

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

Social Impact

The rules proposed for readoption with amendments establish the Division’s practices and procedures for contested cases within the Division’s jurisdiction. The rules allow the Director to address an apparent violation by way of administrative charges and administrative hearings. Administrative charges provide for a less formal proceeding in which to address a violation of one of the statutory schemes covered under the Division’s subject matter jurisdiction.

An administrative hearing is beneficial to the parties because it allows for a speedy, less costly hearing before the Director who has expertise in consumer matters. These procedures do not foreclose the Attorney General from pursuing matters in other forums as may be appropriate. It is important that the chapter be readopted to continue to allow parties to take advantage of these types of proceedings.

Economic Impact

The rules proposed for readoption with amendments, have no economic impact on the general public but may have some economic impact on persons who contest a violation of one of the statutory schemes covered under N.J.A.C. 13:45-2.1. All corporations appearing in a contested case must be represented by counsel and, therefore, will incur attorneys’ fees. In addition, if an adjournment of the hearing is requested by the respondent, any monetary sanctions as set forth under N.J.A.C. 1:1-14.14 may be charged to the respondent. A respondent requesting a stenographic transcript of the hearing is charged with the cost as set forth in the Uniform Administrative Procedure Rules and, if found to have violated one of the statutes, may be assessed civil penalties, restitution, costs, and attorneys’ fees. The Division will incur the administrative costs of advancing the proceedings.

The Division believes that these costs are necessary to effectuate an efficient administrative hearing process in which to address violations of the covered statutory schemes.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments are not subject to any Federal standards or requirements.

Jobs Impact

The Division does not anticipate that the rules proposed for readoption with amendments will increase or decrease the number of jobs in the State.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry in the State.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments impose no reporting or recordkeeping requirements. The rules do impose a number of compliance requirements on any small business that has contested a violation of the statutes covered by this chapter. Where a complaint has been issued, the respondent must comply with the time requirements under N.J.A.C. 13:45-3.3, when filing an answer to the complaint. N.J.A.C. 13:45-4.3 requires the respondent to request an adjournment as set forth under N.J.A.C. 1:1-9.6. If the respondent is a corporation in a proceeding under the rules, it may appear or file papers only through counsel. Where civil penalties, restitution, and costs are assessed by the Director, the respondent must comply with the provision of N.J.A.C. 13:45-5.4. Any respondent who decides to appeal the final decision and order of the Director must comply with proposed N.J.A.C. 13:45-5.5 and the New Jersey court rules related to appellate filings.

The rules proposed for readoption with amendments are a necessary means by which violations of the statutes provided for under proposed N.J.A.C. 13:45-2.1 can be addressed and, therefore, are important to the health, safety, and welfare of the public. The rules must be applied uniformly to all who contest a violation of the Act or the other statutes covered by these rules, regardless of their size. The Division points out that N.J.A.C. 13:45C-2.1 through 2.5 provide a procedure by which the

Division may grant a waiver of regulatory requirements. This procedure may provide relief to small businesses in appropriate circumstances.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules proposed for readoption with amendments concern Division administrative hearings.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will 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 because the rules proposed for readoption with amendments concern Division administrative hearings.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:45.

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

SUBCHAPTER 3. COMMENCEMENT OF FORMAL ADMINISTRATIVE PROCEEDINGS; PLEADINGS; SERVICE OF PLEADINGS; INITIATION OF ADMINISTRATIVE CHARGES

13:45-3.1 Notice of hearing and complaint

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

(d) The notice of hearing shall contain:

1.-2. (No change.)

[3. A statement of the time and place of the hearing;]

Recodify existing 4.-7. as 3.-6. (No change in text.)

(e) (No change.)

(f) The time and place of the hearing will be provided once the answer to the complaint has been received and it has been established that a contested case exists.

(a)

DIVISION OF STATE POLICE

Private Detectives

Proposed Readoption with Amendments: N.J.A.C. 13:55

Authorized By: Colonel Joseph Fuentes, Superintendent, Division of State Police.

Authority: N.J.S.A. 45:19-8.

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

Proposal Number: PRN 2014-016.

