

COMMUNITY AFFAIRS

(a)

DIVISION OF CODES AND STANDARDS

Maintenance of Hotels and Multiple Dwellings

Adopted Amendments: N.J.A.C. 5:10-1.12 and 28.1

Adopted New Rules: N.J.A.C. 5:10-29

Proposed: August 21, 2017, at 49 N.J.R. 2620(a).

Adopted: December 1, 2017, by Charles A. Richman,

Commissioner, Department of Community Affairs.

Filed: December 20, 2017, as R.2018 d.056, 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. 55:13A-6(e) and 2C:13-12 (P.L. 2013, c. 51).

Effective Date: January 16, 2018.

Expiration Date: March 2, 2023.

Summary of Public Comments and Agency Responses:

Comments were received from Marilou Halversen, President of the New Jersey Restaurant and Hospitality Association (NJRHA); Kevin Ortzman, President of the Casino Association of New Jersey; and Mitchell Malec, a retired former employee of the Department of Community Affairs.

1. COMMENT: Commenters express support for the proposed amendments and consider human trafficking a very important topic.

RESPONSE: The Department of Community Affairs (Department) thanks the commenters for their expression of support.

2. COMMENT: Commenters request that the rule permit hotels that already have a thorough proprietary human trafficking training program to use it in lieu of the video training established by the Department. The commenters state that some hotels may prefer to use a training program that targets each department within the hotel, i.e. housekeeping, front desk, security, and management.

RESPONSE: The Department understands that regulated parties may identify cases when they may wish to request an exception from compliance with the rules. In such cases, they may apply for an exception pursuant to N.J.A.C. 5:10-1.15(a). A request to use a different training tool or program may be handled through this process.

3. COMMENT: A commenter states that casino-hotels maintain a staff that is not a good fit for the proposed human trafficking training program, which is geared towards regular non-casino-hotels. The commenter refers to the differences between the respective staff composition; for example, casino-hotels maintain a substantial security and surveillance presence, employing up to 300 of these specially-trained personnel at each property, significantly more than regular hotels. In addition, the commenter states that casino-hotels maintain a significantly greater number of employees in janitorial, housekeeping, and front desk type positions than non-casino-hotels do, and as a result, scheduling and tracking such trainings would be unreasonably burdensome and unjustified. The commenter also states that casino-hotels are regularly patrolled by both State and local law enforcement. For these reasons, the commenter recommends that the proposed training be required only for security personnel at casino-hotels.

RESPONSE: The Department recognizes that any training program must overcome challenges related to implementation, including scheduling and tracking. Moreover, the Department understands that casino-hotels operate under different conditions, including the presence of more security personnel, than traditional smaller hotels. Because the training video is short, compliance should not be unduly burdensome for a hotel of any size or type. In addition, trafficked persons may be found in the hotel portion of the casino-hotel and may travel to and from the casino games. For purposes of recognizing and addressing human trafficking, it is important that all staff in the areas identified in the rule be trained. Also, as noted in the Response to Comment 9, the statute requires the Department to verify completion of the training course, which necessitates the recordkeeping requirement. The statute does not

differentiate between hotels or motels based on number of employees so all hotels and motels must comply.

4. COMMENT: A commenter recommends that the rule require owners or operators to complete the proposed video training, in addition to the designated hotel staff.

RESPONSE: The Department refers the commenter to proposed N.J.A.C. 5:10-29.1(a), which states "hotel management" must also complete the training.

5. COMMENT: A commenter states that the video training was not available on the Department website prior to the training being proposed. The commenter states that the video should have been available for review before the end of the comment period.

RESPONSE: The video was available through the Department of Law and Public Safety's website and upon request. It is now available on the Department's website.

6. COMMENT: A commenter states that the video training does not meet the intent of the legislation. The commenter describes the training as incomplete, stating that the video fails to properly instruct the trainee on reporting suspected criminal activity.

RESPONSE: The Department thanks the commenter for his opinion regarding the quality of the video, a product licensed by the Department of Law and Public Safety. The Department believes the video content, which caters to the hospitality sector, presents signs of human trafficking and includes information on where to report suspicious activity, sufficient to meet the intent of the legislation.

7. COMMENT: A commenter expresses doubt as to whether the informational poster required by the proposed rule is effective, noting challenges related to language, and makes recommendations related to posting location. The commenter also requests that the Department verify the legality of requiring such an informational sheet to be posted.

RESPONSE: The Department will require the informational poster, which contains important reporting information, as a complement to the training video. This is in line with the enabling legislation, P.L. 2013, c. 51, which states that the Department "shall make available the training materials for the one-time training course." The Department understands that certain challenges will remain, including ones related to language barriers, but believes the benefits of the video and poster exceed their limitations. The poster will be available in English and in Spanish and this has been added to N.J.A.C. 5:10-29.1(c) upon adoption.

8. COMMENT: A commenter recommends that the proposed rule include the legislative requirement for all new employees to view the human trafficking training video within six months of employment.

RESPONSE: This requirement exists in the statute and has not been repeated in the rules. The Department will remind hotels and motels of their duty to train relevant employees both upon adoption of the rule and immediately prior to inspection.

9. COMMENT: A commenter questions whether the Department has the authority to request employee records related to the human trafficking training and expresses doubt as to whether the Department has offered sufficient instruction as to how hotels may manage such records.

RESPONSE: The Department will request records appropriately in order to verify completion of the training and refers the commenter to the enabling legislation, P.L. 2013, c. 51, which states that "verifiable completion of the training course by required staff shall be a condition of issuance, maintenance, or renewal of any license, permit, [or] certificate..." The Department recommends that hotels and motels maintain organized and accessible records according to their respective company policies.

