

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

Residential Community Programs

Proposed Readoption with Amendments: N.J.A.C. 10A:20

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

Authority: N.J.S.A. 30:1B-6, 30:1B-10, 30:4-91.3, 30:4-91.8, 30:4-91.9, 30:4-91.11, 30:4-91.12, 30:4-91.13, and 30:4-92.

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

Proposal Number: PRN 2015-115.

Submit written comments by November 7, 2015, to:

Kathleen Cullen, Administrative Rules Unit

Office of the Commissioner

New Jersey Department of Corrections

PO Box 863

Trenton, NJ 08625-0863

or via e-mail at: ARU@doc.nj.gov

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:20, was scheduled to expire on August 8, 2015. 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 February 4, 2016. 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.

Subchapter 1, General Provisions, provides the purpose, scope of the chapter, definitions of words and terms used, authority, and a list of forms that are used in conjunction with residential community programs.

Subchapters 2 and 3 are reserved.

Subchapter 4 sets forth provisions regarding Residential Community Release Programs

and Mutual Agreement Programs.

The Department proposes amendments intended to reflect changes to several program and unit names at N.J.A.C. 10A:20-1.5(c); 4.2(a) and (b); 4.11(a); 4.12(c), (d), (e), and (f); 4.13(a), (b), and (c); 4.19(c) and (f); and 4.39(f). The unit name changes include the Office of Community Programs updated to the Office of Community Programs and Outreach Services and the Office of Drug Programs within the Division of Programs and Community Services updated to be part of the Division of Operations, Health Services Unit and known as the Office of Substance Abuse Programming and Addictions Services (OSAPAS).

As the Department of Corrections 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 will continue the process of permitting the New Jersey Department of Corrections to assign inmates, who meet the criteria established by the rules, to residential community programs in preparation for the inmates' release to the community. The residential community programs are rehabilitative in nature and benefit inmates who have a sincere desire to make a successful transition from incarceration to responsible citizenship. The rules proposed for readoption are also intended to help ensure the safe, secure, and orderly operation of residential community programs, while at the same time protecting the safety of the public at large. The proposed amendments to N.J.A.C. 10A:20 reflect changes to several division, program, and unit names and are expected to have a positive social impact, as inmates and users of the Administrative Code will know the proper unit names.

Economic Impact

Residential Community Release Programs provide increased opportunities for economic benefit to inmates, their families, and communities. The inmates in pre-release employment programs are required to pay court imposed fines, penalties, and restitution, thereby reducing their court-ordered debt obligations. Additionally, those inmates responsible for child support are required to make child support payments. Inmates assigned to Residential Community Release Programs are also provided the opportunity to save a portion of their earned income for their personal use when they are released from incarceration. 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 proposed 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 shall have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The Department of Corrections maintains a Mutual Agreement Program that is coordinated with another State agency through a cooperative agreement to provide State-licensed residential community-based substance use disorder treatment programs. Additionally, the Department maintains Residential Community Release Programs through contractual agreements with Assessment and Treatment Centers and halfway houses. These agencies are considered "small businesses" as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments apply to small businesses and will help to regulate these small nonprofit agencies that maintain residences for State-sentenced inmates who have qualified for and received community release status and will enable the inmates to reside and work, or receive substance abuse treatment, in the local community.

Professional services provided by these agencies to inmates include, but are not limited to, alcohol and drug counseling, medical and psychological services, food services, and services provided by various consultants, such as employment and educational consultants. Such services to inmates are regulated by mutual agreement or contract. Legal services for purposes of agreement/contract review and accounting services in order to comply with the provisions established at N.J.A.C. 10A:20-1.5 and 4.30 regarding the use of form AR 50/54 State of New Jersey Payment Voucher may be deemed necessary and obtained by these agencies; however, the rules proposed for readoption with amendments do not regulate such services. The rules

proposed for readoption with amendments establish policies and procedures for the administration of Residential Community Release Programs and for the Department of Corrections related responsibilities for administration of Mutual Agreement Programs. The rules do impose recordkeeping, audit, reporting, and compliance with applicable Department of Corrections rules, such as discipline at N.J.A.C. 10A:4, testing for prohibited substances and the collection, storage, and analysis of specimens for testing at N.J.A.C. 10A:3-5, and reporting an escape at N.J.A.C. 10A:20-4.39. Additionally, N.J.A.C. 10A:20-4.1(c) complies with provisions of N.J.S.A. 30:4-91.12 that require the Department of Corrections and the operator of a contract agency to establish a Community Relations Advisory Board.

The Department of Corrections believes that the rules proposed for readoption with amendments are not overly burdensome and, in fact, are designed to assist the contract and mutual agreement agencies in maintaining the health, safety, and welfare of inmates and staff, as well as promoting inmates' successful interaction with residential community programs and integration into the local community. The monitoring requirement of contract and mutual agreement agencies by the Office of Community Programs and Outreach Services will ensure both fiscal integrity and the enforcement of applicable laws. Other than established in existing provisions, the Department does not employ outside service providers to comply with the rules. No differing standards of compliance are offered because of the above-noted reasons and because most of the regulated agencies are small businesses. The rules proposed for readoption with amendments also affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules, none of which are small businesses.

