

exemption for employees who are engaged to labor on a farm is read more narrowly that the FLSA exemption for those employed in "agriculture," farmers in other states will have a competitive advantage over New Jersey farmers relative to cost and will undercut New Jersey farmers' market price. This, they maintain, would be disastrous for the agricultural business climate in New Jersey, which, in turn, would be inconsistent with the NJRFA and its laudable purpose, namely, to retain agricultural activities in New Jersey and, toward that end, limit regulation which would unnecessarily constrain essential farm practices.

Under the circumstances described above, the Department is proposing new N.J.A.C. 12:56-7.4, which would indicate that relative to the statutory exemption from overtime for employees engaged to labor on a farm, the phrase, "engaged to labor on a farm," shall mean employment in "agriculture," as that term is defined within 29 U.S.C. § 203(f).

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

Social Impact

The proposed new rule would have a positive social impact in that it would eliminate any possible confusion regarding the Department's enforcement policy relative to the statutory exemption from the overtime premium pay requirement for employees who are engaged to labor on a farm. Specifically, with the Department's adoption of the definition for the term, "agriculture," set forth at 29 U.S.C. § 203(f), as the definition for the phrase, "engaged to labor on a farm," which appears within N.J.S.A. 34:11-56a4, the regulated community would be assured that where their practices relative to exemption from overtime for employees engaged to labor on a farm conform to appropriate Federal law and regulations for employment in "agriculture," those practices also comply with the appropriate State law and rules. This straightforward and simple approach would be of assistance not only to the regulated community, but also to the Department in its enforcement efforts.

Economic Impact

The proposed new rule would have a positive economic impact on employers in that having a better understanding of the Department's enforcement policy should help them avoid running afoul of the State overtime law and rules, thereby incurring fewer administrative penalties. The proposed new rule may have a negative economic impact on employees who would seek to recover overtime premium pay against employers under the New Jersey overtime law and rules in that a narrower reading of the phrase, "engaged to labor on a farm," may have resulted in the payment of a premium rate for overtime hours worked by certain employees; whereas, under the approach suggested in the proposed new rule—an approach which is identical to that taken by the Federal government relative to its exemption from the FLSA's overtime requirement for employment in "agriculture"—those same employees may not receive premium pay for overtime hours worked. Nevertheless, as indicated in the Summary above, the Department believes that ensuring consistency in this particular regard between New Jersey's law and rules and the Federal government's law and regulations, would be consistent with the overarching legislative purpose expressed in the NJRFA. Furthermore, the Department is unaware of any compelling reason to have a standard in New Jersey for overtime pay within the agricultural industry which differs from the corresponding overtime pay standard found within the FLSA.

Federal Standards Statement

The proposed new rule would not exceed standards or requirements imposed by Federal law. Specifically, the proposed new rule would essentially adopt by reference the Federal standard set forth at 29 U.S.C. § 203(f).

Jobs Impact

The proposed new rule would have no impact on either the generation or loss of jobs.

Agriculture Industry Impact

The impact of the proposed new rule on the agriculture industry is described in detail within the Summary, Social Impact, and Economic Impact statements above.

Regulatory Flexibility Analysis

The proposed new rule would impose no reporting, recordkeeping, or compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Rather, the proposed new rule would simply facilitate a better understanding by employers and employees of the Wage and Hour Law. The clarity that would result from the proposed new rule would inure to the benefit of all concerned, including employers, large and small.

Housing Affordability Impact Analysis

The proposed new rule would have no impact on the affordability of housing in New Jersey and would not evoke a change in the average costs associated with housing because the proposed new rule pertains to overtime exemptions in agriculture and has nothing to do with housing.

Smart Growth Development Impact Analysis

The proposed new rule would have no impact on smart growth and would 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 because the proposed new rule pertains to overtime exemptions in agriculture and has nothing to do with housing.

Full text of the proposed new rule follows:

12:56-7.4 Exemption from overtime for employees engaged to labor on a farm

(a) Pursuant to N.J.S.A. 34:11-56a4, any employee engaged to labor on a farm shall be exempt from the overtime requirements of N.J.A.C. 12:56-6.1.

(b) "Engaged to labor on a farm," as used in this section, shall mean employment in "agriculture," as that term is defined within 29 U.S.C. § 203(f).

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Rules of Practice and Procedure of the Office of Cable Television

Proposed Readoption with Amendments: N.J.A.C. 14:17

Proposed New Rule: N.J.A.C. 14:17-8.5

Authorized By: Lawanda R. Gilbert, Director, Office of Cable Television (with approval of the Board of Public Utilities, Richard S. Mroz, President; Joseph L. Fiordaliso, Mary-Anna Holden, Dianne Solomon, and Upendra J. Chivukula, Commissioners).

Authority: N.J.S.A. 48:5A-10.

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

BPU Docket Number: CX16080807.

Proposal Number: PRN 2016-184.

A **public hearing** concerning the notice of proposal will be held on December 15, 2016 at 11:00 A.M. at:

Board of Public Utilities
First Floor
Multipurpose Room
44 South Clinton Avenue
Trenton, NJ 08609

Comments may be submitted through January 6, 2017, by e-mail in **Microsoft Word format**, or in a format that can be easily converted to Word, to rule.comments@bpui.nj.gov or on paper to:

Irene Kim Asbury, Secretary
New Jersey Board of Public Utilities
Attn: Docket No. CX16080807
44 South Clinton Avenue, 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

The agency proposal follows:

Summary

Pursuant to the New Jersey Cable Television Act (Cable Television Act), specifically N.J.S.A. 48:5A-9 and 10, the Director of the Office of Cable Television (OCT), with approval of the Board of Public Utilities (hereinafter, "the Board"), is empowered to promulgate rules and procedures necessary to carry out the purposes of the Cable Television Act. N.J.A.C. 14:17 contains the procedural rules governing cable television companies. These rules are necessary to ensure orderly regulation of the cable television industry in the State of New Jersey.

By filing this notice of rules proposed for readoption with amendments and a proposed new rule with the Office of Administrative Law prior to October 13, 2016, the expiration date of these rules is extended 180 days to April 11, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Board has provided a 60-day comment period on this notice of proposal. Accordingly, this notice is excepted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

The Board proposes that N.J.A.C. 14:17 be readopted with certain amendments. These amendments are categorized as: technical changes for clarity of the rules; and amendments to conform the rules with the general rules of practice for the Board (N.J.A.C. 14:1), as well as Federal law and changes in State statute (N.J.S.A. 48:5A-1 et seq.).

Following is a section-by-section summary of the rules proposed for readoption and the proposed amendments and new rule.

N.J.A.C. 14:17-1.1 contains to the scope of the rules.

N.J.A.C. 14:17-1.2 pertains to construction of and amendments to the rules.

N.J.A.C. 14:17-1.3 defines certain words and terms utilized in this chapter.

N.J.A.C. 14:17-1.4 designates the OCTV's official address. An amendment to this section is proposed to reflect the correct mailing address for the Board.

N.J.A.C. 14:17-1.5 designates the official hours of the OCTV.

N.J.A.C. 14:17-1.6 pertains to the transmittal of communications with the Board and the OCTV. Amendments to subsections (a) and (c) are proposed to reflect the correct mailing address for the Board. The Board proposes to amend subsections (b) and (d) to specify that correspondence must be filed in accordance with N.J.A.C. 14:1-1.6. The purpose of this change is that, as the Board transitions to electronic filing, changes will be proposed to N.J.A.C. 14:1, which contains the official filing requirements for utilities and regulated entities, such as cable television companies.

N.J.A.C. 14:17-1.7 pertains to public records maintained by the Board and the Cable Television Advisory Council. The Board proposes to delete subsection (c) because statutory language authorizing the Cable Television Advisory Council, N.J.S.A. 48:5A-12 through 14, was repealed by P.L. 2007, c. 39.

N.J.A.C. 14:17-1.8 pertains to the use of cameras and recording devices at proceedings before the Board and the role of the Office of Communications in making arrangements for such use.

N.J.A.C. 14:17-2.1 notes that the Board and the OCTV have statutory authority to collect fees and charges, pursuant to N.J.S.A. 48:5A-1 et seq., and N.J.S.A. 47:1A-1 et seq. N.J.A.C. 14:17-2.1(b) is intended to parallel the Board's rule N.J.A.C. 14:1-2.1, in that the collection of fees and charges is inapplicable to cable television operators, except for as otherwise provided for. N.J.A.C. 14:1-2.1 provides that, pursuant to N.J.S.A. 48:2-72, the collection of fees and charges shall be inapplicable to public utilities subject to assessment pursuant to N.J.S.A. 48:2-59. The Board proposes to amend subsection (a) to note that the fee to

defray administrative expenses of hearings shall be \$500.00, pursuant to N.J.S.A. 48:5A-18.c, which was amended by P.L. 2006, c. 83.

N.J.A.C. 14:17-2.2 requires all fees to be paid prior to the acceptance of any filing or the processing of any request for copies of documents. An amendment to subsection (b) is proposed to reflect the correct mailing address for the Board.

N.J.A.C. 14:17-3.1 pertains to evidence of authority to appear before the Board.

N.J.A.C. 14:17-3.2 pertains to ethical conduct before the Board and ex parte communications.

N.J.A.C. 14:17-3.3 pertains to the appearance of former employees before the Board.

N.J.A.C. 14:17-4.1 defines pleadings before the Board.

