

2. The facility manager shall respond in writing within 45 days of receipt of the request.

3. The Department shall review the response and shall determine whether the complaint is justified and what corrective measures shall be required to be taken by the facility owner or administering agency. The Department shall make such determination and issue any necessary orders within 60 days.]

[4.] **1.** [In the event that the] **The** owner or administering agency of a **recreation** facility [appeals any such order and the Department determines that a contested case exists, it] shall forward such case [for adjudication in an administrative hearing before the Office of Administrative Law and the final decision shall be issued by the Commissioner] **to the Department.** Hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq., **and 52:14F-1 et seq.**) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1) **and the final decision shall be issued by the Commissioner.**

5. (No change.)

MILITARY AND VETERANS' AFFAIRS

(a)

OFFICE OF THE ADJUTANT GENERAL

DIVISION OF VETERANS' PROGRAMS

New Jersey Veterans' and Disabled Veterans' Preference and Veterans' Status for Pension Purposes

Proposed Amendments: N.J.A.C. 5A:9-1.2, 1.3, and 1.4

Authorized By: Brigadier General Jamel J. Beale, the Adjutant General, Commissioner, Department of Military and Veterans' Affairs.

Authority: N.J.S.A. 11A:5-1.1, 18A:66-2.2, and 43:15A-6.1; and P.L. 2000, c. 127, P.L. 2000, c. 146, P.L. 2001, c. 127, P.L. 2003, c. 197, and P.L. 2007, c. 115.

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

Proposal Number: PRN 2020-104.

Submit written comments by December 18, 2020, to:

Mr. Mark Preston
Administrative Practice Officer
NJ Department of Military and Veterans' Affairs
PO Box 340
Trenton, NJ 08625-0340
or via email to: mark.preston@dmava.nj.gov

The agency proposal follows:

Summary

State, local, and municipal administrators' understanding of veteran's preference is within the context of selection and placement of candidates for employment. However, veterans' preference impacts local property taxes along with the State-administered pensions and educational benefits.

Veterans' preference in the areas of selection and placement under the State and local civil service system is the most familiar. Eligible veterans who pass open competitive examinations are placed at the top of the rosters in the order of disabled veterans and veterans. This is known as the absolute preference. This benefit is also available to surviving spouses or spouses whose eligible veteran spouse is unable to work. With regard to promotional examinations (for those who are already employees of the State, county, or a municipality) there is no distinction between disabled veterans and other veterans; names appear in order of score, with ties going to veterans. When a veteran is the highest ranking, first-interested eligible, a non-veteran may not be appointed, unless there is cause to remove the veteran. In layoff situations, veterans' preference acts as the first tie-breaker when State seniority is equal.

Veterans' preference in New Jersey's State-administered retirement system allows a veteran to purchase an additional five years of qualifying military service. In addition, veteran members of the Public Employee's Retirement System (PERS) and the Teacher's Pension and Annuity Fund (TPAF) can retire with an annual pension benefit equal to 54.5 percent of the salary on which pension contributions were made in any consecutive 12-month period that provides the largest benefit to the member. In TPAF, qualifying veterans who are 55 or older, with more than 25 years of service, may retire at the 54.5 percent salary provision. Also, TPAF qualifying veterans may retire at age 60 or older with 20 years of service. In PERS, eligible veterans who are 62 or older with 20 years or more service may retire at the 54.5 percent salary provision. Under both systems, eligible veterans may retire at age 60 or older with 35 or more years of service computed on the last year's salary.

The proposed amendments represent a refinement of those initially adopted on September 18, 2006. In large part, the minor amendments contained in this rulemaking simply clarify policies and procedures that have been in place and have met the test of time and practical application.

The substantive provisions of the amendments proposed by the Department of Military and Veterans' Affairs—Division of Veterans' Programs (DMAVA-DVP) follow:

At N.J.A.C. 5A:9-1.2(a), the amendment clarifies that Operation "Uphold Democracy" can only be used when establishing veterans' preference pursuant to N.J.A.C. 5A:9-1.4(a) and (b), and is not an applicable military operation for establishing veterans' pension under N.J.A.C. 5A:9-1.4(c), (d), and (e).

At N.J.A.C. 5A:9-1.3(a), DMAVA-DVP proposes to change the requirement of "or incurred a service-connected injury" to "and incurred a service-related injury."

At N.J.A.C. 5A:9-1.4(b), DMAVA-DVP added the requirement that a surviving spouse filing for disabled veterans' preference must also submit a copy of their marriage license.

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

Social Impact

There is no negative social impact anticipated with the proposed amendments. The primary impacts of the proposed amendments are that they will create uniformity of decisions for veterans' preference and veterans' status, and that applicants seeking preference or designation as a veteran for pension purposes, shall be required to file the specified applications with the Department of Military and Veterans' Affairs.

A non-veteran applicant who scores the highest on an open-competitive, or promotional, examination would not be the top ranked applicant for the position, as the disabled veteran and non-disabled veteran would be ranked first. The ranking system represents a judgment by the Legislature that military service is an additional form of valuable work experience not fully captured by position-specific tests.

