank System Remediation rules; administrative requirements for the remediation of contaminated sites	49 N.J.R. 2055(a)	
7:7-13.16	Coastal Zone Management, Freshwater Wetlands Protection, and Flood Hazard Area Control Act rules: administrative corrections regarding technical corrections and organizational names	_____	50 N.J.R. 1147(a)
7:7A-1.3, 4.2, 7.17, 7.18, 7.23, 7.25, 8.1, 8.4, 10.2, 10.4	Coastal Zone Management, Freshwater Wetlands Protection, and Flood Hazard Area Control Act rules: administrative corrections regarding technical corrections and organizational names	_____	50 N.J.R. 1147(a)
7:9E-2.1	Private and nonpublic well testing: maximum contaminant levels; monitoring and treatment for radionuclides for public nontransient noncommunity water systems	49 N.J.R. 2361(a)	
7:10-5.2, 5.3, 12.30	Private and nonpublic well testing: maximum contaminant levels; monitoring and treatment for radionuclides for public nontransient noncommunity water systems	49 N.J.R. 2361(a)	
7:11-2.3—2.6	Water Supply Authority: schedule of rates, charges, and debt service assessments for the sale of water from the Raritan Basin System	50 N.J.R. 3(a)	
7:11-4.3—4.6	Water Supply Authority: schedule of rates, charges, and debt assessments for the sale of water from the Manasquan Reservoir Water Supply System	50 N.J.R. 5(a)	
7:13-11.2, 11.17, 12.1, 19.1, 21.4, 22.7	Coastal Zone Management, Freshwater Wetlands Protection, and Flood Hazard Area Control Act rules: administrative corrections regarding technical corrections and organizational names	_____	50 N.J.R. 1147(a)
7:14A-1.2, 7.5, 8.4, 8.5	Heating Oil Tank System Remediation rules; administrative requirements for the remediation of contaminated sites	49 N.J.R. 2055(a)	
7:14B-1.6, 5.5, 7.2, 9.5, 12.1, 16.2—16.4, 16.11	Heating Oil Tank System Remediation rules; administrative requirements for the remediation of contaminated sites	49 N.J.R. 2055(a)	
7:18-6.4	Private and nonpublic well testing: maximum contaminant levels; monitoring and treatment for radionuclides for public nontransient noncommunity water systems	49 N.J.R. 2361(a)	
7:26B-3.4, 5.9	Heating Oil Tank System Remediation rules; administrative requirements for the remediation of contaminated sites	49 N.J.R. 2055(a)	
7:26C-1.3—1.5, 1.7, 2.3, 3.2—3.5, 4.2—4.4, 4.6, 4.7, 5.2, 5.4, 5.8, 5.11, 6.2—6.4, 7.2, 7.3, 7.5—7.8, 7.11—7.13, 9.1, 9.5, 9.9, 9.10, 9.12, 11.2—11.4, 12.1—12.4, 13, 14.2, 14.4, Appendix B, D	Heating Oil Tank System Remediation rules; administrative requirements for the remediation of contaminated sites	49 N.J.R. 2055(a)	
7:26E-1.3, 1.6—1.8, 1.11, 1.14, 1.16, 2.1, 4.1, 4.10, 5.1—5.3, 5.5, 5.6, 5.8, Appendix A	Heating Oil Tank System Remediation rules; administrative requirements for the remediation of contaminated sites	49 N.J.R. 2055(a)	
7:26F	Heating Oil Tank System Remediation rules; administrative requirements for the remediation of contaminated sites	49 N.J.R. 2055(a)	

HEALTH – TITLE 8

8:43G-4.1	Hospital financial transparency standards	49 N.J.R. 1293(a)
8:50-1.1, 1.3, 2.1, 2.2, 2.4, 2.5, 3.1, 4.1, 4.2, 5.6, Appendices A, B	Standards for indoor environmental certification and for licensure of indoor environmental consultants	49 N.J.R. 2831(a)
8:96	Hospital financial transparency standards	49 N.J.R. 1293(a)

HIGHER EDUCATION – TITLE 9/9A

9A:10-7.5	Student loan and college savings programs: New Jersey Better Educational Savings Trust (NJBEST) Program	49 N.J.R. 3807(a)
9A:11-2.2	Educational Opportunity Fund: undergraduate academic and financial eligibility	50 N.J.R. 1079(a)

