

entitled to overtime compensation. Such employment may be paid at special project rates as approved by the Chairperson or designee.

2.-3. (No change.)

4. Employees above Range 32, including employees in no range titles, are not entitled to any special project rate compensation.

4A:3-5.9 Appointing authority responsibilities: State service

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

[(c) For budget requests, the appointing authority shall provide an annual summary to include the extent and justification for overtime required during the past fiscal year, current fiscal year, and the extent and justification of anticipated overtime during the next fiscal year. The latter shall be supported by a description of the work programs to be accomplished, the amount of hours and money involved, the circumstances dictating that it be overtime, and alternatives that would permit accomplishment of the overtime work on regular time. The instructions for the above shall be included in the "Manual for Preparation of Budget Request" which is published and distributed to all State agencies by the Office of Management and Budget in the Department of the Treasury. The appointing authority shall file a copy of this summary with the Chairperson or designee.]

Recodify existing (d)-(g) as (c)-(f) (No change in text.)

CHAPTER 6

LEAVES, HOURS OF WORK, AND EMPLOYEE DEVELOPMENT

SUBCHAPTER 1. LEAVES OF ABSENCE

4A:6-1.21A State family leave

(a) (No change.)

(b) The following definitions are used in this section:

1.-2. (No change.)

3. "Employee" means a person who is employed for at least 12 months by an employer, with respect to whom benefits are sought under the Family Leave Act, [P.L.1989 c.261] **P.L. 1989, c. 261**, for not less than 1,000 base hours during the immediately preceding 12-month period, and includes employees in the career, senior executive, and unclassified services. **In State service, base hours include hours actually worked, hours paid through Workers' Compensation, and hours on military leave whether paid or unpaid, but do not include hours not worked due to vacation, sick, administrative, or any other leave, paid or unpaid.**

4.-12. (No change.)

(c)-(j) (No change.)

4A:6-1.21B Federal family and medical leave

(a) (No change.)

(b) Definitions, unique to this section, are as follows:

1. "Eligible employee" means an employee of the State or a political subdivision who has worked for the employer for at least 12 months for a minimum of 1,250 hours. [In determining whether an employee meets this hours of service requirement, work not requested by an employer but suffered or permitted is work time for purposes of meeting this requirement. See 29 U.S.C. 207; 29 CFR 785.11.] **Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA) for determining compensable hours of work. See 29 U.S.C. § 207; 29 CFR 785. In calculating the 1,250 hours, only actual hours of work are included, as well as hours on military leave whether paid or unpaid; however, hours not worked due to vacation, sick, administrative, or any other leave, paid or unpaid, are not included.**

2.-5. (No change.)

(c)-(j) (No change.)

SUBCHAPTER 4. HUMAN RESOURCE DEVELOPMENT: TRAINING, EDUCATION, CAREER DEVELOPMENT, AND EMPLOYEE ASSISTANCE PROGRAMS

4A:6-4.10 Employee Advisory Service: State service

(a)-(f) (No change.)

(f) An appointing authority that is informed that an employee is receiving services through EAS, [shall] **should** consult with the supervisor of the EAS program prior to seeking removal of the employee.

(g) (No change.)

SUBCHAPTER 5. PERFORMANCE EVALUATION

4A:6-5.2 PAR procedure: State service

(a) An employee and his or her supervisor shall jointly develop a job performance plan consisting of work assignments together with measurable performance standards. The employee shall be provided with a copy of the performance plan once established. If an employee disagrees with the established performance plan, he or she may note such disagreement. **The Rater's supervisor shall sign the performance plan as the Reviewer who is responsible for overall consistency within a job unit.**

(b) At the end of six months and at the end of [one year] **the rating cycle**, the employee and the supervisor shall review the employee's performance. [The] **When the employee's supervisor changes before the end of the rating cycle, the new supervisor shall designate an interim performance rating [at the end of six months] midway through the remainder of the rating cycle and a final rating at the end of [one year] the rating cycle.**

1. When there is a change either in job assignment or supervisor during the evaluation period, **but the title remains the same**, the old performance plan shall be closed out. The employee's performance during the portion of the rating period under the old performance plan shall be rated and a new performance plan shall be prepared. The final rating shall be a proration of all ratings received during the review period.

2.-4. (No change.)

(c)-(d) (No change.)

(e) A supervisor's own PAR shall provide that the supervisor shall complete the PAR of his or her subordinates. A supervisor who fails to timely complete the final ratings of his or her subordinates, or who is responsible for another employee's failure to timely complete a final PAR rating, shall receive a rating of Unsatisfactory **for the performance factor related to supervision**, and may be subject to discipline.

(f)-(h) (No change.)

COMMUNITY AFFAIRS

(a)

THE COMMISSIONER

Organizational Rules

Proposed Readoption: **N.J.A.C. 5:2**

Proposed New Rule: **N.J.A.C. 5:2-4.1**

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:14-3 and 4 and 52:27D-3.

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

Proposal Number: PRN 2017-204.