Economic Impact

The proposed amendments will have no economic impact on the State; they will enable the Department of Military and Veterans' Affairs to effectively monitor the application of the rules to the veteran population. In addition, they support the DMAVA-DVP's ability to provide the Civil Service Commission and the Division of Pensions and Benefits with the necessary data and information, with which to efficiently manage veterans' preference for public employment, and veterans' status for the public retirement system. The proposed amendments will have a positive effect on veterans' lives, as veterans who pass open competitive examinations are placed at the top of the hiring lists in the following order, disabled veterans and then non-disabled veterans.

Federal Standards Statement

A Federal standards analysis is not required. There are no Federal requirements or standards that affect the subject of this rulemaking.

Jobs Impact

The proposed amendments will neither increase or decrease current jobs in the private or governmental sectors of the economy.

Agricultural Industry Impact

The proposed amendments will have no impact upon the agricultural industry in the State.

Regulatory Flexibility Statement

The proposed amendments do not directly impose reporting, recordkeeping, or other compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. They directly apply to public entities composed of the DMAVA-DVP, the New Jersey Civil Service Commission, and the Division of Pensions and Benefits.

Housing Affordability Impact Analysis

The proposed amendments will 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 of housing because the amendments pertain to requirements for establishing veterans' preference and veterans' pension.

Smart Growth Development Impact Analysis

It is not anticipated that the proposed amendments will have an impact on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, nor any significant impact on any municipal or county government because the amendments pertain to requirements for establishing veterans' preference and veterans' pension.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

DMAVA-DVP has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 1. VETERANS' AND DISABLED VETERANS' PREFERENCE AND DESIGNATION OF VETERANS' STATUS FOR PENSION PURPOSES

5A:9-1.2 Veterans' preference and veterans' status for pension purposes

(a) A person is entitled to veterans' preference or veterans' status for pension purposes, if he or she has been discharged or released from active United States military or naval service under conditions other than dishonorable, and has served in the active United States military or naval service during:

1.-13. (No change.)

14. Operation "Uphold Democracy" in Haiti, commencing on or after September 19, 1994, and terminating on or before March 31, 1995, who served in Haiti or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously, or in the aggregate, of at least 14 days, and who received an Armed Forces Expeditionary Medal for such service[; or]. **This military operation may only be used when establishing veterans' preference pursuant to N.J.A.C. 5A:9-1.4(a) and (b) and is not an applicable military operation for establishing veterans' pension pursuant to N.J.A.C. 5A:9-1.4(c), (d), or (e); or**

15. (No change.)

(b) (No change.)

5A:9-1.3 Disabled veterans' preference

(a) To be eligible for disabled veterans' preference under New Jersey law, one must have served on active duty during the recognized dates listed [in] **at** N.J.A.C. 5A:9-1.2(a) and meet the veteran's preference guidelines, [or] **and** incurred a service-connected injury irrespective of length of service pursuant to N.J.A.C. 5A:9-1.2(b). A person is entitled to disabled veterans' preference if he or she:

1.-4. (No change.)

5A:9-1.4 Filing for veterans' or disabled veterans' preference for New Jersey Civil Service Commission purposes and designation of veterans' status for pension purposes

(a) (No change.)

(b) To establish a disabled veterans' preference [under] **pursuant to** N.J.S.A. 11A:5-1, an individual shall submit a completed "Civil Service Veterans Preference Claim Form" (NJDMAVA Form 05A-1), provided at chapter Appendix A, along with a copy of Veterans Separation Papers (DD Form 214), indicating the type of military discharge, and proof of service-connected disability to the New Jersey Department of Military and Veterans' Affairs, ATTN: DVS-VBB-Preference, [P.O.] **PO** Box 340, Trenton, New Jersey 08625-0340 or fax: 609-530-6970. **A surviving spouse filing for disabled veterans' preference must also submit a copy of their marriage license.**

(c)-(f) (No change)

ENVIRONMENTAL PROTECTION

(a)

**WATER RESOURCE MANAGEMENT
DIVISION OF WATER SUPPLY AND GEOSCIENCE
Well Construction and Maintenance; Sealing of
Abandoned Wells**

**Proposed Amendments: N.J.A.C. 7:9D-1.8, 1.9, 1.10,
2.2, and 2.4**

Authorized By: Catherine R. McCabe, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1D-1 et seq., 58:4A-4.1 et seq., 58:12A-1 et seq., and 58:10A-1 et seq.

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

DEP Docket Number: 05-20-09.

Proposal Number: PRN 2020-103.

If a public hearing on this notice of proposal is requested during the public comment period and approved by the Department of Environmental Protection (Department), the date and time of the hearing will depend on circumstances surrounding the COVID-19 public health emergency. If the Department holds a hearing, the public comment period will be extended until after the hearing.

Further information on a public hearing, if one is held, will be posted on the Department's website at www.nj.gov/dep/rules/notices.html at least 15 days prior to the date of the hearing. Notice will also be sent to those who have subscribed to the Department's rulemaking listserv. To subscribe, go to www.nj.gov/dep/rules/subscribe.html.

Submit comments by December 18, 2020, electronically at <http://www.nj.gov/dep/rules/comments>. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

The Department encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Robert S. Guzek, Jr., Esq.
Attn: DEP Docket Number: 05-20-09
DEP-Office of Legal Affairs
New Jersey Department of Environmental Protection
401 East State Street, 7th Floor
Mail Code: 401-04L
PO Box 402
Trenton, New Jersey 08625-0402

Written comments may also be submitted at the public hearing, if one is held.

This rulemaking may be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

The agency proposal follows: