

matter is contested within the meaning of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and if so, shall refer the matter to the Office of Administrative Law for an initial decision, and thereafter shall issue a final decision. If the State Treasurer determines the matter is not contested, the State Treasurer shall issue a written final determination. The business entity can file an appeal of the Treasurer’s final decision with the Appellate Division of New Jersey Superior Court.

17:12-5.7 Public exigency

Pursuant to N.J.S.A. 19:44A-20.22, if a State agency or authority determines that a public exigency requires a particular transaction to proceed without Chapter 51 review, or despite potential Chapter 51 ineligibility, the agency or authority shall present the information relating to the exigent circumstances to the Review Unit as soon in the procurement process as possible. The Review Unit will coordinate consideration of the exigent circumstances by the State Treasurer.

SUBCHAPTER 9. [SURPLUS PROPERTY] DISTRIBUTION AND SUPPORT SERVICES UNIT, SURPLUS COMPUTER DISTRIBUTION PROGRAM

17:12-9.1 Description of organization and program

The Division [of Purchase and Property], as the centralized procurement agency for State government, is responsible for the disposal of State government’s surplus personal property. The surplus property programs are administered by the Division’s [Surplus Property] **Distribution and Support Services Unit**, which through public bidding and auctioning, sells or otherwise disposes of the State’s surplus personal property. This subchapter sets forth the rules whereby surplus computer-related equipment is made available for use by local governmental entities, boards of education, nonpublic schools, and nonprofit charitable corporations at no cost.

17:12-9.3 Definitions

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

...

“**Distribution and Support Services (DSS) Unit**” refers to a **Divisional unit that provides warehousing and distribution services to State and other governmental agencies to meet their product requirements and administers the State’s surplus property programs, including the surplus computer distribution programs.**

...

“**Eligible computer**” means a surplus working computer or central processing unit (CPU), which may include peripherals, such as a mouse, keyboard, monitor, and power cables, that is, a [Pentium-based] **Pentium III-based** or equivalent system of recent or current technology, and purged of all user data and software. If transferable under applicable licensing agreements with the manufacturer, an operating system and/or application software may be included or loaded on the CPU.

...

“**Surplus Property [Unit] Section**” means the [Surplus Property Unit within] **segment of the [Division of Purchase and Property] Division’s Distribution and Support Services Unit** having responsibility for the State’s surplus personal property.

17:12-9.4 Procedures

(a) (No change.)

(b) The Surplus Property [Unit] **Section** shall be responsible for receipt of eligible computers and surplus peripheral equipment from State Departments and distribution thereof to eligible recipients.

(c) The Surplus Property [Unit] **Section** shall advise eligible recipients of the availability/non-availability of eligible computers and/or surplus peripheral equipment on a quarterly basis through a dedicated telephone line and internet posting at [www.state.nj.us/treasury/surpluspc](http://www.state.nj.us/treasury/surpluspc). Such internet posting shall include a description of the eligible computer(s) and/or item(s) of surplus peripheral equipment to be available to eligible recipients and the date of availability. Such internet posting shall be made

60 days prior to the date of availability, which shall be considered a “timely” request.

(d) Eligible recipients having a need for an eligible computer(s) and/or any item(s) of surplus peripheral equipment posted on the internet must advise the Surplus Property [Unit] **Section** in writing on their respective letterhead of such interest no later than 30 days prior to the date of availability.

(e) All timely written requests received for an eligible computer(s) and/or any item(s) of surplus peripheral equipment shall be time and date stamped upon receipt by the Surplus Property [Unit] **Section**.

(f) Upon the request of the Surplus Property [Unit] **Section**, an entity expressing interest in an eligible computer(s) and/or any item(s) of surplus peripheral equipment must provide satisfactory evidence of its status as an eligible recipient. In the case of nonprofit charitable corporations, such evidence shall be proof of organization pursuant to the New Jersey Nonprofit Corporation Act, N.J.S.A. [15A 1-1] **15A:1-1** et seq.

