

RULE PROPOSALS

INTERESTED PERSONS

The Department of Corrections provides notices of rule proposals in the New Jersey Register (N.J.R.), a semi-monthly official publication of the Office of Administrative Law which contains all State agency rule proposals and adoptions. The following paragraph is quoted from the Proposal section of the New Jersey Register:

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

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

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

CORRECTIONS

THE COMMISSIONER

**Inmate Hygiene and Grooming; Use of Tobacco Products; Inmate Identification Photographs; Housekeeping and Sanitation; Clothing, Bedding and Laundry
Proposed Readoption with Amendments: N.J.A.C. 10A:14**

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

Authority: N.J.S.A. 30:1B-6, 30:1B-10, 26:3D-57, and 53:1-20.17 et seq.

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

Proposal Number: PRN 2014-040.

Submit written comments by June 6, 2014, to:

Karin M. Burke, Esq., Acting Supervisor
Administrative Rules Unit
Office of the Commissioner

New Jersey Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1.b, N.J.A.C. 10A:14 expires on February 28, 2014. Pursuant to N.J.S.A. 52:14B-5.1.c(2), as the Department of Corrections (Department) submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter expiration is extended 180 days to August 27, 2014. The Department has reviewed these rules and, with the exception of the amendments proposed herein, has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules are, therefore, proposed for readoption at this time.

In addition, proposed amendments to N.J.A.C. 10A:14-1.3, 2.6, and 4.2 are intended to state the provisions regarding the Department's smoking cessation policies and programs currently in place among the inmate population. Inmates are not permitted to smoke, use, or possess tobacco products or associated tobacco paraphernalia at any time. The Department proposes to amend N.J.A.C. 10A:14-1.3 to add definitions for the terms smoking, tobacco paraphernalia, and tobacco products. The Department proposes to delete N.J.A.C. 10A:14-2.6(b) and 4.2(c) to remove the references to "designated outdoor areas" for smoking as they are obsolete since tobacco smoking and use or possession of tobacco products or associated tobacco paraphernalia is prohibited under proposed new N.J.A.C. 10A:14-2.6(b) and such activities will be subject to disciplinary action under the proposed amendment to N.J.A.C. 10A:14-2.6(c). The proposed amendments serve to directly enforce the Department's smoking cessation program for inmates, which is expected to have an overall positive impact on inmate health and well-being.

As the Department has determined that the comment period for this notice of proposal shall be 60 days, 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 are anticipated to have an overall positive social impact. As noted, the proposed amendments are intended to state the provisions regarding the Department's smoking cessation policies and programs currently in place among the inmate population. As such, the proposed amendments are necessary for the purpose of providing rules that comply with State law.

The proposed amendments serve to directly enforce the Department's smoking cessation program for inmates, which is expected to have an overall positive impact on inmate health and well-being.

Economic Impact

Additional funding is not necessary to implement the requirements of the rules proposed for readoption with amendments. The cost of meeting and maintaining

the requirements of the rules proposed for readoption with amendments is met by the Department through the established budget with funds allocated by the State.

Federal Standards Statement

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

Jobs Impact

The rules proposed for readoption with amendments will cause neither the generation nor the loss of any jobs.

Agriculture Industry Impact

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

Regulatory Flexibility Statement

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

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on housing affordability and there is an extreme unlikelihood that the rules would evoke a change in the average cost associated with housing in New Jersey. The rules proposed for readoption with amendments concern inmate hygiene and grooming; use of tobacco products; inmate identification photographs; housekeeping and sanitation; clothing, bedding, and laundry, and affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on smart growth development and will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The rules proposed for readoption with amendments concern inmate hygiene and grooming; use of tobacco products; inmate identification photographs; housekeeping and sanitation; clothing, bedding, and laundry, and affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:14.

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

CHAPTER 14
INMATE HYGIENE AND GROOMING; USE OF TOBACCO PRODUCTS;
INMATE IDENTIFICATION PHOTOGRAPHS; HOUSEKEEPING AND
SANITATION; CLOTHING, BEDDING, AND LAUNDRY

SUBCHAPTER 1. GENERAL PROVISIONS

10A:14-1.3 Definitions

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

...

“Smoking” means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe, or any other matter or substance that contains tobacco or any other matter that can be smoked.

...

“Tobacco paraphernalia” includes ignition device, rolling paper, pipe, or any product used to inhale or ingest a tobacco product.

“Tobacco products” includes, but is not limited to, cigars, cigarettes, pipe tobacco, chewing tobacco, smokeless tobacco, etc., but excludes nicotine lozenges.

SUBCHAPTER 2. INMATE PERSONAL HYGIENE AND GROOMING

10A:14-2.6 Tobacco products

(a) (No change.)

[(b) Except where smoking is prohibited by program or unit internal management procedures, smoking may be permitted in designated outdoor areas as determined by the Administrator.] **(b) An inmate shall not be permitted to smoke, use, or possess tobacco products or associated tobacco paraphernalia at any time.**

(c) An inmate who violates rules or correctional facility or unit internal management procedures regarding the use **or possession** of tobacco products **or associated tobacco paraphernalia** shall be subject to disciplinary procedures in accordance with N.J.A.C. 10A:4.

SUBCHAPTER 4. HOUSEKEEPING AND SANITATION

10A:14-4.2 Waste disposal

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

[(c) Appropriate disposal containers shall be provided for tobacco products in those designated outdoor areas where smoking is permitted.]