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 costs associated with housing. The rules proposed for readoption pertain to Residential Community Programs for eligible inmates and the proposed amendments concern changes to several program and unit names.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on the achievement of smart growth and there is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules proposed for readoption pertain to Residential Community Programs for eligible inmates and the proposed amendments concern changes to several program and unit names.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:20.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10A:20-1.5 Forms

(a)–(b) (No change.)

(c) The following form is related to the accounting process as used by the RCRP when billing the Department of Corrections. The form shall be reproduced from the original that is available by contacting the New Jersey Department of Corrections, Division of Programs and Community Services, Office of Community Programs **and Outreach Services**:

1. (No change.)

SUBCHAPTER 4. RESIDENTIAL COMMUNITY RELEASE PROGRAMS AND MUTUAL AGREEMENT PROGRAMS

10A:20-4.2 Administration of Residential Community Programs

(a) The Division of Programs and Community Services, Office of Community Programs **and Outreach Services**, shall be responsible for the administration, monitoring, and oversight of Residential Community Release Programs under contract with the New Jersey Department of Corrections.

(b) The Division of [Programs and Community Services, Office of Drug Programs] **Operations, Health Services Unit, Office of Substance Abuse Programming and Addiction Services (OSAPAS)**, shall be responsible for the monitoring and oversight of the Department of Corrections related responsibilities of the Mutual Agreement Programs. The Division of Administration is responsible for contract management.

10A:20-4.11 Forwarding documents to the Office of Community Programs **and Outreach Services**

(a) Following approval of an inmate to participate in a residential community program, the Institutional Community Release Program Coordinator shall submit to the Office of Community

Programs **and Outreach Services** the following:

1.-13. (No change.)

10A:20-4.12 Role of the Division of Programs and Community Services, Office of Community Programs **and Outreach Services** and the Residential Community Program Notification Committee

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

(c) The Director, Office of Community Programs **and Outreach Services** or designee may review State-sentenced inmates in adult county correctional facilities for eligibility without submission of an application by the inmate.

(d) The Office of Community Programs **and Outreach Services** shall assign the inmate to an Assessment and Treatment Center based on the inmate's treatment needs and bed space availability.

(e) The Office of Community Programs **and Outreach Services** shall prepare the transfer orders necessary for the inmate to be transferred from the correctional facility to the Assessment and Treatment Center.

(f) The Office of Community Programs **and Outreach Services** shall maintain a waiting list of inmates approved for assignment to the residential community programs.

(g) (No change.)

10A:20-4.13 Notification of inmate assignment to a residential community program

(a) After Form 686-I Section II, Authorization for Release of Information has been signed by the inmate, the Office of Community Programs **and Outreach Services** shall forward a copy of all

the documents received pursuant to Form 686-II, Community Program Application Checklist with all required documents and supplemental documents to the residential community program to which the inmate has been assigned. The residential community program must handle all inmate documents and classification material with strict confidentiality.

(b) Pursuant to N.J.S.A. 30:4-91.11, whenever an eligible inmate is authorized for confinement in a residential community program, the correctional facility classification officer shall prepare a summary of all relevant information relating to the inmate's criminal history and background.

This information shall include a current face sheet, current progress notes, current photograph of the inmate, and the most recent Pre-Sentence Investigation Report available. The classification officer shall forward the summary of all relevant information to the Office of Community Programs **and Outreach Services**.

(c) The Office of Community Programs **and Outreach Services** shall transmit to the Residential Community Release Program (RCRP), within five business days of the inmate's transfer to the RCRP, the summary of all relevant information relating to the inmate's criminal history and background along with all documentation and supplemental documentation required as referenced in N.J.A.C. 10A:20-4.11. The Office of [Drug Programs] **Substance Abuse Programming and Addiction Services** shall be responsible for the transmission of documentation referenced in this subsection to the Mutual Agreement Program provider prior to the transfer of an inmate to the program.

(d) (No change.)

10A:20-4.19 Residential community program rules, regulations, and discipline

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

(c) Major disciplinary violations shall be reported immediately to the regional institution and the Office of Community Programs **and Outreach Services**, or in the case of a MAP inmate, the Office of [Drug Programs] **Substance Abuse Programming and Addiction Services**.

(d)–(e) (No change.)

(f) All minor violations and in-house disciplinary actions shall be recorded in the residential community program's log book and the inmate's file for review by the Office of Community Programs **and Outreach Services** or the Office of [Drug Programs] **Substance Abuse Programming and Addiction Services** staff members.

10A:20-4.39 Procedure for reporting an escape

(a)–(e) (No change.)

(f) The Director or designee of the residential community program shall complete and fax the appropriate Escape Report (Form CA:44.2a) to the Office of Community Programs **and Outreach Services** on the day of the escape, or no later than 7:30 A.M. on the next business day.