Submit written comments by October 20, 2017, to:

Kathleen Asher
 Department of Community Affairs
 PO Box 800
 Trenton, New Jersey 08625
 E-mail: kathleen.asher@dca.nj.gov
 Fax Number: (609) 984-6696

The agency proposal follows:

Summary

The Department of Community Affairs' (Department) Organizational Rules at N.J.A.C. 5:2 were scheduled to expire on October 22, 2017. As the Department submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to April 20, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). Upon review of these rules, the Department has determined that the existing rules are necessary, reasonable, and proper for the purpose for which they originally were promulgated and the Department, therefore, will readopt them.

The chapter proposed for readoption includes subchapters on the processing of petitions for rules that are submitted to the Department under N.J.S.A. 52:14B-4(f) and for automatic extensions of licenses and certifications issued by the Department to persons who are on active duty in the armed forces. Additionally, the Department has determined that the rules should be revised to include the rule proposal notice provisions in N.J.S.A. 52:14B-4 and N.J.A.C. 1:3-5.2. The new rule will provide that the Department will satisfy the additional publicity requirement by posting proposed rules on its website.

New Subchapter 4, Public Notice of Proposed Rulemakings, provides that, in addition to publication in the New Jersey Register, the Department will make a notice of proposal available by providing it to those who have timely requested advance notice of notices of proposals, distributing it to the news media with offices in the State House, and posting it on the Department's website, which will also act as "other secondary notice" pursuant to N.J.A.C. 1:30-5.2(a)6ii(4).

As the Department has provided a 60-day comment period for this notice of proposal, 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 a new rule will allow members of the public to easily obtain information as to how they might go about filing petitions for changes to the Department's administrative rules. It will also keep in place a license or certification extension program that was adopted in order to make sure that persons who are called to active military service do not lose their licenses or certifications because of their temporary inability to comply with the renewal requirements while they are otherwise occupied in the service of our country. The proposed new rules implement the intention of the Administrative Procedures Act, that the public receive notice of an agency's proposed rulemaking. By setting forth the notice procedures in rules, the public will know where and how to access the Department's proposed rules.

Economic Impact

The rules proposed for readoption with a new rule are necessary in order to avoid any adverse economic impact upon any license or certification holder serving in the armed forces who might otherwise lose his or her license or certification because of inability to renew it in a timely manner. The Department will not incur any additional cost. The Department already provides proposed rules to those who have requested advanced notice of the Department's rule notices of proposals and to the State House news media. Additionally, the Administrative Procedures Act requires the Department to post notices of proposals on the Department's website. Therefore, posting all notices of proposals on the website to satisfy the additional publicity requirement likewise does not add any cost.

Federal Standards Statement

No Federal standards analysis is required because the rules proposed for readoption with a new rule do not implement, comply with, or participate in any program established under Federal law or under a State law that incorporates reference to Federal law, standards, or requirements.

Jobs Impact

The Department does not anticipate that the rules proposed for readoption with a new rule will result in the creation or loss of any jobs.

Agriculture Industry Impact

The Department does not anticipate that the rules proposed for readoption with a new rule will impact the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption with a new rule do not 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. The rules apply to the Department notice requirements for rule proposals.

Housing Affordability Impact Analysis

The Department does not anticipate that the rules proposed for readoption with a new rule will have any impact on the average costs of housing or housing affordability. This notice of proposal addresses only the additional notice requirement for rule proposals and does not impact housing.

Smart Growth Development Impact Analysis

The Department does not anticipate that the rules proposed for readoption with a new rule will have any impact on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rulemaking addresses only additional notice requirement for rule proposals.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:2.

Full text of the proposed new rule follows:

SUBCHAPTER 4. PUBLIC NOTICE OF PROPOSED RULEMAKINGS

5:2-4.1 Public notice requirements

(a) When the Department publishes a notice of proposal in the New Jersey Register for public notice and comment, it shall give the following public notice on the notice of proposal:

1. Mailing or e-mailing it to interested persons, persons who have made timely requests for advance notice of Department rulemaking proceedings, and those on the Department's electronic mailing list;
2. Distributing it to the news media maintaining an office in the State House complex; and
3. Posting it on the Department's website, which publication shall satisfy the additional method of publicity requirement set forth in N.J.A.C. 1:30-5.2(a)6ii(4).

(a)

DIVISION OF CODES AND STANDARDS

Maintenance of Hotels and Multiple Dwellings

Proposed Amendments: N.J.A.C. 5:10-1.12 and 28.1

Proposed New Rule: N.J.A.C. 5:10-29

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 55:13A-6(e) and 2C:13-12 (P.L. 2013, c. 51).

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

Proposal Number: PRN 2017-199.

Submit written comments by October 20, 2017, to:

Kathleen Asher
Department of Community Affairs
PO Box 800
Trenton, New Jersey 08625
Fax No. (609) 984-6696
kathleen.asher@dca.nj.gov

The agency proposal follows: