

2 of 39 DOCUMENTS

NEW JERSEY REGISTER

Copyright © 2007 by the New Jersey Office of Administrative Law

VOLUME 39, ISSUE 15

ISSUE DATE: AUGUST 6, 2007

RULE PROPOSALS

**LABOR AND WORKFORCE DEVELOPMENT
LABOR PLANNING AND ANALYSIS
WAGE AND HOUR COMPLIANCE**

39 N.J.R. 3276(a)

Proposed New Rules: N.J.A.C. 12:23-11

Proposed Amendment: N.J.A.C. 12:60-6.1

Click here to view Interested Persons Statement

Apprenticeship Training

Authorized By: David J. Socolow, Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 34:1-20* and *34:1A-1.5* and 3(e).

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

Proposal Number: PRN 2007-257.

A **public hearing** regarding the proposal will be held on the following date at the following location:

August 21, 2007
10:00 A.M. to 12:00 Noon
New Jersey Department of Labor and Workforce Development
John Fitch Plaza
13th Floor Auditorium
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 October 5, 2007 to:

Frederick S. Cohen, Regulatory Officer
Office of Legal and Regulatory Services

P.O. Box 110, 13th Floor
Trenton, New Jersey 08625-0110
Fax: (609) 292-8246

If you need this document in Braille, large print or audio cassette, please contact the Office of Marketing at (609) 292-7832 or NJ Relay (TTY) 1-800-852-7899.

The agency proposal follows:

Summary

The Department is proposing new rules at N.J.A.C. 12:23-11 in order to implement *N.J.S.A. 34:1A-1.5*, which provides in pertinent part that all powers, functions and duties of the Department of Education with respect to the registration and approval of apprenticeship programs under a joint agreement negotiated with the Bureau of Apprenticeship and Training in the United States Department of Labor, have been transferred to the Department of Labor and Workforce Development. Prior to this transfer of powers, N.J.A.C. 6A:19-9 (repealed, effective December 7, 2006, see *38 N.J.R. 3205(a)*, *39 N.J.R. 29(a)*) had been the rules of the Department of Education, which governed that agency's role in the registration and approval of apprenticeship programs. The Department is proposing new N.J.A.C. 12:23-11, which would be identical to recently repealed N.J.A.C. 6A:19-9, with the exception that the "Department of Labor and Workforce Development" would be substituted for the "Department of Education" and the "Commissioner of Labor and Workforce Development" would be substituted for the "State Director of Vocational-Technical Education."

In addition, the Department is proposing that *N.J.A.C. 12:60-6.1*, which contains a definition for the term "apprentice," be amended, so as to (1) substitute the "Department of Labor and Workforce Development" for the "Division of Vocational Education in the New Jersey Department of Education" and (2) substitute the word, "and" for the word, "or" when indicating the role of the Department of Labor and Workforce Development relative to that of the Bureau of Apprenticeship and Training in the United States Department of Labor in the registration and approval of apprenticeship programs. Thus, *N.J.A.C. 12:60-6.1* (as proposed) would read in pertinent part, "'Apprentice' means an individual who, while performing work on a public work project, is registered, in good standing, in an apprenticeship program approved or certified by the Department and by the Bureau of Apprenticeship and Training in the United States Department of Labor." The use of the word "and" accurately reflects the relationship between the Department of Labor and Workforce Development and the Bureau of Apprenticeship Training relative to the registration and approval of apprenticeship programs, in that both agencies must register and approve an apprenticeship program in order for it to operate within the State. Prior to the transfer of powers discussed above, the same relationship existed between the Department of Education and the Bureau of Apprenticeship and Training. No apprenticeship program may operate in the State without approval from both the Bureau of Apprenticeship training and the appropriate State agency (previously, the Department of Education; now, the Department of Labor and Workforce Development). The use of the word "or" within this section has always been inappropriate. The proposed amendment would correct that error.

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

Proposed new N.J.A.C. 12:23-11 would have a positive social impact in that they would provide notice to those seeking to operate apprenticeship programs within New Jersey that the Department of Labor and Workforce Development is the State agency responsible for the approval and registration of such programs. The proposed new rules would also indicate, as did the former Department of Education rules at N.J.A.C. 6A:19-9, that the training and instruction portion of apprenticeship programs must comply with Federal standards of apprenticeship published in the Labor Standards for the Registration of Apprenticeship Programs, 29 CFR §§29.29 and 29.30 and be in compliance with the Core Curriculum Content Standards, N.J.A.C. 6A:8-2. As indicated in the Summary above, the Department of

Labor and Workforce Development has stepped into the role previously played by the Department of Education with regard to the approval and registration of apprenticeship programs. The proposed adoption as N.J.A.C. 12:23-11 (Department of Labor and Workforce Development rules) of recently repealed N.J.A.C. 6A:19-9 (Department of Education rules), with only minor changes reflecting the change in Departmental responsibility, would make it clear to the regulated community that there have been no substantive changes with regard to apprenticeship program requirements or administration of the apprenticeship program from the State perspective. The proposed new rules at N.J.A.C. 12:23-11 would assist in the orderly transition of the apprenticeship program from one Department in State government to another, pursuant to *N.J.S.A. 34:1A-1.5*.

The proposed amendments to *N.J.A.C. 12:60-6.1* would also have a positive social impact in that they would eliminate any confusion with regard to the role played by the Department of Labor and Workforce Development relative to that played by the Bureau of Apprenticeship and Training in the United States Department of Labor, when speaking of the approval and registration of apprenticeship programs within New Jersey. As indicated in the Summary above, the existing use of the word "or" within *N.J.A.C. 12:60-6.1* is misleading. In order to accurately reflect the relationship between the State and Federal governments with regard to the approval of apprenticeship programs in New Jersey, the word "and" must be substituted for the word "or."

Economic Impact

The proposed new rules at N.J.A.C. 12:23-11 would require, as did the predecessor Department of Education rules formerly at N.J.A.C. 6A:19-9, that all apprenticeship training and instruction must comply with Federal standards of apprenticeship as published in the Labor Standards for the Registration of Apprenticeship Programs, 29 CFR §§29.29 and 29.30, and be in compliance with the Core Curriculum Content Standards, N.J.A.C. 6A:8-2. It is anticipated that there would be costs associated with ensuring compliance with these standards. Since the Department of Labor and Workforce Development is simply stepping into the shoes previously filled by the Department of Education and, further, since proposed N.J.A.C. 12:23-11 would be identical to former N.J.A.C. 6A:19-9, containing the same criteria for approval, the cost to an apprenticeship program seeking to obtain approval from the Department of Labor and Workforce Development would be the same cost previously incurred by an apprenticeship program seeking to obtain approval from the Department of Education; that is, whatever cost is associated with ensuring compliance with the Federal standards of apprenticeship as published in the Labor Standards for the Registration of Apprenticeship Programs, 29 CFR §§29.29 and 29.30, and the Core Curriculum Content Standards, N.J.A.C. 6A:8-2.

The proposed amendments to *N.J.A.C. 12:60-6.1* would have no economic impact. They would change the name of the responsible Department from the Department of Education to the Department of Labor and Workforce Development and would correct a simple error in word usage.

Federal Standards Statement

The proposed new rules and amendments do not exceed standards or requirements imposed by Federal law. Specifically, the subject rules are consistent with the Federal standards of apprenticeship as published in the Labor Standards for the Registration of Apprenticeship Programs, 29 CFR §§29.29 and 29.30. Consequently, a Federal standards analysis is not required.

Jobs Impact

The proposed new rules and amendments would have no impact on either the generation or loss of jobs.

Agriculture Industry Impact

The proposed new rules and amendments would have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed new rules would require that all apprenticeship programs, regardless of size, including those which could be considered small businesses as that term is defined in the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., must comply with the Federal standards of apprenticeship as published in the Labor Standards for the Registration of Apprenticeship Programs, 29 CFR §§29.29 and 29.30, and with the Core Curriculum Content Standards, N.J.A.C. 6A:8-2. These same compliance requirements were recently imposed on apprenticeship programs by the Department of Education, pursuant to former N.J.A.C. 6A:19-9. As explained above, in accordance with *N.J.S.A. 34:1A-1.5*, all powers, functions and duties of the Department of Education with respect to the registration and approval of apprenticeship programs under a joint agreement negotiated with the Bureau of Apprenticeship and Training in the United States Department of Labor, have been transferred to the Department of Labor and Workforce Development. Costs of compliance are discussed in the Economic Impact above. Neither the proposed new rules, nor the proposed amendments should require the use of professional services.

The proposed amendments would impose no 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.

Smart Growth Impact

The proposed new rules and amendments would not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

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

SUBCHAPTER 11. APPRENTICESHIP TRAINING

12:23-11.1 Apprenticeship program responsibilities and duties

(a) The Department is the State apprenticeship agency and is responsible for apprenticeship registration and the administration of the related training and instruction portion of apprenticeship programs. This training and instruction must comply with Federal standards of apprenticeship as published in the Labor Standards for the Registration of Apprenticeship Programs, 29 CFR §§29.29 and 29.30, and be in conformance with the Core Curriculum Content Standards, N.J.A.C. 6A:8-2.

(b) The Commissioner shall coordinate activities on apprenticeship with the United States Department of Labor, Bureau of Apprenticeship and Training (BAT), to include training and instruction that must comply with Federal standards of apprenticeship as published in Labor Standards for the Registration of Apprenticeship Programs, 29 CFR §§29.29 and 29.30. The State apprenticeship system shall include, but not be limited to:

- 1. Approving new and ongoing registered apprenticeship programs and related training;**
- 2. Approving individual apprenticeship agreements including criteria for related training, and advanced standing for school-to-work apprenticeship linkage programs;**
- 3. Monitoring and investigating compliance issues;**
- 4. Compiling and maintaining records and agreements;**
- 5. Issuing certificates to sponsors of registered apprenticeship programs by business, industry or labor unions;**

6. Issuing certificates for completion of a Registered Apprenticeship Program;

7. Providing technical assistance to business and industry in the development of new registered apprenticeship programs; and

8. Working with Federal, State, and other entities on issues related to apprenticeship.

12:23-11.2 Approval of related training and instruction

(a) Upon receipt of the Apprenticeship Agreement/Joint Approval form from the State director of the Federal Bureau of Apprenticeship and Training, the Commissioner, as the approval agent, shall evaluate the related training and instruction component of the apprenticeship.

(b) Within 30 days of receipt of the form, the Department shall notify the Federal Bureau of Apprenticeship and Training of its approval or disapproval of the related training and instruction.

12:60-6.1 Definitions

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

"Apprentice" means an individual who, while performing work on a public work project, is registered, in good standing, in an apprenticeship program approved or certified by the [Division of Vocational Education in the New Jersey] Department [of Education or] **and** by the Bureau of Apprenticeship and Training in the United States Department of Labor.

...