Submit comments by March 22, 2014, to:

Colonel Joseph R. Fuentes, Superintendent
c/o Private Detective Unit
New Jersey State Police
PO Box 7068
West Trenton, New Jersey 08628-0068

The agency proposal follows:

Summary

The rules governing private detectives were originally promulgated by the Division of State Police in 1972. Pursuant to N.J.S.A. 52:14B-5.1.c(2), these rules are scheduled to expire on June 18, 2014. The Division has reviewed the rules and has determined that they are still necessary for the purposes for which they were promulgated and proposes to readopt the chapter with amendments. The Legislature enacted P.L. 2004, c. 134, effective September 1, 2005, to regulate security officer companies, which were previously included within the

definition of private detective business, and were therefore subject to these rules. The rules proposed for readoption with amendments will apply to persons engaged in the private detective business as that term is now defined in N.J.S.A. 45:19-9. The definition now excludes "the business of watch, guard or patrol agency." N.J.A.C. 13:55 currently contains one subchapter, a description of the subchapter and proposed amendments follows.

Subchapter 1 sets forth the general provisions of the chapter.

N.J.A.C. 13:55-1.1 provides that any person desiring to engage in the private detective business must request in writing and file an application on a form provided by the Superintendent. The Division proposes a technical amendment to subsection (a) by removing the language pertaining to S.P. 172 because this form no longer exists.

N.J.A.C. 13:55-1.2 prohibits the duplication of a license without the approval of the Superintendent.

N.J.A.C. 13:55-1.3 requires employees' statements and fingerprint cards to be consecutively numbered and requires the licensee to submit a list of employees on July 1 of each year. The Division proposes a technical amendment to subsection (a) by removing "and employees' fingerprint cards." The Division proposes to delete subsection (c). These two amendments are proposed because fingerprint cards are no longer issued to applicants from New Jersey due to the fact fingerprints are now taken electronically via livescan. Proposed new subsection (c) requires the employer to maintain proof of initial fingerprinting and to attach it to the employee statement for each new hire. The Division also proposes an amendment to subsection (e) to change the date the licensee must submit certain information to the Superintendent. This change is necessary because licensees are required to provide the requisite information at the time of hire, biennial renewal, and termination of an employee. The Division lastly proposes to delete subsection (f) because the form S.P. 487-A is no longer utilized.

N.J.A.C. 13:55-1.4 requires licensees and employees to carry and exhibit the identification card and to surrender the card on termination of employment. The Division proposes an amendment to subsection (b) to remove the requirement to surrender a badge upon termination. This is necessary because as per N.J.S.A. 45:19-19, private detectives are no longer permitted to use badges.

N.J.A.C. 13:55-1.5 prohibits licensees from using any uniform or badge with intent to confuse the public or using a title, badge, uniform, or other insignia likely to be confused with a law enforcement officer. The Division proposes an amendment to conform to the statute to prohibit any uniform, insignia, or emblem, which is likely to be confused with that of any law enforcement officer of the Federal, State or local government and to recognize the discontinuation of allowing private detectives to use badges.

N.J.A.C. 13:55-1.6 contains restrictions on the content of advertising by licensees.

N.J.A.C. 13:55-1.7 prohibits licensees from being parties to a franchise agreement and from agreeing to compensation based on the results achieved for services rendered.

N.J.A.C. 13:55-1.8 prohibits active members of a State, political subdivision, or Federal law enforcement agency from being issued a private detective license.

N.J.A.C. 13:55-1.9 concerns continuation of a license when the licensee no longer qualifies.

N.J.A.C. 13:55-1.10 requires a licensee to reapply if the form of the business changes. The Division proposes an amendment to subsection (a), by adding the language "Licensing as a qualifying member on multiple licenses is prohibited" to clarify the license requirement.

N.J.A.C. 13:55-1.11 states the grounds for which the Superintendent may deny, revoke, suspend, or refuse to renew a license. The Division proposes an amendment to paragraph (a)1, by specifying the types of offenses that may result in the denial and/or revocation of a license as a "first, second, or third degree crime," rather than as "a high misdemeanor." In addition, the Division proposes to add paragraph (a)9, to include the language "demonstrated that licensing would not be in the best interest of public health, safety, or welfare." This change is necessary to provide clarification regarding circumstances by which a license may be denied.