N.J.A.C. 14:17-4.2 sets forth the number of copies of pleadings to be filed with the Board. The Board proposes to amend subsection (a) to require an electronic copy of each submission to conform to the Board's rules for utilities found at N.J.A.C. 14:1-4.2(a). The purpose of this change is that as the Board transitions to electronic filing, changes will be proposed to N.J.A.C. 14:1, which contains the official filing requirements for utilities and regulated entities, such as cable television companies.

N.J.A.C. 14:17-4.3 pertains to attachments to pleadings.

N.J.A.C. 14:17-4.4 pertains to defective pleadings.

N.J.A.C. 14:17-4.5 pertains to service and notice of proceedings.

N.J.A.C. 14:17-4.6 pertains to verification of pleadings.

N.J.A.C. 14:17-4.7 pertains to the amendment of pleadings as a result of changes in fact or circumstances.

N.J.A.C. 14:17-6.1 pertains to the form and content of petitions.

N.J.A.C. 14:17-6.2 pertains to those occasions where the relief sought in a petition also requires the approval or authorization of any other State or Federal regulatory body.

N.J.A.C. 14:17-6.3 pertains to the joinder of requests for relief.

N.J.A.C. 14:17-6.4 pertains to the procedures to be employed by the OCTV upon filing of a petition.

N.J.A.C. 14:17-6.5 pertains to filing of complaints in lieu of petition and to complaint procedures where the OCTV is designated as complaint officer by municipal consent. The Board proposed to amend subsection (c) to conform to N.J.A.C. 14:1-5.13(c), which requires that complainants state the desired outcome of the complaint. This amendment will assist both cable television companies and the OCTV in resolving complaints.

N.J.A.C. 14:17-6.6 pertains to petitions for certificates of approval.

N.J.A.C. 14:17-6.7 pertains to petitions for approval of the modification or amendment of the terms or conditions of a municipal consent upon which a certificate of approval is based.

N.J.A.C. 14:17-6.8 pertains to petitions for approval of the transfer of certificates of approval or system-wide cable television franchises.

N.J.A.C. 14:17-6.9 pertains to petitions for renewal of certificates of approval. The Board proposes to amend subsection (a) to remove the requirement that a cable television company provide the original municipal consent. It is proposed that a cable television company may either file a copy of the prior municipal consent or provide evidence of the original municipal consent (for example, the date and citation of the original municipal consent ordinance). The Board retains copies of all Board-approved cable television municipal consent ordinances and it is unnecessary for cable television companies to provide them with their petitions. An additional amendment to subsection (a) is proposed to require that cable television companies provide a copy of the renewal municipal consent. This document is necessary for the Board to issue a Renewal Certificate of Approval for the municipality. All cable television companies currently provide renewal municipal consent ordinances.

N.J.A.C. 14:17-6.10 pertains to petitions for the approval of the sale or lease of property. The Board proposes to amend this section for stylistic changes and to conform to N.J.A.C. 14:1-5.6. The Board proposes to amend paragraph (a)1 to require only one copy of the description of the property to be filed in accordance with N.J.A.C. 14:1-1.6. The purpose of this change is that as the Board transitions to electronic filing, additional copies will be unnecessary. A change is proposed to paragraph (a)3 to require a cable television company to state

if there is no written agreement for a sale or lease. This will eliminate any follow-up questions regarding whether there is a written agreement. An amendment to paragraph (a)15 is proposed to reference that the advertisement notice be provided in accordance with subsection (b). As currently written, it references the wrong cross-reference.

N.J.A.C. 14:17-6.11 is reserved.

N.J.A.C. 14:17-6.12 pertains to petitions for reconsideration of assessments.

N.J.A.C. 14:17-6.13 pertains to petitions for authority to issue stocks, bonds, notes, other evidence of indebtedness, or to execute mortgages. The Board proposes to amend this section for stylistic changes to conform to N.J.A.C. 14:1-5.9.

N.J.A.C. 14:17-6.14 pertains to petitions for authority to transfer capital stock.

N.J.A.C. 14:17-6.15 pertains to petitions for permission to lend money or property.

N.J.A.C. 14:17-6.16 presently pertains to tariff filings that do not propose increases in charges to customers. Amendments to paragraph (a)1 are proposed to reflect that a cable television company is permitted to file, electronically or on paper, individual sheets revising their schedule of prices, rates, terms, and conditions rather than four copies of the entire schedule of prices, rates, terms, and conditions. Cable television companies are already permitted to file in this manner pursuant to N.J.A.C. 14:18-3.16.

N.J.A.C. 14:17-6.17 pertains to tariff filings or petitions, which propose increases in charges and requires Board adherence to FCC rate regulation rules.

N.J.A.C. 14:17-6.18 pertains to petitions for approval of a merger or consolidation. The Board proposes to amend this section for stylistic changes to conform to N.J.A.C. 14:1-5.14.

