

43 N.J.R. 680(a)

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PUBLIC NOTICES

**COMMUNITY AFFAIRS
DIVISION OF FIRE SAFETY**

43 N.J.R. 680(a)

N.J.A.C. 5:74

Notice of Receipt of and Action on Petition for Rulemaking

Standard for the Certification of Fire Protection Equipment Contractors

Petitioner: John H. Morley, Jr.

Take notice that a petition for rulemaking was submitted to the Department of Community Affairs on November 1, 2010 by John H. Morley, Jr., a designer and installer of automatic fire-suppression sprinkler systems.

The petitioner notes that the Department currently issues fire sprinkler system contractor licenses to employers of persons who have attained Level II in Inspection in Inspection and Testing of Water Based Systems and passing scores in 19 specific elements of Automatic Sprinkler System Layout with the National Institute for Certification in Engineering Technologies (NICET). He also notes that NICET is transitioning to a computer-based training exam format and pass/fail scoring and will no longer be able to furnish test scores on specific elements, thus rendering the Department unable to issue fire equipment contractor licenses.

The petitioner therefore requests that the Department amend N.J.A.C. 5:74, the Standard for the Certification of Fire Protection Equipment Contractors, to (1) require that contractors employ a person meeting NICET requirements for Level III in Automatic Sprinkler System Layout and Level II in Inspection and Testing of Water Based Systems, (2) make the rule change effective immediately and (3) preclude contractors from being "grandfathered," on the grounds that the "grandfathering" provision has the effect of discriminating against new contractors.

On December 14, 2010, the petitioner presented his request for amendments to the Fire Protection Equipment Advisory Committee (FPEAC), established pursuant to N.J.S.A. 52:27D-25o, which has authority to "make recommendations to the commissioner regarding rules and regulations pertaining to professional training, standards, identification and recordkeeping procedures for certificate holders and their employees, classifications of certificates necessary to regulate the work of certificate holders, and other matters necessary to effectuate the purposes of this act," that is, P.L. 2001, c. 289.

The recommendations of the FPEAC with regard to the petitioner's requests were as follows:

1. The Committee feels that the current requirements, coupled with a proposed amendment that is necessitated by a change in NICET's testing criteria, are more than adequate to determine an individual's competencies. The proposed amendments to the rules will continue to require that an individual have a current NICET Level II certification in Inspection and Testing of Water Based Systems as well as successfully pass the NICET Water - based Fire Protection System Layout Level 1 examination.

2. The petitioner requests that his recommended changes be instituted immediately. The Committee and the Department believe that any changes to the requirements need to be instituted in a manner that will not inhibit the ability of this type of work to continue.

3. Lastly, the petitioner requests that his recommended changes not include a "grandfather" provision. Again, the Committee and the Department believe that any new requirements need to be implemented in a manner that would not prohibit existing contractors from continuing to work.

The Department concurs in the recommendations made to it by the FPEAC.