

Jobs Impact

The Office believes that the rules proposed for readoption will not result in the creation or loss of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption will continue to affect the agriculture industry in that agricultural products are occasionally sold at roadside stands as commodities in package form. There is no change from the existing requirements. Owners and operators of such roadside stands will continue to incur the obligations, expenses and fees described in the Summary and Economic Impact above and the Regulatory Flexibility Analysis below.

Regulatory Flexibility Analysis

Currently, the Office estimates that these rules apply to approximately 27,000 businesses licenses. If, for the purposes of the Regulatory Flexibility Act (the Act), N.J.S.A. 52:14B-16 et seq., any of these businesses are considered "small businesses," then the following analysis applies.

Although the rules proposed for readoption do not impose reporting or recordkeeping requirements, they do impose numerous compliance requirements. Subchapter 1 requires that bread, flour and solid or semi-solid milk products must be sold by weight and sets forth the packaging requirements for margarine, milk, other milk products and pickles. Subchapter 2 sets forth the weights and measures requirements for the sale of numerous nonfood products. Subchapter 3 requires that the presentation of price and display for a commodity include a fraction of a cent. Additionally, the rules detail the requirements for allowable differences and combination quantity declarations and set forth the requirements for vending machine dispensed packaged commodities.

Subchapter 4 establishes compliance requirements regarding the marking of commodities in packaged form. The rules detail the declaration of identity, declaration of responsibility, declaration of quantity and prominence and placement requirements for consumer and nonconsumer packages. Additionally, the rules set forth requirements for specific consumer and nonconsumer commodities, packages and containers and establish exemptions for certain commodities and packages from the specific provisions of the subchapter.

Subchapter 5 sets forth the maximum variations allowed below the declared quantity.

The Office believes that no professional services are likely to be needed to comply with the rules proposed for readoption. The Office considers the rules proposed for readoption necessary to preserve the health, safety and welfare of public consumers. The objective of the rules proposed for readoption is to regulate and provide uniformity in the method of sale of commodities in package form and the Office believes that the rules must be applied uniformly to all small businesses without regard to size. Consequently, no lesser requirements or exemptions are provided based upon the size of the business.

Smart Growth Impact

The Office does not believe that the rules proposed for readoption will have any impact on the achievement of smart growth or upon the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption will have an insignificant impact on affordable housing in New Jersey and it is extremely unlikely that the rules would evoke a change in the average costs associated with housing because the rules proposed for readoption concern the requirements for labeling of commodities in the State of New Jersey.

Smart Growth Development Impact

The rules proposed for readoption will have an insignificant impact on smart growth and it is extremely unlikely 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 concern the requirements for the labeling of commodities in the State of New Jersey.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:47K.

(a)**DIVISION OF STATE POLICE****Criminal History Record Background Checks****Proposed Readoption: N.J.A.C. 13:59**

Authorized By: Colonel Joseph Fuentes, Superintendent, Division of State Police, with the approval of Paula T. Dow, Attorney General.

Authority: N.J.S.A. 53:1-20.6.

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

Proposal Number: PRN 2011-085.

Submit comments by June 3, 2011 to:

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

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, the Criminal History Record Background Checks, N.J.A.C. 13:59, expire on October 9, 2011. The Division of State Police has reviewed these rules and determined them to be necessary, reasonable, adequate, efficient, understandable and responsive to the purpose for which they were originally promulgated. The readoption of both subchapters is necessary because they provide definitions, fee provisions and procedures for use of the criminal history record information (CHRI) for criminal and non-criminal justice purposes.

Subchapter 1 contains the rules applicable to the use of criminal history record information (CHRI) for non-criminal justice matters. N.J.A.C. 13:59-1.1 provides definitions of various terms and phrases associated with criminal history record information background checks for non-criminal justice purposes used in this chapter. N.J.A.C. 13:59-1.2 establishes the four categories of authorized recipients of New Jersey criminal history record information. In addition to any Federal or State laws, rules, regulations, executive orders, ordinances or resolutions authorizing the dissemination of criminal history record information, N.J.A.C. 13:59-1.2(a) identifies those requesters who are authorized to obtain records of convictions and pending arrests from the New Jersey State Bureau of Identification (SBI). N.J.A.C. 13:59-1.3 establishes the fees that are collected by the SBI for the purpose of processing criminal history record checks. N.J.A.C. 13:59-1.4 identifies the forms that must be submitted by requesters in order to access an individual's criminal history record. N.J.A.C. 13:59-1.5 describes the SBI's procedures for processing forms that are rejected and describes its resubmission procedures. N.J.A.C. 13:59-1.6 describes the limitations on access and dissemination to criminal history record information for noncriminal justice purposes by authorized requesters. This section also describes the limitations on access and dissemination of criminal history record information by criminal justice agencies for purposes of the administration of criminal justice. N.J.A.C. 13:59-1.7 describes the SBI's procedures for working in concert with any person to make any necessary corrections to that person's criminal history record information. N.J.A.C. 13:59-1.8 describes the SBI's procedure for attaching an SBI Number Flag to a specific SBI number.