(g) In the event two or more eligible recipients express timely written interest in the same eligible computer(s) and/or item(s) of surplus peripheral equipment, the eligible computer(s) and/or item(s) of surplus peripheral equipment shall be distributed by the Surplus Property [Unit] **Section** as follows:

1. If adequate numbers of eligible computer(s) and/or item(s) of surplus peripheral equipment are available, timely written requests from eligible recipients shall be satisfied in their entirety by the Surplus Property [Unit] **Section**.

2. If the number of eligible computer(s) and/or item(s) of surplus peripheral equipment available are inadequate to distribute to all eligible recipients, eligible computer(s) and/or item(s) of surplus peripheral equipment shall be distributed on the basis of the order in which timely written requests were first received by the Surplus Property [Unit] **Section**, one per eligible recipient.

3. If the number of eligible computers and/or items of surplus peripheral equipment available is greater than the number of eligible recipients providing timely written requests, but fewer than the number necessary to fully respond to each timely written request, one eligible computer and/or one item of surplus peripheral equipment shall be distributed per eligible recipient. Any eligible computer(s) and/or item(s) of surplus peripheral equipment remaining thereafter shall be distributed one per eligible recipient on the basis of the order in which timely written requests were first received by the Surplus Property [Unit] **Section**. This procedure shall continue until all eligible computers and/or items of surplus peripheral equipment are distributed.

17:12-9.5 Notification of availability

(a) The Surplus Property [Unit] **Section** shall notice an eligible recipient of a determination that an eligible computer(s) and/or item(s) of peripheral equipment are available for pick-up two weeks prior to the date of availability. Such eligible recipient shall advise the Surplus Property [Unit] **Section** at the time of such notice of its continued interest in the eligible computer(s) and/or item(s) of surplus peripheral equipment proposed to be distributed to it. An eligible recipient expressing continued interest shall be responsible for picking up the eligible computer(s) and/or item(s) of surplus peripheral equipment at the time and place designated by the Surplus Property [Unit] **Section**.

(b)-(c) (No change.)

(a)

**DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION**

**Use of New Jersey World War II Memorial**

**Proposed New Rules: N.J.A.C. 17:15B**

Authorized By: Andrew P. Sidamon-Eristoff, Treasurer, State of New Jersey.

Authority: N.J.S.A. 52:18A-34, 52:18A-212 through 216, 52:20-7, and 52:27B-64.

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

Proposal Number: PRN 2011-254.

Submit comments by February 17, 2012 to:

Robert J. Shaughnessy, Jr., Asst. Deputy Director  
Division of Property Management and Construction  
PO Box 229  
Trenton, New Jersey 08625-0229  
(Fax: 609-984-8495)

The agency proposal follows:

#### Summary

The New Jersey World War II Memorial (Memorial) is located on State-owned property. The Department of Military and Veterans' Affairs (DMAVA) ensures that the Memorial receives necessary custodial and maintenance services. As owners and custodians of the Memorial, the Department of the Treasury and DMAVA must ensure the right of accessibility to all members of the general public, address the safety of those who wish to enjoy the Memorial, and maintain the aesthetic value of the site.

These rules regulate the use of the Memorial in such a manner as to protect the rights of all citizens of New Jersey to exercise freedom of speech, peaceably assemble, petition their government for redress of grievances, and seek assistance from their government.

The Memorial is designed and intended for temporary visits. It is not a campground, nor is it equipped for long-term habitation. The Memorial has no permanent shelter and offers no protection from the elements. It has no public restroom or washroom facilities. Although such facilities may be available to persons using the State House, the State House is not open 24 hours a day or on weekends. The Memorial has no running water and no electricity intended for public use. It has no capacity or facilities for trash or refuse. It has no facilities to ensure the security of persons or property. It has no means by which to control the ingress or egress of persons other than the demonstrators.

The Memorial is directly across from and within 100 feet of the State Capitol Complex. It is easily accessible from nearby streets and roads and there is no fence or other barrier that encompasses the perimeter of the Memorial. It serves as a pedestrian thoroughfare for those seeking access to the State Capitol Complex. As a consequence, there is no practical way that the State Police can control who enters and leaves the site. Its proximity to the State Capitol Complex raises security and safety concerns.

The Office of State Governmental Security of the New Jersey State Police provides security for the Memorial, generally, as well as during all gatherings. The security is necessary to ensure the safety of all persons who either participate in the demonstrations or are in close proximity to the demonstration. Those persons include demonstrators, spectators, members of the public, persons seeking access to buildings in the area, and persons who work or live in the area surrounding the Capitol Complex.

N.J.A.C. 17:15B-1.1 sets forth the purpose and scope of the rules.

N.J.A.C. 17:15B-1.2 contains the definitions used in the rules.

N.J.A.C. 17:15B-1.3 sets forth a permit application process.

N.J.A.C. 17:15B-1.4 specifies the grounds for denying a permit.

N.J.A.C. 17:15B-1.5 specifies additional grounds for which a permit may be denied.

N.J.A.C. 17:15B-1.6 establishes that a permit may include conditions.

N.J.A.C. 17:15B-1.7 establishes the grounds for canceling a permit.

N.J.A.C. 17:15B-1.8 specifies any use or storage of personal items.

N.J.A.C. 17:15B-1.9 establishes rules regarding structures.

N.J.A.C. 17:15B-1.10 establishes rules regarding the use of signs.

N.J.A.C. 17:15B-1.11 establishes the use of sound amplification.

N.J.A.C. 17:15B-1.12 sets forth that camping is prohibited.

N.J.A.C. 17:15B-1.13 specifies that the availability of electricity is limited.

N.J.A.C. 17:15B-1.14 sets forth the consequences of a violation of the rules.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The proposed new rules will have a positive social impact. They will ensure the safety and welfare of demonstrators and others, accessibility of the Memorial to all visitors, and the maintenance of the Memorial for all visitors. Additionally, they will protect the rights of all citizens of New Jersey to exercise freedom of speech.

#### Economic Impact

The proposed new rules will have minimal economic impact on entities outside of the State government. Establishing a permitting scheme may result in some minimal increased expenditures for the New Jersey State Police but those should be offset by the reduced staffing required to provide adequate security to demonstrations that do not comport with these rules.

#### Federal Standards Statement

No Federal standards analysis is required because the proposed new rules are not being proposed under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or under a State statute that incorporates or refers to a Federal law, standard, or requirement. Rather, the new rules are authorized by the provisions of N.J.S.A. 52:18A-34, 52:18A-212 through 216, 52:20-7, and 52:27B-64.

#### Jobs Impact

The proposed new rules will not result in the generation or loss of jobs in New Jersey.

#### Agriculture Industry Impact

The proposed new rules will have no impact on the agriculture industry in New Jersey.

#### Regulatory Flexibility Analysis

The proposed new rules impose compliance requirements on anyone, including small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., seeking to distribute any written or printed materials, gather, demonstrate, picket, make a speech, hold a vigil or other ceremony, or otherwise use the Memorial, which is open to the general public. The requirements include applying for a permit 72 hours before the intended gathering, prohibit the placement of structures, with certain exceptions, camping, or storage of personal belongings. The rules also set certain restrictions on the usage of signs, setting certain permitting conditions, and grounds for canceling or denying a permit. Beyond the minimal administrative costs involved in applying for a permit, if necessary, the rules impose no compliance costs on small businesses.

Small businesses would not need to employ professional services in order to comply with these rules. There are no reporting or recordkeeping requirements. As the purpose of these rules is protect the Memorial and ensure the safety of persons employed or engaged in other activities at such buildings and grounds, no differentiation in requirements for small businesses is provided.

#### Housing Affordability Impact Analysis

The proposed new rules will not have an impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern only the use of the New Jersey World War II Memorial.

#### Smart Growth Development Impact Analysis

The proposed new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would 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 because the rules concern only the use of the New Jersey World War II Memorial.

Full text of the proposed new rules follows:

CHAPTER 15B  
NEW JERSEY WORLD WAR II MEMORIAL

SUBCHAPTER 1. USE OF NEW JERSEY WORLD WAR II  
MEMORIAL

17:15B-1.1 Purpose and scope

This chapter shall govern the use of the Memorial. Subject to this chapter, a person shall be allowed to distribute any written or printed materials, gather, demonstrate, picket, make a speech, or hold a vigil or other ceremony at the Memorial.

17:15B-1.2 Definitions

As used in this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

“Camping” means the use of the Memorial grounds for living accommodation purposes including, but not limited to, sleeping activities, storing personal belongings, or making any fire; or using any tents, shelters, other structure, or vehicle for sleeping or carrying on cooking activities.

“Gathering” includes any assembly of 10 or more persons for any purpose. This term does not include casual Memorial use by visitors or tourists that do not have an intent or propensity to attract a crowd or onlookers.

“Memorial” means the entirety of the New Jersey World War II Memorial, located on West State Street, Trenton, New Jersey, including its public grounds, walkways, plazas, and steps, and any of its ancillary structures, facilities, or components.

“Office” means the Office of State Government Security of the New Jersey State Police, located at the State House in Trenton.

“Permit” unless otherwise specified, means any written authorization issued by or under the authority of the Office for a specified privilege, allowing the performance of a specified act or acts at the Memorial.

“State Capitol Complex” means the State House and the State House Annex and any ancillary structures, facilities, or components that are integral to the operation or use of the State House or State House Annex and the adjacent public grounds, walkways, driveways, and parking areas.

“Structure” includes props and displays, such as coffins, crates, crosses, theaters, cages, and statues; furniture and furnishings, such as desks, chairs, tables, bookcases, cabinets, platforms, podiums, and lecterns; shelters, such as tents, boxes, and other enclosures; wagons and carts; and all other similar types of property that might tend to harm Memorial resources, including aesthetic interests. However, the term “structure” does not include signs, bicycles, baby carriages, or baby strollers lawfully at the Memorial that are temporarily placed in, or are being moved across, the Memorial, and that are attended at all times while at the Memorial or wheelchairs and other devices for the handicapped in use by handicapped persons.

17:15B-1.3 Permit application

A group of 10 or more persons intending to gather at the Memorial for any purpose shall apply at least 72 hours prior to the intended gathering for a permit from the Office. Notwithstanding this requirement, the Office will accept all applications for demonstrations whenever submitted and process such applications as soon as it is feasible to do so, considering the magnitude of the event and the resources of the State Police, and may confine the gathering to a prescribed area.

17:15B-1.4 Grounds for denying a permit

(a) Upon application, the Office may deny a permit if:

1. The Memorial is not a suitable location because park installations, statues, landscaping, planting, or other environmental conditions are reasonably likely to be harmed by the proposed event;
2. The Memorial is not a suitable location because the proposed event is of such nature, size, or duration that the Memorial cannot reasonably accommodate the event;
3. The date and time requested have previously been allotted by permit;
4. The date and time requested have previously been allotted to an applicant for a gathering on the State Capitol Complex, and the gathering

on the State Capitol Complex is of such magnitude or nature as to preclude a concurrent gathering at the Memorial; or

5. The event would interfere unreasonably with the enjoyment of the Memorial by others.

(b) If the Office denies a permit pursuant to this section, the Office or other appropriate State entity shall employ reasonable efforts to offer the applicant suitable alternative locations and/or times and/or dates for the proposed event.

17:15B-1.5 Additional grounds for denial

Upon application, the Office may deny a permit if, within the preceding two years, the applicant has been granted a permit and did, on that prior occasion, knowingly violate a material term or condition of that permit, or any law, ordinance, statute, or rule relating to the use of the Memorial.

17:15B-1.6 Permit conditions

The Office may condition its approval of a permit on the applicant group’s providing its own marshals, toilet facilities, and personnel to remove litter during the gathering.

