

and podiatrists. Subchapter 7 sets forth rules governing the prescription, administration, and dispensing of drugs and Subchapter 7A establishes standards for the medical use of marijuana. Subchapter 8 regulates hearing aid dispensers. Subchapter 9 sets forth rules concerning the licensure and regulation of acupuncturists. Subchapter 10 sets forth the licensure and regulation of athletic trainers. Subchapter 11 establishes the Alternative Resolution Program for licensees with chemical dependencies or other impairments. Subchapter 12 sets forth the licensing and regulation of electrologists, electrologist instructors, and electrologists' offices. Subchapter 13 sets forth the licensing and regulation of perfusionists. Subchapter 14 deals with the licensing and regulation of genetic counselors.

The Board has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required pursuant to Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 45:9-2 and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

TRANSPORTATION

(a)

NEW JERSEY TRANSIT CORPORATION
Notice of Administrative Correction
Use or Occupancy of NJ TRANSIT-Owned Property
for Utility Facilities
Permit Fees; Transverse Occupation
N.J.A.C. 16:77-1.6

Effective Date: December 20, 2024.

Take notice that the New Jersey Transit Corporation ("NJ TRANSIT" or "Corporation") was established by the New Jersey Public Transportation Act of 1979 (the Act), N.J.S.A. 27:25-1 et seq., as an instrumentality of the State government responsible to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the programs by which NJ TRANSIT has fulfilled this responsibility was through the issuance of permits for certain fees to use its property for various types of occupancies. Permits are license agreements for the use and occupancy of property by a utility, municipality, county, or private entity.

N.J.A.C. 16:77 establishes guidelines, procedures, and fees pursuant to which NJ TRANSIT will operate its use or occupancy program. The rules adopted July 2024 relate to a reasonable increase of 33 percent for annual permit fees, which had previously not increased since 2011. They have been in effect in essentially their present form since 1985.

At N.J.A.C. 16:77-1.6, Permit fees; transverse occupation, the Corporation proposed paragraph (d)2 related to annual permit occupancy fees for circular lines under pressure carrying non-flammable, non-explosive, or non-combustible supporting materials, except coal and water slurry. The Corporation has discovered a clear and unworkable typographical error and a calculation error in this paragraph. The clear intent (and only logical way to read this paragraph) is that subparagraph (d)2i sets forth the fee for pipes up to and including 12 inches at \$383.00. Subparagraph (d)2ii sets forth the fee for pipes over 12 inches, but not exceeding 24 inches, as \$485.00. Subparagraph (d)2iii mistakenly sets forth the fee for pipes that are over 24 inches, but not exceeding 60 inches at \$17.00 per inch for each inch over the first 24 inches, plus the maximum fee pursuant to subparagraph (d)2ii (covering the first 24 inches) of \$85.00. The maximum fee for the first 24 inches is clearly promulgated as \$485.00, not \$85.00, and such error is being corrected through this notice. The maximum possible fee for a pipe pursuant to subparagraph (d)2iii is \$1,097 (\$17.00 per inch for up to 36 inches (inches 24.1 through 60) totaling \$612.00 plus the cost of the first 24 inches pursuant to subparagraph (d)2ii of \$485.00. Subparagraph (d)2iv sets forth the fee for pipes over 60 inches as \$13.00 per inch over the first 60 inches (which are

assessed pursuant to subparagraph (d)2iii) plus the maximum fee for the first 60 inches, which, pursuant to subparagraph (d)2iii is \$1,097. However, subparagraph (d)2iv incorrectly states the maximum fee for the first 60 inches is \$1,035, not \$1,097, as corrected in this notice of administrative correction at subparagraph (d)2iii.

The Corporation has requested and the Office of Administrative Law has agreed to make these corrections administratively pursuant to N.J.A.C. 1:30-2.7.

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

SUBCHAPTER 1. PERMITS AND CONDITIONS

16:77-1.6 Permit fees; transverse occupation

(a)-(c) (No change.)

(d) Annual permit occupancy fees for pipes and sewer crossings not exceeding 200 feet in length will be calculated as follows:

1. (No change.)

2. Circular lines under pressure and carrying non-flammable, non-explosive, or non-combustible supporting materials, except coal and water slurry:

i.-ii. (No change.)

iii. Pipes over 24 inches ID and not exceeding 60 inches ID will be charged at a rate of \$17.00 per inch of ID over the first 24 inches. This rate is in addition to the minimum fee of: [\$85.00] **\$485.00**.

iv. Pipes over 60 inches ID will be charged at a rate of \$13.00 per inch of ID over the first 60 inches. This rate is in addition to the minimum fee of: [\$1,035] **\$1,097**.

3.-9. (No change.)

TREASURY—TAXATION

(b)

DIVISION OF TAXATION

Notice of Redoption Motor Fuels—Retail Sales

Redoption: N.J.A.C. 18:19

Authority: N.J.S.A. 56:6-6 and 54:50-1.

Authorized By: Marita Sciarrotta, Acting Director, Division of Taxation.

Effective Date: January 6, 2025.

New Expiration Date: January 6, 2032.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 18:19 were scheduled to expire on March 2, 2025. N.J.A.C. 18:19 provides guidance on "An Act to regulate the retail sale of motor fuels" (Act), N.J.S.A. 56:6-1 et seq., that was enacted into law as P.L. 1938, c. 163. The statute protects the interests of motorists and of retail dealers by facilitating and safeguarding the orderly distribution and marketing of motor fuels. The rules have been updated and revised periodically through internal agency review as required by changes in legislation and changes in the regulatory environment.

The Division of Taxation (Division) has reviewed the rules and has determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 18:19 is readopted and shall continue in effect for a seven-year period.

Chapter 19 currently sets forth the following subchapters:

Subchapter 1, General Provisions, discusses defined terms and phrases.

Subchapter 2, Posted Prices: Advertising; Rebates; Allowances; Trademarks, discusses the requirement to post prices in a certain manner and prohibitions on certain rebates and allowances.

Subchapter 3, Preparation of Fines, discusses fines and penalties for violations of the Act.

Subchapter 4, Records Required; Totalizers, discusses recordkeeping requirements and the need for a gallons totalizer of at least six digits on the fuel pump.

Subchapter 5, Powers of the Director, discusses injunctions, auditing, hearings, and license suspensions and revocations.

Subchapter 6, Crime, states that it is a crime to alter or tamper with a gallons totalizer.

OTHER AGENCIES

(a)

OFFICE OF THE STATE COMPTROLLER

Rules of the Office of the State Comptroller

Readoption with Recodification and Amendments: N.J.A.C. 17:44 as 19:70

Recodifications with Amendments: N.J.A.C. 17:44- 1.3, 1.4, 1.5, and 2.2 as 19:70-1A.1, 1A.2, 1A.3, and 1.6, Respectively

Adopted New Rules: N.J.A.C. 19:70-1.3, 1.4, 1.5, 1A.4, 1A.5, 3.5, 4, and 5

Adopted Repeal: N.J.A.C. 17:44-3.6

Proposed: February 5, 2024, at 56 N.J.R. 178(a).

Adopted: December 30, 2024, by Kevin D. Walsh, Acting State Comptroller.

Filed: December 30, 2024, as R.2025 d.021, with **non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:15C-1 et seq., specifically 52:15C-8.a.

Effective Dates: December 30, 2024, Readoption;
February 3, 2025, Recodifications,
Amendments, New Rules, and Repeal.

Expiration Date: December 30, 2031.

Summary of Public Comments and Agency Responses:

The official comment period ended April 5, 2024. The Office of the State Comptroller (OSC) received comments from the following individuals and their respective organizations:

Comments 1 through 12: Gerald T. Reiner, Jr. Purchasing Manager, Bergen County Utilities Authority.

Comments 13 through 31: Northern New Jersey Association of Purchasing Officials by Maria Rivera, Qualified Purchasing Agent, Perth Amboy, Helen P. Fiore, Qualified Purchasing Agent, Monmouth County, and Anne Marie Wright, Qualified Purchasing Agent, Camden County.

Comments 32 through 44: Frank Marshall, Associate General Counsel, New Jersey League of Municipalities.

Comment 45, 46, and 47: John Donnadio, Executive Director, New Jersey Association of Counties (NJ-AC).

1. COMMENT: The commenter states that N.J.A.C. 19:70-3.1(g)1 does not include a reference to N.J.S.A. 40:37A-131.d.

RESPONSE: The OSC directs the commenter to N.J.S.A. 52:15C-10, which sets forth contracts that are not subject to review by the OSC and does not reference N.J.S.A. 40:37A-131.d. The commenter is referencing a law regarding county improvement authorities, which is not the subject of this rulemaking.

2. COMMENT: The commenter states that proposed N.J.A.C. 19:70-3.1(g)3 is vague and non-specific, stating that the reference to “other related activities or contracts” is confusing at best.

RESPONSE: The OSC disagrees with the comment and directs the commenter to N.J.S.A. 52:15C-10.b(1), which authorizes the OSC to review “other related activities and contracts.” N.J.A.C. 19:70-3.1(g)3 provides notice to contracting units that other related activities and contracts exceeding the post-award review threshold and, thus, the higher pre-advertisement review threshold also are subject to OSC review. This not only includes the preparation of any bid specification for request for proposals, but also any concession, amendment, or extension of a contract, and the purchase, sale, or lease of real estate meeting the post-award review and pre-advertisement review thresholds. To further clarify,

N.J.A.C. 19:70-3.1(g)2 and 3 are changed upon adoption to expressly include such contracts exceeding the post-award and pre-advertisement review thresholds. Pursuant to N.J.S.A. 52:15C-7, the Legislature authorized the OSC to monitor the process of soliciting proposals for, and the process of awarding contracts made by, contracting units. Although the Legislature identified certain types of contracts as not part of the review process implemented at N.J.A.C. 19:70-3.1(g)3, but for those contracts specifically excepted from the review process, OSC has broad jurisdiction, as appropriate, to review other contracts. This approach is consistent with OSC’s enabling legislation, which recognizes that there is a compelling need for State government to exercise independence and integrity in the oversight of the Executive Branch of State government, including all entities exercising Executive Branch authority, public institutions of higher education, independent State authorities, units of local government, and boards of education. The OSC has been empowered to provide oversight functions that strengthen public accountability with the goal of increasing public trust and confidence that every tax dollar collected by the government is spent wisely and well. The OSC further notes that the regulation addresses what is required in as much detail as possible in view of the varying kinds of related activities and contracts that are within its review jurisdiction. That however, does not mean that “other related activities” that may not be listed in this regulation are not subject to review. In light of a long history of creativity employed by contracting units to structure procurements, transactions, and contracts in innovative ways to meet the public entity’s needs, “other related activities” is used to capture the products of that creativity. Determining what these “other related activities” are require review and are fact-sensitive.

3. COMMENT: The commenter states that proposed N.J.A.C. 19:70-3.1(g)4 is not needed and exceeds the statutory authority for the OSC. The Governor, through an Executive Order, may suspend and amend regulations temporarily, as needed, and the OSC need not include an advanced provision they are not entitled to regulate.

RESPONSE: The proposed rule is intended to give contracting units notice that, as has occurred in the past, the Governor may sign an Executive Order that requires OSC review of specific contracts and procurements in addition to OSC’s statutory responsibilities. Thus far, Executive Order No. 125 (2013) and Executive Order 166 (2020) have been signed requiring OSC oversight of Federally funded procurements related to Superstorm Sandy and COVID-19. As proposed, this provision was intended to alert the public and regulated entities that executive orders are a source of law that have in the past, and may in the future, impacted which contracts and procurements should be submitted for OSC’s review. However, based on comments to the rulemaking, the OSC will delete N.J.A.C. 19:44-3.1(g)4 upon adoption.

4. COMMENT: The commenter states that, with respect to proposed N.J.A.C. 19:70-3.3(a)11, the reference for requirements at N.J.A.C. 5:34-7 and 7.9 refer to various types of cooperative purchasing systems, not just cooperative pricing systems, and suggests changing this to a general cooperative purchasing system.

RESPONSE: The OSC thanks the commenter for their input. OSC has revised N.J.A.C. 19:70-3.3(a)11 and 3.4(a)14, so that “cooperative purchasing systems” is used in place of “cooperative pricing system” because “cooperative purchasing systems” is a more inclusive term. As defined at N.J.A.C. 5:34-7.2, “cooperative purchasing system” includes a cooperative pricing system, joint purchasing system, commodity resale system, county cooperative contract purchasing system, or regional cooperative pricing system. This does not constitute a substantial change because the cross-reference in the existing regulation is to cooperative pricing systems and joint purchasing systems, which together represent cooperative purchasing systems pursuant to N.J.A.C. 5:34-7.2. Therefore, the revision is consistent with the existing regulation, clarifies the cross-reference therein, and makes the language of the rule consistent with the cooperative purchasing system regulations to which it cites. The OSC also refers the commenter to the Responses to Comments 5, 7, 8, 16, and 35.

5. COMMENT: The commenter states that N.J.A.C. 19:70-3.3(a)10 implies direct communication between the OSC and a contracted professional service without the local unit knowing. The commenter further states that this denies the ability for the contracting unit to manage