N.J.A.C. 14:17-6.19 pertains to petitions for permission to keep books and records outside the State of New Jersey.

N.J.A.C. 14:17-6.20 pertains to petitions by municipalities for permission to charge a franchise fee above that prescribed in N.J.S.A. 48:5A-1 et seq.

N.J.A.C. 14:17-6.21 pertains to petitions to set aside municipal or county refusal of zoning or other necessary authorization refusal pursuant to N.J.S.A. 48:5A-17.e.

N.J.A.C. 14:17-6.22 requires anyone wishing to act as a private aggregator for the purpose of facilitating the joint municipal consent action by two or more municipalities to register with the OCTV.

N.J.A.C. 14:17-7.1 pertains to the form and content of answers and replies filed in proceedings before the Board.

N.J.A.C. 14:17-7.2 pertains to the time for the filing of answers and replies filed in proceedings before the Board.

N.J.A.C. 14:17-8.1 sets forth the purposes of conducting pre-transmittal conferences.

N.J.A.C. 14:17-8.2 pertains to the initiation of pre-transmittal conferences.

N.J.A.C. 14:17-8.3 pertains to the stipulation of pre-transmittal conference results.

N.J.A.C. 14:17-8.4 sets forth the authority of Board or OCTV-designated officers.

The Board proposes new N.J.A.C. 14:17-8.5, Approval of settlements, which clarifies that no settlement is approved unless acted upon in accordance with N.J.S.A. 48:5A-1 et seq. This is in keeping with general Board practices that require formal Board action.

N.J.A.C. 14:17-9.1 sets forth the procedures to be followed in contested cases.

N.J.A.C. 14:17-9.2 pertains to oral argument before the Board after receipt of an initial decision and the exceptions and answers thereto.

N.J.A.C. 14:17-9.3 pertains to the review of an initial decision by the Board on its own motion.

N.J.A.C. 14:17-9.4 sets forth the method of reopening a hearing prior to the issuance of a final decision by the Board.

N.J.A.C. 14:17-9.5 pertains to motions to reopen a proceeding after the issuance of a final decision by the Board.

N.J.A.C. 14:17-9.6 pertains to motions for the rehearing, reargument, or reconsideration of a proceeding.

N.J.A.C. 14:17-9.7 pertains to motions and answers on rehearing.

N.J.A.C. 14:17-10.1 pertains to uncontested case proceedings before the Board.

N.J.A.C. 14:17-10.2 pertains to the designation by the Board of a person to act as the Board's representative to conduct a hearing in an uncontested matter pending before the Board.

N.J.A.C. 14:17-10.3 pertains to the filing of pleadings, correspondence, and other documents regarding an uncontested case.

N.J.A.C. 14:17-10.4 pertains to the use of cameras and recording devices in uncontested cases.

N.J.A.C. 14:17-10.5 pertains to appearances before the Board in uncontested cases.

N.J.A.C. 14:17-10.6 requires that three days be added to any prescribed period when service is made by mail.

N.J.A.C. 14:17-10.7 is reserved.

N.J.A.C. 14:17-11.1 requires parties to whom an order is directed to notify the Board on or before the date specified in said order, whether or not the party has come into compliance.

N.J.A.C. 14:17-11.2 requires a party to respond within 15 days to any recommendation made by the Board. The Board proposes stylistic changes.

N.J.A.C. 14:17-11.3 pertains to the extension of time limits for compliance.

N.J.A.C. 14:17-11.4 requires that a cable television company must submit a report within 15 days of receipt of any letter or telegram from the Board or the OCTV directing an investigation of any matter under its jurisdiction. The Board proposes replacing the term "telegram" with "notice" as telegrams are outdated. The Board also proposes stylistic changes.

Social Impact

The rules proposed for readoption with amendments and a new rule govern the procedural rules for initial petition filings and uncontested cable television matters brought before the Board and/or the Director of the OCTV.

The rules proposed for readoption with amendments and a new rule are designed to insure orderly practice and procedure before the Board and the OCTV by establishing both guidelines and specific requirements pertaining to the filing of petitions requesting relief from the Board or the OCTV, and to all other submissions related thereto, as well as to the handling of all proceedings before the OCTV and to the participation and conduct of all affected parties. As the rules set forth the specific information that must be included in all filings, as well as the time frames within which said information must be submitted, the rules proposed for readoption are essential if the OCTV is to process those petitions lawfully before it in an expeditious and just manner. While the majority of matters before the OCTV are brought by regulated cable television companies, petitions are also filed by persons who have grievances against regulated cable television companies or who seek other relief that is within the jurisdiction of the Board and OCTV.

Economic Impact

This chapter imposes procedural requirements on cable television operators. Thus, it has some impact on operating costs, which are, to some extent, passed on to the subscriber.

While the rules proposed for readoption with amendments and a new rule impose no direct or specific costs, with the exception of the cost for filing of petitions and for hearings, pursuant to N.J.S.A. 48:5A-16, 17, and 18, all petitioners and other parties will incur varying levels of expenses in preparing and litigating petitions before the Board. Said expenses will include costs related to legal assistance, accounting work, engineering input, and expert witnesses, as well as to those expenses involved in physically preparing and filing the appropriate submissions. It is believed that the reduction in the amount of copies to be filed will result in some minimal cost savings. With regard to regulated cable companies, all reasonable levels of expenses incurred in complying with these requirements will be considered business expenses recoverable through customer charges. All fees and charges associated with practice and procedures before the Board and OCTV are set forth pursuant to statute. N.J.S.A. 47:1A-2 and 48:5A-1 et seq.

Federal Standards Statement

While many of the rules proposed for readoption with amendments and a new rule are subject to Federal laws, rules, regulations, and standards, including rate regulations and associated procedures (47 CFR 76.900), the Board does not believe that any of the rules proposed for readoption with amendments and a new rule conflict with or exceed Federal standards. Instead, the rules either directly codify existing Federal requirements or are explicitly within the scope of regulation that the Federal government reserved for the local franchising authority, which in this case is the Board.

Jobs Impact

It is not anticipated that the rules proposed for readoption with amendments and a new rule will result in the creation of new jobs or the loss of existing jobs. The rules proposed for readoption with amendments and a new rule will not have an impact on any other sector of the economy of the State of New Jersey.

Agriculture Industry Impact

The rules proposed for readoption with amendments and a new rule will have no impact on the agricultural industry.

Regulatory Flexibility Statement

There are no small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., to which the rules proposed for readoption with amendments and a new rule would apply. The businesses affected all have more than 100 full-time employees and/or are based out-of-State.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and a new rule will have no impact on the cost of housing or number of housing units. The rules proposed for readoption with amendments and a new rule concern practice and procedure before the Board of Public Utilities.

Smart Growth Development Impact

The rules proposed for readoption with amendments and a new rule will have no impact on the cost of housing, the number of housing units, or new construction within Planning Areas 1 and 2, or designated centers, under the State Development and Redevelopment Plan. The proposed readoption with amendments and a new rule concerns practice and procedure before the Board of Public Utilities.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:17.

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

SUBCHAPTER 1. GENERAL PROVISIONS

14:17-1.4 Offices

The statutory offices of the Board, the office of the Secretary of the Board, and the Office of Cable Television are located at 44 South Clinton Avenue, [9th] **3rd Floor, Suite 314**, PO Box 350, Trenton, New Jersey 08625-0350.

14:17-1.6 Communications

(a) All pleadings, correspondence, and other papers should be addressed to the Secretary, Board of Public Utilities, 44 South Clinton Avenue, [9th] **3rd Floor, Suite 314**, PO Box 350, Trenton, New Jersey 08625-0350.

(b) All such papers and correspondence shall be deemed to be officially received when [delivered at the office of the Board, but the Director, a Commissioner, the Secretary or an Assistant Secretary of the Board may in his or her discretion receive papers and correspondence for filing] **filed in accordance with N.J.A.C. 14:1-1.6**.

(c) Additional copies of such pleadings and correspondence for the Director and staff may be sent to the Director, Office of Cable Television, 44 South Clinton Avenue, [9th] **3rd Floor, Suite 314**, PO Box 350, Trenton, New Jersey 08625-0350.

(d) As (a) and (b) above require that all correspondence be addressed to the Board and that said submission shall be deemed to be officially

received when [delivered at the office of the Board, any documents received via fax or electronically will neither be date/time stamped as formally received by the Board nor be entered into the case or rulemaking record, except as provided under N.J.A.C. 14:1-1.6A. Such documents shall only be distributed to the addressee] **filed in accordance with N.J.A.C. 14:1-1.6**.

14:17-1.7 Official records

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

[c) The Chair of the Cable Television Advisory Council shall have custody of the Council's official records, including the minutes of all meetings held.]

SUBCHAPTER 2. FEES AND CHARGES

14:17-2.1 Amount of fees and charges

(a) The fee required to defray administrative expenses of hearings held pursuant to N.J.S.A. 48:5A-16, 17, and 18, where applicable, shall be [\$50.00] **\$500.00** per day of hearing or portion thereof, to be paid by the petitioner or other moving party.

(b) (No change.)

14:17-2.2 Payment of fees and charges

(a) (No change.)

(b) All checks for payment of such fees and charges shall be made payable to the order of "Treasurer, State of New Jersey" and delivered or mailed to the Secretary of the Board or its designee, 44 South Clinton Avenue, [9th] **3rd Floor, Suite 314**, PO Box 350, Trenton, New Jersey 08625-0350. The check shall include a description as to the nature of the payment.

SUBCHAPTER 4. PLEADINGS

14:17-4.2 Number of copies

(a) Unless otherwise required **or permitted** by [the Board or Office] **N.J.A.C. 14:1-4.2**, there shall be filed with the Board for its own use, an original and 10 conformed copies of each pleading or other paper and amendment thereof, **and in addition, an electronic version of each filing, proceeding, or other paper and amendment thereof**.

(b) (No change.)

SUBCHAPTER 6. PETITIONS

14:17-6.5 Handling informal complaint to the Office as complaint officer in lieu of petition

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

(c) While no form of informal complaint is prescribed, to be considered by the complaint officer such complaint must be signed, unless electronically submitted, and must state the name and address of the complainant and the party complained of, as well as the essential facts upon which the complaint is based, including the dates of acts or omissions complained of, **and the desired outcome**.

(d)-(i) (No change.)

14:17-6.9 Petitions for renewal of certificate of approval

(a) Petitions for renewal of a certificate of approval shall conform to the provisions of N.J.A.C. 14:17-4 and 6.1 through 6.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. A copy of the original municipal consent [and] **or** evidence of the **original municipal consent and a copy of the renewal** [or reissuance thereof] **municipal consent**;

2.-6. (No change.)

(b) (No change.)

14:17-6.10 Petitions for the approval of the sale or lease of property

(a) Petitions for the approval of the sale, conveyance, or lease of real or personal property, or the granting of an easement, or like interest therein as required by law shall conform to the provisions of N.J.S.A. 48:5A-1 et seq., and N.J.A.C. 14:17-4 and 6.1 through 6.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. [Ten copies of a] **A** separate sheet or sheets designated Schedule "A" containing a description of the property. **Copies filed must be in accordance with the requirements set forth in N.J.A.C. 14:1-1.6, regarding the filing of petitions.**

i. For real property, show the location by municipality and county, a metes and bounds or other adequate description of the property and rights of any, reserved by the cable television company.

ii. For personal property, include sufficient information to identify the property adequately;

2. [Name] **The name** of transferee or lessee, the consideration or rental and method of payment thereof, and rights reserved by the transferor or lessor;

3. A copy of the written agreement, **if any. If there is no written agreement, it shall be so stated;**

4. (No change.)

5. [Purpose] **The purpose** for which property was originally acquired, the date of acquisition, the use made of the property, the date when and circumstances under which it ceased to be useful for cable television purposes, the present use, the possible prospective use, if any, and the identity of the official or officials who determined that the property is not now nor prospectively required or useful for cable television purposes;

6. The basis of the price or rental: Assessed valuation, appraisal, comparable sales, or other basis; whether it is the best price or rental obtainable; [(attach] **an appraisal[s], if any, shall be attached as an exhibit[s];**

7. (No change.)

8. The steps [that were] taken to put this property on the market and accomplish its sale or lease. If it was advertised, how it was advertised. If bids were solicited, the names of bidders and the consideration or rental offered shall be included;

9.-14. (No change.)

15. When the property to be sold or leased has a net book cost or fair market value of more than \$500,000, the petitioner must attach to the petition copies of the advertisement required by [(a)2 above] **(b) below**, and proof of publication.

(b) Where the Board's approval of sale or lease is required by law and the property has a net book cost or fair market value of more than \$500,000 the property shall be advertised for sale or lease at least twice, one week apart, in a daily newspaper published or circulated in the county in which the property is located, within 90 days immediately prior to the filing of the petition for the approval of the sale or lease, except that advertising shall not be required for sale or lease of property for cable television purposes to another cable television company or other person or company subject to any jurisdiction of this Office or Board, and the advertisement shall contain the following:

1.-4. (No change.)

5. A statement of the place and final date of submitting sealed bids, which shall not be less than [ten] **10** days after publication of the second advertisement together with a statement of the time and place of the opening of said bids, which shall not be more than five days following the final date submitting bids, at a place in New Jersey[.]; **and**

6. A sealed bid, in accordance with the requirements of [paragraph 5 of this subsection] **(b)5 above**, must be submitted by a prospective purchaser or lessee[, except that]. **However**, an offer or agreement to purchase or lease in writing received by the cable television company or executed before the first date of advertising, and still in effect at such date, shall be considered as if it were a sealed bid, provided such offer or agreement in writing meets all other conditions of sale or lease, if any, included within the advertising.

(c) (No change.)

(d) In addition to any other transactions [which] **that**, on their merits, may be deemed to be in the ordinary course of business, the sale, lease, encumbrance, or other disposition by any cable television company of such of its property or an interest therein as is hereinafter set forth, may be consummated without petition to the Office for approval, provided the cable television company shall have given written notice thereof to the Office, to be received not less than 30 days prior to the effective date of the proposed sale, lease, encumbrance, or other disposition of such property:

1. (No change.)

2. Except as [hereinabove] provided **in this section**, the lease or permission to use or occupy real property or any interest therein having a net book cost not in excess of \$500,000 and a net rental not in excess of \$25,000 per annum;

3. (No change.)

(e) On expiration of the notice period and on payment of the required fee, the Secretary will certify on a true copy of the notice[.] to be furnished to the Board, that such sale, lease, or release is deemed by the Board to be in the ordinary course of business and within the statutory proviso. Such notice shall contain, to the extent applicable, the following:

1. [Name] **The name** of transferee or lessee, the consideration or rental and method of payment thereof, and rights, [of] **if any**, reserved by the transferor or lessor;

2.-9. (No change.)

(f) (No change.)

14:17-6.13 Petitions for authority to issue stocks, bonds, notes, other evidence of indebtedness, or to execute mortgages

(a) Petitions for authority to issue any stocks, bonds, notes, or other evidence of indebtedness, payable in more than one year from the date thereof, and to execute mortgages shall conform to the provisions of N.J.S.A. 48:5A-1 et seq., and N.J.A.C. 14:17-4, and [N.J.A.C. 14:17-] 6.1 through 6.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, provide the following **information**:

1.-6. (No change.)

7. Where one of the purposes is for the issuance of common capital stock in connection with the organization of a new corporation to operate as a cable television company, the petition must contain the following:

i. [Copy] **A copy** of the certificate of incorporation;

ii. [Names] **The names** and addresses of the elected or proposed officers, directors, and stockholders of the company and the number of shares of capital stock to be held by each;

iii. (No change.)

iv. [Corporate] **A corporate** resolution or proposed resolution of directors of the cable television company authorizing the issuance of the stock;

v. [Copy] **A copy** of a pro forma balance sheet of the new corporation and a copy of a pro forma income statement of estimated operating results anticipated for the first two years of its proposed operations, unless a different period is specified by the Office;

vi.-viii. (No change.)

ix. [Copy] **A copy** of a pro forma income statement giving effect to the issuance of the proposed securities;

x. (No change.)

8.-14. (No change.)

14:17-6.16 Filings for unregulated charges or which do not propose changes in regulated charges to customers

(a) Filings for the purpose of making effective initial schedules of all prices, rates, terms, and conditions, or revisions, changes, or alterations of existing schedules of all prices, rates, terms, and conditions and where a rate application form as promulgated by the FCC pursuant to 47 CFR 76.900 et seq., is not being filed shall conform to the provisions of N.J.A.C. 14:17-4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. [Four copies] **An electronic or paper copy** of the proposed schedule of all prices, rates, terms, and conditions. [or revision, change] **Changes, revisions**, or alterations thereof, together with an explanation of the manner in which the schedule of all prices, rates, terms, and conditions or change differs from the existing or a prior schedule of all prices, rates, terms, and conditions **may be made by an electronic or paper filing of the individual sheet or sheets reflecting the revised changes to the current schedule of prices, rates, terms, and conditions;**

2.-3. (No change.)

4. A statement as to the date on which it is proposed to make the schedule of all prices, rates, terms, and conditions or change effective, which date shall not be earlier than 30 days after the filing, unless

otherwise permitted by the Office with the approval of the Board, except where [mere advance] **simple** notice is sufficient under N.J.A.C. 14:18-3.16.

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

14:17-6.18 Petitions for approval of a merger or consolidation

(a) Petitions for approval of a merger or consolidation of one cable television company of New Jersey with that of another cable television company, shall conform to the provisions of N.J.S.A. 48:5A-1 et seq., and N.J.A.C. 14:17-4, 6.1 through 6.4, and 6.13, to the extent applicable, and shall contain in the petition, or as attached exhibits, the following information:

1. [Copy] **A copy** of the agreement of merger or consolidation;
- 2.-5. (No change.)

6. [Total] **The total** number of shares of each of the various classes of capital stock proposed to be issued, if any, by the surviving corporation, the par or stated value per share, and the total amount of new capital stock to be issued;

- 7.-14. (No change.)

SUBCHAPTER 8. CONFERENCES AND SETTLEMENTS

14:17-8.5 Approval of settlements

A settlement includes any agreement between the parties that resolves disputed matters and may end all or part of the case. No settlement shall be deemed approved by the Board, unless acted on in accordance with N.J.S.A. 48:5A-1 et seq. This section shall not apply to withdrawn petitions or informal complaints.