17:15B-1.7 Grounds for canceling permit

(a) The Office is authorized to cancel the permit of any applicant group and take appropriate measures to terminate or disband a gathering if the gathering:

1. Endangers the health or safety of the applicant group or any other person; or
2. Is not being conducted in accordance with the conditions set forth in the permit.

17:15B-1.8 Use and storage of personal items

No parcel, container, package, bundle, or other property shall be placed or stored at or on the Memorial; provided, however, that such property, except structures, may be momentarily placed or set down in the immediate presence of the owner at the Memorial.

17:15B-1.9 Structures prohibited

(a) The erection, placement, or use of structures of any kind is prohibited, except structures that are being hand-carried.

1. When 100 or more persons are participating in a gathering at the Memorial, a temporary speaker’s platform as is reasonably required to serve the gathering participants is allowed, as long as such platform is being erected, dismantled, and used, provided that only one speaker’s platform is allowed per demonstrating group, and further that such speaker’s platform is authorized by a permit issued pursuant to N.J.A.C. 17:15B-1.3.

2. When less than 100 people are participating in a gathering at the Memorial, a temporary “soapbox” speaker’s platform is allowed, as long as such platform is being erected, dismantled, and used, providing that only one speaker’s platform is allowed per demonstrating group, and provided further that the speaker’s platform is no larger than three feet in length, three feet in width, and three feet in height, and further that such speaker’s platform is authorized by a permit issued pursuant to N.J.A.C. 17:15B-1.3.

17:15B-1.10 Signs

(a) The use of hand-carried signs is permitted, regardless of size. Signs that are not being hand-carried and that are no larger than four feet in length, four feet in width and one-quarter inch in thickness may be used at the Memorial, provided that no individual may have more than two such signs at the Memorial at any one time.

1. Such signs must be attended at all times, meaning an individual is within three feet of his or her sign(s).

2. Such signs may not be elevated in a manner, so as to:
  - i. Exceed a height of six feet above the ground at their highest point;
  - ii. Be arranged or combined in a manner so as to exceed the size limitations set forth in this section; or
  - iii. Be arranged in such a fashion as to form an enclosure of two or more sides.

3. For example, under this section, two four-foot by four-foot signs may not be combined, so as to create a sign eight feet long and four feet wide, and three such signs may not be arranged to create a sign four feet

long and 12 feet wide, and two or more signs of any size may not be leaned or otherwise placed together so as to form an enclosure of two or more sides.

(b) Signs cannot be braced or supported by wood or other hardened materials.

17:15B-1.11 Use of sound amplification

Sound amplification is allowed in connection with permitted demonstrations or special events, provided prior notice has been given to the Office. The Office reserves the right to limit the sound amplification equipment, so that it will not unreasonably disturb nonparticipating persons at or in the vicinity of the Memorial.

17:15B-1.12 Camping prohibited

(a) To protect and maintain the intact condition of the Memorial, ensure that the grounds are open to access for all members of the public, and, in light of the Memorial’s proximity and adjacency to the State House, facilitate the ability of the State Police to control security at the Memorial, camping is prohibited at the Memorial.

(b) Activities constitute “camping” when it reasonably appears, in light of all the circumstances, that the participants, in conducting these

activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

17:15B-1.13 Availability of electricity is limited

Electrical energy is not available at the Memorial for use during gatherings. Permit applicants must so indicate if electrical energy is required for the event. If the applicant requires electrical energy, the Office shall employ reasonable efforts to offer the applicant suitable alternative locations where either electricity is available or generators are permitted, unless the Office is otherwise authorized to deny the permit pursuant to N.J.A.C. 17:15B-1.4 or 1.5. Gatherings at the Memorial are not permitted to use generators.

17:15B-1.14 Consequences of violation of this chapter

Any person who violates the provisions of this chapter may be expelled and ejected from the Memorial and may be subject to civil or criminal prosecution for damage to persons or property or for violations of Title 2C of the New Jersey Statutes.

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