HUMAN SERVICES – TITLE 10

10:45	Guardianship services	50 N.J.R. 7(a)
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10:52	Division of Medical Assistance and Health Services: Hospital Services Manual rules	49 N.J.R. 3294(a)		
10:60-1.1—1.3, 1.6— 1.9, 2.2, 2.3, 2.5, 3.1—3.10, 4, 5.1— 5.11, 6—10, 11.2, Appendix A	Division of Medical Assistance and Health Services: home care services	49 N.J.R. 2698(a)		
10:155	Catastrophic Illness in Children Relief Fund Commission rules	49 N.J.R. 317(a)		
10:162	Division of Mental Health and Addiction Services: Intoxicated Driving Program rules	49 N.J.R. 2868(a)		
CORRECTIONS – TITLE 10A				
10A:71	Parole rules	49 N.J.R. 3408(a)	R.2018 d.093	50 N.J.R. 1154(a)
10A:71-3.53	State Parole Board: medical parole	50 N.J.R. 1025(a)		
10A:72-1.1, 2.4, 3.6, 6.1, 7.1, 10.1— 10.4, 10.8, 10.9, 11.2, 11.2, 14	Parole rules	49 N.J.R. 3408(a)	R.2018 d.093	50 N.J.R. 1154(a)
INSURANCE – TITLE 11				
11:2	Insurance group rules	49 N.J.R. 3650(a)		
LABOR AND WORKFORCE DEVELOPMENT – TITLE 12				
12:16	Income security: Unemployment Compensation Fund— contributions, records, and reports	50 N.J.R. 1026(a)		
12:17-2.1, 10.2—10.8	Division of Unemployment Insurance: claims adjudication—misconduct connected with the work	49 N.J.R. 3326(a)		
12:235-1.9	Division of Workers' Compensation: electronic medical bills for workers' compensation claims	49 N.J.R. 3419(a)		
COMMERCE COMMISSION – TITLE 12A				
No active proposals.				
LAW AND PUBLIC SAFETY – TITLE 13				
13:4	Division on Civil Rights: rules of practice and procedure	50 N.J.R. 889(a)		
13:18	Motor Vehicle Commission: executive and administrative service rules	49 N.J.R. 3338(a)		
13:19	Motor Vehicle Commission: compliance and safety rules	49 N.J.R. 3659(a)		
13:20-10, 14, 26.3, 26.4, 26.6, 26.7, 26.9, 27, 28.1— 28.10, 28.12, 49— 49E, 50.1, 50.2, 50A.4, 50A.28, 50B.6, 50B.12, 50B.23, 50B.27, 50B.35, 50B.44, 50C.1, 50C.6, 50C.9, 50D	Motor Vehicle Commission: enforcement service— commercial vehicles; school bus standards; parking on State property	49 N.J.R. 3344(a)		
13:21-7.3, 8.7, 8.8, 8.15	Motor Vehicle Commission: test administration to deaf hard of hearing and limited English proficient applicants	49 N.J.R. 3663(a)		
13:21-11	Motor Vehicle Commission: title to vehicles abandoned on private property	49 N.J.R. 3350(a)		
13:21-25	Motor Vehicle Commission: licensing service—Entity Identification Number	49 N.J.R. 719(a)		
13:21-26	Motor Vehicle Commission: Transportation Network Companies	50 N.J.R. 710(a)		
13:23	Motor Vehicle Commission: driving schools	49 N.J.R. 721(a)		
13:29-1.5	State Board of Accountancy: fees	49 N.J.R. 2456(a)		
13:30-1A.3—1A.5, 2.3—2.6	State Board of Dentistry: scope of practice for licensed dental hygienist, registered dental assistant, and limited registered dental assistant in orthodontics; registration requirements for limited registered dental assistant in orthodontics	49 N.J.R. 1821(a)		
13:30-6	State Board of Dentistry: advertising rules—pre-proposal	49 N.J.R. 631(a)		
13:31-1.6	State Board of Examiners of Electrical Contractors: fee schedule	49 N.J.R. 2458(a)		
13:31A-1.4	State Board of Examiners of Electrical Contractors; Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee: fees	49 N.J.R. 2459(a)		
13:32A-1.2	State Board of Examiners of Heating, Ventilating, Air Conditioning, and Refrigeration Contractors: definition of heating, ventilating, air conditioning and refrigeration	49 N.J.R. 2461(a)		
13:34C-5.2	State Board of Marriage and Family Therapy Examiners: Alcohol and Drug Counselor Committee rules	48 N.J.R. 2118(a)	R.2018 d.092	50 N.J.R. 1163(a)

13:34C-5.2	State Board of Marriage and Family Therapy Examiners; Alcohol and Drug Counselor Committee: notice of proposed substantial changes to proposed amendments regarding continuing education contact hour requirements	49 N.J.R. 3329(a)	R.2018 d.092	50 N.J.R. 1163(a)
13:35-2B.1—2B.5, 2B.10—2B.17	State Board of Medical Examiners; Physician Assistant Advisory Committee: physician assistant scope of practice; licensure requirements	49 N.J.R. 2738(a)		
13:35-5.1, 5.2, 6.4, 6.8	State Board of Medical Examiners: eye examinations; prescription of amygdalin	49 N.J.R. 2745(a)		
13:35-6.4	State Board of Medical Examiners: delegation of administration of subcutaneous and intramuscular injections and performance of venipuncture to certified medical assistants	49 N.J.R. 3481(b)		
13:35-6.26	State Board of Medical Examiners and Board of Pharmacy: administration of pediatric influenza vaccines by licensed pharmacists	49 N.J.R. 2746(a)		
13:35-7.5	State Board of Medical Examiners: exemption to the seven-day supply of dispensing of drugs or medications	49 N.J.R. 2895(a)		
13:36-1.6	State Board of Mortuary Science: fees and charges	49 N.J.R. 2462(a)		
13:37-5.5, 7.8	State Board of Nursing: fee schedule; continuing education	49 N.J.R. 3096(a)		
13:37A-7.1	State Board of Massage and Bodywork Therapy: fee schedule	49 N.J.R. 2463(a)		
13:39-4.21A	State Board of Medical Examiners and Board of Pharmacy: administration of pediatric influenza vaccines by licensed pharmacists	49 N.J.R. 2746(a)		
13:42-2.4	State Board of Psychological Examiners: degrees earned outside the United States	50 N.J.R. 933(a)		
13:44C-3.5	Division of Consumer Affairs, Audiology and Speech-Language Pathology Advisory Committee: requirements for clinical internship	49 N.J.R. 3097(a)		
13:44E-1.2, 1A.6, 2.1, 2.2, 2.7, 4	State Board of Chiropractic Examiners: licensure and regulation of chiropractic assistants	49 N.J.R. 2899(a)		
13:44F-3.1, 3.3, 4.1, 7, 8.4, 10	State Board of Respiratory Care: standards of practice, licensure requirements, and continuing education requirements	48 N.J.R. 1354(a)		
13:44F-3.3	State Board of Respiratory Care: standards of practice, licensure requirements, and continuing education requirements—notice of proposed substantial changes upon adoption to proposed amendments	49 N.J.R. 1666(a)		
13:44G-1.2, 3.1—3.3, 4.1, 4.2, 6.2, 6.5, 8.1, 9.3, 10.2—10.4, 10.6—10.8, 11.2, 11.4, 12.3, 13.6, 14.1	State Board of Social Work Examiners rules	49 N.J.R. 2750(a)		
13:44J-2.1, 9, 13.1, 13.8	New Jersey Cemetery Board: crematories	49 N.J.R. 2757(a)		
13:44M	Division of Consumer Affairs: Elevator, Escalator, and Moving Walkway Mechanics Licensing Board rules	49 N.J.R. 998(a)		
13:44M	Division of Consumer Affairs: Elevator, Escalator, and Moving Walkway Mechanics Licensing Board rules—notice of extension of public comment period	49 N.J.R. 3098(a)		
13:45A-35.1, 35.3, 35.4, 35.6	Division of Consumer Affairs: Prescription Monitoring Program; electronic transmission of prescriptions for gabapentin	50 N.J.R. 9(a)		
13:45A-35.1, 35.2, 35.6, 35.10, 35.11	Division of Consumer Affairs: Prescription Monitoring Program prescription drug information	50 N.J.R. 934(a)		
13:45B-13.2, 13.5, 13.5A	Division of Consumer Affairs: registration requirements for health care service firms	49 N.J.R. 2759(a)		
13:51-1.2, 1.5, 1.6, 1.9, 1.12, 2.2, 3.3, 3.5, 3.6, 4.3	Division of Criminal Justice: chemical breath testing	49 N.J.R. 2761(a)		
13:70-2.1, 14A.18, 14A.18A	Racing Commission: thoroughbred racing—shock wave therapy; penalties	49 N.J.R. 1005(a)		
13:70-12.1A, 12.20A	Racing Commission: thoroughbred racing—exemption from claim; voidable claims	50 N.J.R. 936(a)		
13:70-14A.4, 14A.13, 14A.14	Racing Commission: thoroughbred racing—split sample testing procedures	50 N.J.R. 1029(a)		
13:70-14A.17	Racing Commission: thoroughbred racing—anabolic steroids	49 N.J.R. 3334(a)		
13:71-4.1, 14.2A, 14.17B, 14.18	Racing Commission: harness racing—exemption from claim; voidable claims; scratched horse	50 N.J.R. 937(a)		
13:71-23.4, 23.15	Racing Commission: harness racing—split sample testing procedures	50 N.J.R. 1031(a)		
13:71-23.16	Racing Commission: harness racing—anabolic steroids	49 N.J.R. 3336(a)		

13:71-23.17, 23.17A	Racing Commission: harness racing—shock wave therapy; penalties	49 N.J.R. 1009(a)
13:73	Horse Racing Injury Compensation Board: workers' compensation insurance coverage for horse racing industry employees	49 N.J.R. 3655(a)
13:92-1.2, 2.5, 4.1, 4.2, 5.3, 6.5, 6.6, 7.4—7.6, 8.1, 9.1, 9.9, 10.7, Appendix A, B	Juvenile Justice Commission: incarceration of juveniles in county detention facilities	50 N.J.R. 890(a)

PUBLIC UTILITIES – TITLE 14

14:1-5.12	Tariff filings or petitions which propose increases in charges to customers	50 N.J.R. 281(a)
14:1-5.12	Tariff filings or petitions: consolidated tax adjustment calculations	50 N.J.R. 709(a)

ENERGY – TITLE 14A

No active proposals.

STATE – TITLE 15

15:21	Division of the State Library: State Library aid and grants	49 N.J.R. 3808(a)
15:22	Division of the State Library: Library network services	49 N.J.R. 3811(a)

PUBLIC ADVOCATE – TITLE 15A

No active proposals.

TRANSPORTATION – TITLE 16

16:41F	Vegetation canopy management rules: pre-proposal	49 N.J.R. 3483(a)
16:47	State Highway Access Management Code rules	50 N.J.R. 11(a)
16:53D-1.1	Motor Vehicle Commission: Zone of Rate Freedom	50 N.J.R. 714(a)
16:53E	Division of Multimodal Services: fixed guideway State safety oversight rules	50 N.J.R. 939(a)

TREASURY — GENERAL – TITLE 17

17:3-3.8, 3.13	Teachers' Pension and Annuity Fund: insurance and death benefits	50 N.J.R. 715(a)		
17:7-1.2, 2.1, 5.7, 9.2, 12.1, 12.5—12.19, 14.1, 16.1	Division of Pensions and Benefits: Alternate Benefit Program and Additional Contributions Tax Sheltered (ACTS) Program	50 N.J.R. 941(a)		
17:16-69.1	State Investment Council: common pension funds	Exempt (Expires July 27, 2018)	R.2017 d.159	49 N.J.R. 2813(a)
17:18-3.1, 3.3	Unclaimed personal property: stored value cards	49 N.J.R. 3665(a)		
17:20-1.1—1.4, 2.1, 3.1, 4.1, 4.—4.6, 4.9—4.12, 5.1—5.6, 6.1—6.6, 7.1, 7.4, 7.12, 9.1, 10.1—10.3, 12	Division of State Lottery: courier services	50 N.J.R. 114(a)		
17:24	Office of Emergency Technology: 9-1-1 Emergency Telecommunication System rules	50 N.J.R. 952(a)		

TREASURY — TAXATION – TITLE 18

18:26	Transfer inheritance tax and estate tax rules	49 N.J.R. 2210(a)
18:28	Real property tax exemptions for permanently and totally disabled war veterans or surviving spouses, surviving civil union partners, or surviving domestic partners of disabled war veterans, and surviving spouses, civil union partners, or domestic partners of servicepersons	49 N.J.R. 1668(a)

TITLE 19 – OTHER AGENCIES

19:30	Economic Development Authority: administrative rules and Authority assistance programs	49 N.J.R. 3576(a)
19:31	Economic Development Authority: administrative rules and Authority assistance programs	49 N.J.R. 3576(a)
19:76	South Jersey Transportation Authority: rules of operation for Atlantic City International Airport	50 N.J.R. 1080(a)

TITLE 19 SUBTITLE K – CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY

No active proposals.