SUBCHAPTER 11. COMPLIANCE WITH ORDERS, DECISIONS, AND RECOMMENDATIONS

14:17-11.2 Recommendations

[(a)] Upon the making of any recommendation by the Board, the party to whom the same is directed must, within 15 days after the making of the recommendation, unless otherwise specifically required, notify the Board through the Office of the acceptance or rejection thereof. [(b)] Failure to comply with this [rule] **requirement** will be deemed an acceptance of the recommendation.

14:17-11.4 Answers to communications

[(a)] Unless otherwise specified, any letter or [telegram] **notice** from the Board through the Office directing investigation of any matter under its jurisdiction must be complied with by the cable television company and a report received by the Office within 15 days from the date of the letter or [telegram] **notice**. [(b)] If circumstances prevent compliance with this [rule] **section**, the cable television company must advise the Board through the Office, in writing within the above prescribed period, of its inability to comply and the reasons therefor.

STATE

(a)

DIVISION OF ARCHIVES AND RECORDS MANAGEMENT

Records Retention

Proposed Readoption with Amendments: N.J.A.C. 15:3

Proposed Repeals: N.J.A.C. 15:3-1.4 and 3.2

Authorized By: Kimberly M. Guadagno, Lieutenant Governor/Secretary of State.

Authority: N.J.S.A. 47:2-3 through 8, 47:3-15 through 32, 47:3-26 et seq., 22A:4-4.2, 46:26A-1 et seq., and 46:26C-1 et seq.

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

Proposal Number: PRN 2016-182.

Submit comments by January 6, 2017, to:

Joseph R. Klett, Director
 Division of Archives and Records Management
 225 W. State Street, 2nd Floor
 Trenton, New Jersey 08625
 or joseph.klett@sos.nj.gov

The agency proposal follows:

Summary

Pursuant to P.L. 1920, c. 46 (N.J.S.A. 47:2-3 et seq.), P.L. 1953, c. 410 (N.J.S.A. 47:3-26 et seq.), and P.L. 1994, c. 140 (N.J.S.A. 47:3-26, as amended), the Division of Archives and Records Management in the Department of State is charged with establishing a systematic and comprehensive framework for the management of public records of all public entities at the State, county, and local levels of government. N.J.A.C. 15:3 implements relevant statutes accordingly, and pertains to: the State Archives program; records management services; records retention and retention scheduling; disposition of the records of extinct agencies; standards for records storage, micrographics, imaging, and electronic records; and the electronic filing of land documents. This chapter was scheduled to expire on September 21, 2016 pursuant to N.J.S.A. 52:14B-5.1. As the Department submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to March 20, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department of State reviewed these rules and finds that they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, and, therefore, proposes that they be readopted with amendments and repeals.

The Division of Archives and Records Management (DARM), Secretary of State’s Office, and also the Division of Revenue and Enterprise Services (DORES) in the Department of the Treasury, which currently oversees DARM’s “records management services,” reviewed the current rules and determined that several changes are warranted. The proposed changes remove duplicative language, eliminate unnecessary definitions and references that are no longer applicable, and improve clarity, such that the records rules are more efficient, consistent, accessible, and transparent to all interested parties and consistent with the common sense principles of rulemaking. They were submitted to the State Records Committee as a consensus proposal from the Departments of State and Treasury, with input from the Departments of Community Affairs and Law and Public Safety, and the State Auditor. The State Records Committee (SRC) approved the rulemaking with minor changes at a special meeting held August 18, 2016.

A summary of the proposed amendments follows. References to staff are to DARM and DORES staff in consensus, with approval of the SRC.

Throughout the chapter, references to the Division of Archives and Records Management and the Director of the Division of Archives and Records Management have been changed to the Division and the Director, respectively, which are defined terms in N.J.A.C. 15:3-1.2.

N.J.A.C. 15:3-1

This subchapter sets forth the basic authorities and program scope for New Jersey’s archives and records management program.

Staff proposes amending N.J.A.C. 15:3-1.1 by adding text relocated from N.J.A.C. 15:3-1.3(a), to consolidate provisions related to the purpose and scope of N.J.A.C. 15:3. This section is further proposed for amendment by merging subsection (b) into subsection (a).

Staff proposes amending N.J.A.C. 15:3-1.2 by deleting references to standards in the introductory paragraph. The definitions included in the rule, as proposed for readoption with amendments and repeals, stand alone and are not dependent upon the cited standards or subsequent amendment of or supplements to them. Inclusion of the standards referenced here are confusing and unnecessary.

Staff proposes amending N.J.A.C. 15:3-1.2, by deleting unnecessary definitions, including: “directives,” “file,” “file management,” “form,” and “report,” which are unnecessary; and “automated records management system,” “commercial purpose,” “data archive,” “disposable records,” “forms analysis and design,” “forms management,” “imaging facility,” “information resource management,” “machine-readable records,” “media maintenance plan,” “public