Subchapter 2 contains rules applicable to the use of CHRI for criminal justice purposes. N.J.A.C. 13:59-2.1 provides for the dissemination of CHRI for the purpose of the administration of criminal justice. N.J.A.C. 13:59-2.2 establishes that there are no fees for this CHRI request. N.J.A.C. 13:59-2.3 describes the forms authorized by the Superintendent of State Police for requesting CHRI. N.J.A.C. 13:59-2.4 enumerates specific limitations on the access and use of CHRI for criminal justice purposes.

The Division is providing a 60-day comment period on this notice of proposal. Therefore, the 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 will continue to have a positive social impact by ensuring that reliable and accurate criminal history record information is provided to those persons and entities with a stated need to know for noncriminal justice purposes. At the same time, safeguards are provided to ensure subjects of record checks that only complete and accurate information is disseminated.

The rules proposed for readoption implement the statutory responsibility of the Superintendent of State Police to maintain a central repository of criminal history record information and to provide access to individual records for noncriminal justice purposes, such as employment and screening of volunteers. The rules establish the limitations on the use of individual CHRI to protect the public and ensure fairness and accuracy of records. The rules proposed for readoption also establish the standards for access to CHRI for agencies involved in the administration of criminal justice to ensure that criminal justice agencies can obtain information on individuals necessary to investigate and prosecute violations of the criminal law.

Economic Impact

The rules proposed for readoption will continue to have an economic impact on businesses, individuals and government agencies that seek or are required to obtain CHRI for employment and other noncriminal justice purposes. The fee for State applicant fingerprint processing is \$30.00. The fee for State applicant name check processing is \$18.00. The rules provide a reduced fee for State CHRI requests on a any person who volunteers for qualified organizations under the National Child Protection Act of 1993, volunteers of non-profit organizations qualified under section 501(c)3 of the Internal revenue Code and volunteers for nonprofit youth organizations. The rules provide for processing of fingerprint based State background checks by criminal justice agencies for public safety volunteers without payment of a fee. The rules proposed for readoption will continue to have permissible fees, which must be collected by the Division of State Police for the processing of fingerprint and name search requests. Only those individuals and entities requesting this service need incur these costs.

Federal Standards Statement

State law governs the dissemination of criminal history record information compiled and maintained by the Division of State Police. Therefore, a Federal standards analysis and certification are not required for the rules proposed for readoption. Federal regulations apply to authorized requesters for the dissemination of Federal criminal history record information compiled and maintained by the FBI. Federal regulations and procedures are codified at 28 CFR 20.1 et seq. The rules proposed for readoption do not exceed these Federal standards.

Jobs Impact

The rules proposed for readoption will not have any impact on the creation or loss of jobs in New Jersey.

Agricultural Industry Impact

The rules proposed for readoption will not have any impact on the agricultural industry in New Jersey.

Regulatory Flexibility Analysis

The rules proposed for readoption do not impose any reporting or recordkeeping requirements on small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules do impose compliance requirements on businesses that request CHRI in the specification of forms to be used for submitting requests and by imposing restrictions on the use of CHRI. Fees for access to criminal history record information are set by State statute. Any cost incurred by small businesses as defined by the Act will be voluntary in nature and amount. Small businesses will be subject to the same fees for obtaining criminal history record information as any other entities or persons eligible to receive such information. Uniform compliance requirements applicable to all requesters concerning dissemination of criminal history record information are necessary to protect the rights of the subject of the record. Therefore, the Division has provided no lesser or differing standards for small businesses. Small businesses are not required to retain the services of professionals to comply with the rules proposed for readoption.

Smart Growth Impact

The rules proposed for readoption will not have any impact upon the achievement of smart growth or upon the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption 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 proposed rules concern requests for criminal history record information.

Smart Growth Development Impact

The rules proposed for readoption will not have an 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 concern requests for criminal history record information.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:59.