



LEXSTAT 43 NJR 951(A)

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RULE PROPOSALS

**LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WAGE AND HOUR COMPLIANCE**

43 N.J.R. 951(a)

Proposed Readoption: *N.J.A.C. 12:62*

[Click here to view Interested Persons Statement](#)

Public Works Contractor Registration

Authorized By: Harold J. Wirths, Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 34:11-56.48* et seq., specifically 34:11-56.57.

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

Proposal Number: PRN 2011-099.

A public hearing on the proposed readoption will be held on the following date at the following location:

Monday, May 23, 2011

10:00 A.M. to 12:00 Noon

New Jersey Department of Labor and Workforce Development

John Fitch Plaza

2nd Floor, Large Conference Room

Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by June 17, 2011 to:

David Fish, Regulatory Officer

Office of Legal and Regulatory Services

NJ Department of Labor and Workforce Development

P.O. Box 110 - 13th Floor

Trenton, New Jersey 08625-0110

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, *N.J.A.C. 12:62*, Public Works Contractor Registration, is scheduled to expire on September 10, 2011. The Department of Labor and Workforce Development has reviewed these rules and has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated.

A summary of the sections proposed for readoption follows:

N.J.A.C. 12:62-1.1 sets forth the application and scope of the chapter.

N.J.A.C. 12:62-1.2 contains definitions of words and terms used throughout the chapter.

N.J.A.C. 12:62-1.3 explains that the Division of Wage and Hour Compliance, within the Department of Labor and Workforce Development, administers and enforces the chapter.

N.J.A.C. 12:62-1.4 explains that the provisions of the chapter are severable; that is, if any provision of the chapter or application thereof to any person or circumstance is held invalid, the invalidity will not affect other provisions or applications of the chapter.

N.J.A.C. 12:62-2.1 explains that no contractor, as that term is defined in the chapter, shall bid on or engage in any contracts for public work unless he or she is registered pursuant to the Public Works Contractor Registration Act, *N.J.S.A. 34:11-56.48* et seq. (the Act). The section also sets forth the procedure by which public works contractors must register under the Act.

N.J.A.C. 12:62-2.2 sets forth the method by which the Department issues certificates of registration. The section also sets forth the term of the registration.

N.J.A.C. 12:62-2.3 explains that a contractor who violates the provisions of the Act will be guilty of a disorderly persons offense.

N.J.A.C. 12:62-2.4 addresses the denial, suspension and revocation of registration. Specifically, the section sets forth the grounds for denial, suspension and revocation of registration, the criteria to be used when determining the length of a suspension or revocation and explains the circumstances under which the Commissioner may require a contractor to provide a surety bond payable to the State as a condition to initial or continued registration.

N.J.A.C. 12:62-2.5 addresses the imposition of administrative penalties.

N.J.A.C. 12:62-2.6 sets forth the appeals process available to those contractors who wish to contest (1) the denial, suspension or revocation of a certificate of registration; (2) the requirement that the contractor post a surety bond pursuant to *N.J.A.C. 12:62-2.4(d)*; or (3) the imposition of an administrative penalty pursuant to *N.J.A.C. 12:62-2.5*.

As the Department has provided a 60-day comment period on 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 will have a positive social impact in that they will permit the Department to effectively enforce the Public Works Contractor Registration Act. The rules will put the Department in a position to protect the interests of workers, contractors and public bodies engaged in public works. Furthermore, the rules proposed for readoption will ensure that contractors and subcontractors who engage in public works projects are qualified to do so.

Economic Impact

The rules proposed for readoption will have no economic impact beyond that which results from the Department's existing enforcement of the Act and these rules, which includes the collection of registration fees, the denial, suspension or revocation of contractor registration, where appropriate, and the imposition of administrative penalties, where appro-

priate. The rules are intended to equip the Department to enforce the State's labor laws and ensure that public works contractors who violate those laws do not receive the benefit of public tax dollars.

Federal Standards Statement

The rules proposed for reoption do not exceed standards or requirements imposed by Federal law as there are currently no Federal standards or requirements applicable to the subject matter of this rulemaking. As a result, a Federal standards analysis is not required.

[page=952] Jobs Impact

The Department does not anticipate that the rules proposed for reoption will result in either the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for reoption will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for reoption require that all public works contractors, including those which are small businesses, as that term is defined within the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., provide the information requested in the "New Jersey Department of Labor and Workforce Development Application for Public Works Contractor Registration," as well as any supplemental information or documentation requested by the Department. Payment of a registration fee is also required. Both the registration and fee requirements are expressly dictated by the Act. No distinction is made within the Act between large and small businesses. The Department has no discretion to deviate from the requirements set forth within the Act.

Smart Growth Impact

The rules proposed for reoption will not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for reoption will not evoke a change in the average costs associated with housing. The basis for this finding is that the rules proposed for reoption pertain to the registration of public works contractors, not to housing.

Smart Growth Development Impact

The rules proposed for reoption would not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for reoption pertain to the registration of public works contractors, and have nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey.

Full text of the rules proposed for reoption may be found in the New Jersey Administrative Code at *N.J.A.C. 12:62*.