

**STATE**

**SECRETARY OF STATE**

**Review and Streamlining of Permit Process**

**Proposed New Rules: N.J.A.C. 15:35**

Authorized By: Kim Guadagno, Secretary of State, Department of State.

Authority: N.J.S.A. 52:14B-28.

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

Proposal Number: PRN 2012-040.

Submit written comments by May 4, 2012 to:

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The agency proposal follows:

### **Summary**

The New Jersey Department of State (Department), pursuant to N.J.S.A. 52:14B-28, proposes N.J.A.C. 15:35 to ensure that State and local agencies that issue businesses permits will streamline their permit issuance processes and that such processes will be regularly monitored by the Secretary of State or Governor's designee.

In Executive Order No. 2 (2010), the Governor articulated a set of "common sense principles" to govern agency rulemaking. Those common sense principles include, among others: transparency and predictability regarding regulatory activity; consistency of business regulation within the State; appropriate flexibility; a reasonable balance between the underlying regulatory objectives and the burdens imposed by the regulatory activity; coordination among agencies to combine and minimize regulatory filings and to minimize worksite interruption necessary to regulatory activity; the reduction of processing time for regulatory approvals, permits, licenses, and other actions requiring response; cooperation among agencies to

expedite processing, when possible, keeping in mind business and other commercial demands; submission of the minimum amount of information necessary to administer agency rules; and the leverage of information systems and other technologies to improve efficiency and processes. These proposed new rules harmonize with the common sense principles set forth in Executive Order No. 2 and its overarching aim of improving the State's regulatory environment to promote economic growth and job maintenance and creation.

Proposed N.J.A.C. 15:35-1.1 sets forth the definitions of terms used in the new proposed rules.

Proposed N.J.A.C. 15:35-1.2 sets forth the parameters of the review of State and local agency-issued business permits.

Proposed N.J.A.C. 15:35-1.3 sets forth the requirements of each State agency in furtherance of the review of State and local agency-issued business permits.

Proposed N.J.A.C. 15:35-1.4 sets forth the parameters of county and municipal participation in the review of State and local agency-issued business permits.

Proposed N.J.A.C. 15:35-1.5 sets forth those permits excluded from the scope of the new proposed rules.

Proposed N.J.A.C. 15:35-1.6 sets forth the parameters of the annual review of State and local-agency issued permits, in accordance with N.J.S.A. 52:14B-30.

As the Department of State has provided a 60-day comment period for 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 rules will help State and local agencies streamline their permit issuance processes and ensure that such processes are regularly monitored by the Secretary of State or Governor's designee. These proposed rules will assist the Secretary of State or Governor's designee identify permits that can be: administered through an expedited process; eliminated as obsolete, unnecessary, or costing more to administer than the benefits they provide; issued through an accelerated process; eliminated as redundant; and issued in a more consistent manner (without endangering the public health, safety, or well-being). These proposed rules will streamline the permit process of business in the State and those considering moving to the State, thereby saving businesses valuable money, time, and resources.

These rules will also contribute to greater government efficiencies. This permit review process will expedite the administration and issuance of permits, reduce redundancy, improve the consistency of permit approval, and eliminate obsolete permits, unnecessary permits, and those permits that cost more to administer than the benefits they provide and whose elimination does not endanger public health, safety, or welfare, thereby saving government at all levels valuable money, time, and resources, and more efficiently utilizing taxpayer dollars.

### **Economic Impact**

The rules proposed for adoption will positively impact businesses in the State and businesses considering a move here. These proposed rules will streamline the permit process for businesses, thereby saving businesses valuable money, time, and resources. Accordingly, those resources will be made available for business development and job growth.

These rules will thus foster a more business-friendly environment and may attract more business to the State, thus improving the State economy by positively impacting business development and job growth.

For agencies, the process of reviewing permits and procedures will entail the use of staffing resources. The savings to the agencies, however, from more efficient and expeditious permit processes, should more than offset the costs of those resources.

### **Federal Standards Statement**

There are no Federal standards or requirements applicable to the proposed new rules. As a result, a Federal standards analysis is not required.

### **Jobs Impact**

The rules proposed for adoption will positively impact jobs and job growth in the State. The proposed rules will streamline the permit process of business in the State and those considering a move here, thereby saving those businesses valuable money, time, and resources. Accordingly, those resources will be made available for business development and job growth.

### **Agriculture Industry Impact**

The rules proposed for adoption will positively impact businesses in the State and businesses considering a move here – including those in the agriculture industry. The proposed rules will streamline the permit process of business in the State and those considering a move here, thereby saving those businesses valuable money, time, and resources.

### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because these rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses.

Rather, these rules proposed for adoption will lessen reporting, recordkeeping, and other compliance requirements on small businesses. The proposed rules will streamline the permit process of business in the State and those considering a move here. This streamlining process will positively impact small businesses, reduce their reporting, recordkeeping, and other compliance requirements, and save small businesses valuable money, time and resources. Accordingly, those resources will be made available for business development and job growth.

### **Housing Affordability Impact Analysis**

The proposed rules will not evoke a significant change in the average costs associated with housing. The basis for this finding is that the rules proposed for adoption address a system of consolidated and contemporaneous review of State and local agency-issued business permits, to be conducted by the Secretary of State or Governor's designee. The rules proposed for adoption do not address housing affordability.

### **Smart Growth Development Impact Analysis**

The rules proposed for adoption will not evoke a significant change on housing production and there is an extreme unlikelihood that the rules proposed for adoption 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. The basis for this finding is that the rules proposed for adoption address a system of consolidated and contemporaneous review of State and local agency-issued business permits, to be conducted by the Secretary of State or Governor's designee. The rules proposed for adoption do not address housing production.

**Full text** of the proposed new rules follows:

## CHAPTER 35

### AGENCY PERMIT REVIEW

#### SUBCHAPTER 1. AGENCY PERMIT REVIEW

##### 15:35-1.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings:

“Governor’s designee” means any State officer or employee designated by the Governor pursuant to N.J.S.A. 52:14B-28, to develop a system of consolidated and contemporaneous review of State and local agency-issued business permits in accordance with N.J.S.A. 52:14B-28, and this chapter.

“Local agency” means any department of a political subdivision of this State, or any division, office, agency, or bureau thereof that issues a permit to a business.

“Permit” means a permit, license, certificate, registration, compliance schedule, or any other form of permission or approval

required by law to be issued by a State agency in order to engage in a business activity, or any other authorization related thereto, whether that authorization is in the form of a permit, approval, license, certification, waiver, letter of interpretation, agreement, or any other executive or administrative decision which allows a business to engage in any activity.

“State agency” means any New Jersey principal department or any division, office, agency, or bureau thereof that issues a permit to a business.

#### 15:35-1.2 Review of State and local agency-issued business permits

The Secretary of State or Governor’s designee shall review all information submitted by State agencies pursuant to N.J.A.C. 15:35-1.3 for the purposes of: accelerating the process of issuing business permits; eliminating redundancy among different levels of State and local government; and ensuring more consistency in permit issuance.

#### 15:35-1.3 Requirements of State agencies

(a) Each State agency shall, no later than January 1 of each year, issue a report to the Secretary of State or Governor’s designee identifying:

1. Permits whose issuance may be administered through an expedited process such as the use and/or development of improved technology (such as the electronic submission of permit applications) or through other means;
2. Permits that may be obsolete, are no longer necessary, or cost more to administer than the benefits they provide, and thus should be eliminated so long as the public health, safety, or general welfare is not endangered;
3. Permits the issuance of which may be accelerated;
4. Permits that may be eliminated as redundant among different levels of State and local government;
5. Recommendations to improve the consistency of permit issuance;
6. A description of actions taken by the agency or recommended to be taken in order to address the issues identified in (a)1 through 5 above; and
7. Other relevant issues that relate to permits or the permitting process concerning a particular agency(ies), as identified by the Secretary of State or the Governor's designee.

(b) Such report will form the basis of the annual report to the Governor and the Legislature by the Secretary of State or Governor's designee.

15:35-1.4 County and municipal participation

Any county or municipality issuing a business permit shall be encouraged and incentivized to voluntarily join in a collaborative effort to manage the permitting process for a business project with any State agency, as applicable to each project, and jointly agree on a process and schedule for a cooperative and contemporaneous handling of business permits and approvals.

15:35-1.5 Exclusions

(a) This chapter does not apply to:

1. Any municipality issuing a business permit or approval pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.; and
2. Any permit or approval related to a Federally-funded program or project or a permit that is specified or determined by or pursuant to Federal law or regulation.

15:35-1.6 Annual review

- (a) The first consolidated and contemporaneous review of State and local agency-issued permits shall be completed by no later than March 1, 2012.
- (b) The report shall be posted to the Department of State website.
- (c) In accordance with N.J.S.A. 52:14B-30, the Secretary of State or Governor's designee shall report annually on or before March 1 to the Governor and to the Legislature as to those items identified in that statute.