N.J.A.C. 13:55-1.12 contains the procedure for requesting a hearing.

N.J.A.C. 13:55-1.13 states the location and mailing address of State Police Headquarters. The Division proposes an amendment to subsection (b) to reflect the proper post office box for the Division of State Police.

The Division has provided a 60-day comment period for 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

The rules proposed for readoption with amendments provide for the regulation of the private detective business, as mandated by statute, and sets standards for the qualifications of licensees and the conduct of the private detective business, to ensure the protection of the public. The proposed amendments will have a positive social impact in that they will strengthen licensing requirements and provide for greater protections to the public.

Economic Impact

The rules proposed for readoption with amendments may impose costs on licensees who violate the restrictions on conduct. The Superintendent may deny, revoke, suspend, or refuse to renew a license. Licensees may incur nominal costs in filing the required application and renewal applications and in filing the annual list of employees. The rules do not impose any direct costs on licensees. However, N.J.S.A. 45:19-12 and 12.1 impose license fees and fees for each employee. N.J.S.A. 45:19-16 requires applicants to bear the cost of criminal history record checks. There should be no additional cost to maintaining proof of initial fingerprinting and submitting such proof with the employee statement.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments are not subject to any Federal standards.

Jobs Impact

The rules proposed for readoption with amendments will not result in the generation or loss of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not have an impact on the agriculture industry of the State.

Regulatory Flexibility Analysis

Persons engaged in the private detective business may qualify as small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments impose recordkeeping, reporting, and other compliance requirements on the private detective business. All requirements apply uniformly to licensees and their employees. There is no provision in the Private Detective Act for varying compliance requirements based on business size. N.J.A.C. 13:55-1.1 requires all licensees to request an application in writing. N.J.A.C. 13:55-1.2 prohibits duplication of a license without written approval. N.J.A.C. 13:55-1.3 requires licensees to maintain sequentially numbered employee statements and fingerprint cards. N.J.A.C. 13:55-1.4 requires licensees and employees to carry and exhibit the identification card authorized by N.J.S.A. 45:19-17. N.J.A.C. 13:55-1.5 prohibits badges and uniforms that may be confused with law enforcement agencies. N.J.A.C. 13:55-1.7 prohibits certain types of contracts and business relationships. N.J.A.C. 13:55-1.8 prohibits active law enforcement officers from being licensed as private detectives. N.J.A.C. 13:55-1.9 provides for the continuation of a license. N.J.A.C. 13:55-1.10 requires licensees who change their form of business to submit a new application. N.J.A.C. 13:55-1.11 describes prohibited conduct. N.J.A.C. 13:55-1.12 states requirements for requesting a hearing. No professional services are required for compliance. The costs of compliance are discussed in the Economic Impact statement above. The rules are designed to minimize adverse impact on small businesses by imposing requirements mandated by the Private Detective Act of 1939 uniformly.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average

costs associated with housing because the rules concern private detective companies and private detectives.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will not have any impact upon the achievement of 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 concern private detective companies and private detectives.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:55.

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

SUBCHAPTER 1. GENERAL PROVISIONS

13:55-1.1 Application for license

(a) Any person desiring to pursue the "private detective business" as defined in N.J.S.A. 45:19-9 shall file an application with the Superintendent on a form designated S.P. 171 [(individual or partnership) or S.P. 172 (corporation)] and accompanied by any documents required by such application.

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

13:55-1.3 Employees

(a) Employees' statements [and employees' fingerprint cards] shall be numbered consecutively, commencing with number 1.

(b) (No change.)

[(c) The number entered on the employee's statement shall be identical with that entered on the fingerprint card.]

(c) Upon hire, the employer shall maintain proof of initial fingerprinting and attach same to the employee statement.

(d) (No change.)

(e) Each licensee shall file with the Superintendent a current list of employees [on the first day of July of each year] **at the time of hire, biennial license renewal, and termination of an employee.**

[(f) Every set of fingerprints forwarded to the Superintendent shall be accompanied by a form designated S.P. 487-A.]

13:55-1.4 Identification cards

(a) (No change.)

(b) In the event an employee fails, upon termination of his **or her** employment, or upon demand, to surrender his **or her** identification card, [badge,] uniform, or other equipment furnished him **or her** by his **or her** employer, notification of same shall be given the Superintendent and the local police agency having jurisdiction.

13:55-1.5 [Badges and uniforms] **Uniforms, insignias, and emblems**

No particular type or style of uniform [or badge] is prescribed in [these rules, other than required as to badges in N.J.S.A. 45:19-19 or prohibited by Chapter 2 of Title 52 of the Revised Statutes as to the use, exhibit and display of the Great Seal of the State of New Jersey,] **this chapter**, but no licensee or employee of a licensee, shall, with intent to deceive or confuse the public, use a title, [badge,] uniform, [or other] insignia [which], **or emblem that** is likely to be confused with that of any law enforcement officer of the Federal government, a state, or any political subdivision thereof.

13:55-1.10 Change in type of license

(a) Any individual licensee intending to change his **or her** business to a firm, association, or corporation, or any firm or association intending to change the form of its business to a corporation, shall apply to the Superintendent in the same manner as required for an original license. **Licensing as a qualifying member on multiple active licenses is prohibited.**

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

13:55-1.11 Grounds for denial, revocation, suspension, or refusal to renew a license

(a) The Superintendent may deny, revoke, suspend, or refuse to renew a license upon determining that the applicant or licensee has:

1. Been convicted of a [high misdemeanor] **first, second, or third degree crime** or any of the [misdemeanors or] **enumerated** offenses prescribed by N.J.S.A. 45:19-16 and who has not subsequent to such conviction received executive pardon therefor removing any civil disabilities incurred thereby;

2. (No change.)

3. Knowingly made a false material statement **or purposely omitted information** in his **or her** application;

4.-6. (No change.)

7. Failed to maintain a proper surety bond as required by N.J.S.A. 45:19-12; [or]

8. Failed to meet or continue to meet the requirements for licensure provided by the Act and [these rules.] **this chapter; or**

9. Demonstrated that licensing would not be in the best interest of public health, safety, or welfare.

(b) (No change.)

13:55-1.13 Location of offices

(a) (No change.)

(b) Mail should be addressed to the Superintendent, Division of State Police, Box [68] **7068**, West Trenton, New Jersey **08628**.

(a)

DIVISION OF STATE POLICE

Traffic Control and Parking on State Property in Trenton

Proposed Readoption with Amendments: N.J.A.C. 13:56

Authorized By: Colonel Joseph Fuentes, Superintendent, Division of State Police.

Authority: N.J.S.A. 39:4-208.

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

Proposal Number: PRN 2014-019.

Submit comments by March 22, 2014, to:

Colonel Joseph R. Fuentes, Superintendent
c/o Office of State Governmental Security
New Jersey State Police
PO Box 7068
West Trenton, New Jersey 08628-0068

The agency proposal follows:

Summary

The rules governing parking were originally promulgated by the Division of State Police in 1972 and were not subject to Executive Order No. 66 (1978). Pursuant to N.J.S.A. 52:14B-5.1.c(2), these rules are scheduled to expire on June 18, 2014. The Division has reviewed the rules and has determined that they are still necessary for the purposes for which they were promulgated and proposes to readopt the chapter with amendments.

N.J.A.C. 13:56-1.1 provides that a permit is required for parking but that spaces are on a first come, first served basis.

N.J.A.C. 13:56-1.2 explains the rules for visitor parking. The Division proposes a technical amendment to subsection (b) by substituting the term "liaison" for "receptionist" and by removing "Visitor-State Parking Area-Parking by Permit Only-Obtain Permit from Receptionist." The Division also proposes to delete subsection (c). This change is necessary to clarify that this rule pertains to all visitor parking areas on all State properties in Trenton rather than specifically Area Six. The Division also proposes to amend recodified subsection (d) to correct grammar.

N.J.A.C. 13:56-1.3 sets forth the application procedure. The Division proposes a technical amendment to paragraphs (a)1 and 2, as a clarification of requirement, by adding "to the State Parking Administrator." This change is necessary to clarify the procedure of issuing permits to department personnel. The State Parking Administrator is in the Department of the Treasury.