10. COMMENT: A commenter makes recommendations related to improving the quality of the human trafficking training video, including exploring open source human trafficking trainings and other government programs, such as the Federal government's Blue Campaign and the State of Connecticut's anti-trafficking training programs.

RESPONSE: The Department greatly appreciates the commenter's recommendations. These and other sources may be evaluated for possible future use.

Summary of Agency-Initiated Changes:

1. Corrections have been made at N.J.A.C. 5:10-29.1(a)1 and (c) upon adoption to update the website URL related to the location of the training video and poster.

2. Corrections have been made at N.J.A.C. 5:10-1.12(d)1 and 29.1(a), (a)2, (b), and (c) upon adoption to clarify that both hotels and motels are meant to be in the scope of the sections referenced above. At certain places where only “hotels” are specified, either “and motels” or “or motels” is added. At certain other places where only “hotels” are specified, the term “hotels” is removed, thereby expanding the scope to include motels.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and new rule are not being adopted 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, standards, or requirements.

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks ***thus***; deletion from proposal indicated in brackets with asterisks ***[thus]***):

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

5:10-1.12 Certificate of inspection

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

(d) Every application for a certificate of inspection shall be signed by at least one individual owner or, in the case of a partnership, corporation or other entity, by a duly authorized representative of the owner, in which case the signer’s relationship to the owner shall be stated. The name of the person signing shall be printed or typed beneath the signature in a legible manner.

1. For hotels ***and motels***, the application shall include a certification on a form supplied by the Bureau that all employees required to be trained to recognize and to report suspected human trafficking, pursuant to N.J.A.C. 5:10-29.1, have viewed the informational video.

(e)-(h) (No change.)

SUBCHAPTER 28. CARBON MONOXIDE ALARMS

5:10-28.1 Carbon monoxide alarms

(a) Carbon monoxide alarms shall be installed and maintained in full operating condition in the following locations:

1. (No change.)

2. As an alternative to the requirements in (a)1 above, carbon monoxide alarms may be installed in the locations specified in the Uniform Construction Code (N.J.A.C. 5:23). A copy of the certificate of approval issued by the local construction code enforcing agency shall be provided to the Bureau at the time of installation, at or after the time of inspection, or at any other time, as proof of installation, in accordance with the Uniform Construction Code.

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

SUBCHAPTER 29. HUMAN TRAFFICKING

5:10-29.1 Training on recognizing and reporting suspected human trafficking

(a) All employees of hotels ***and motels*** working in ***[hotel]*** management, at the front desk or in registration, in janitorial or housekeeping services, or in ***[hotel]*** security shall be required to view an informational video on recognizing and reporting suspected human trafficking, and to verify to the owner or agent of the hotel ***or motel*** that they have done so.

1. The video is available in English and in Spanish on the Department’s website at ***[<http://nj.gov/dca/divisions/codes/resources/>]*** ***<http://www.nj.gov/dca/divisions/codes/resources/humantrafficking.html>]***.

2. A list of the names and positions of the current employees and the dates when the employee viewed the video shall be maintained with the hotel’s ***or motel’s*** records.

(b) The owner of a hotel ***or motel*** or manager acting as agent of the owner, pursuant to N.J.A.C. 5:10-11.2 shall complete a certification on a form to be supplied by the Bureau attesting to the fact that all employees currently working in the areas listed in (a) above have viewed the informational video. The certification shall be submitted with the application for a certificate of inspection required pursuant to N.J.A.C. 5:10-1.12.

(c) An informational sheet on reporting suspected human trafficking, including the contact information for the Hotline, New Jersey Commission on Human Trafficking, or other applicable telephone number, shall be posted in conspicuous and visible locations in areas accessed by hotel ***or motel*** employees, including, but not limited to, laundry rooms and employee break rooms. The poster, distributed by the New Jersey Office of the Attorney General, Division of Criminal Justice, Human Trafficking Task Force, is available in English ***and in Spanish*** on the Department’s website at ***[<http://nj.gov/dca/divisions/codes/resources/>]*** ***<http://www.nj.gov/dca/divisions/codes/resources/humantrafficking.html>]***.

(a)

DIVISION OF CODES AND STANDARDS

Liquefied Petroleum Gas

Adopted Amendment: N.J.A.C. 5:18-1.6

Proposed: August 7, 2017, at 49 N.J.R. 2326(a).

Adopted: November 17, 2017, by Charles A. Richman,

Commissioner, Department of Community Affairs.

Filed: December 11, 2017, as R.2018 d.022, **without change**.

Authority: N.J.S.A. 21:1B-2, 21:1B-15, 34:1-20, and 34:1A-3(e); and Reorganization Plan No. 002-1998.

Effective Date: January 16, 2018.

Expiration Date: August 1, 2024.

Summary of Public Comments and Agency Responses:

The following comments were received from Ed Ferguson, Director of National Reconditioning, AmeriGas.

COMMENT: The commenter states that including a second warning label may distract the user of the liquid petroleum gas (LPG) tank from the original warning label, thus leading users away from important safety information.

RESPONSE: Because the additional warning label would be in a visual form, it should reinforce rather than distract from the safety information.

COMMENT: The commenter inquires as to whether the manufacturers of the label may produce a single label with both warnings, rather than two separate labels.

RESPONSE: Yes, the labels may be produced as such.

COMMENT: The commenter inquires about whether the Department performed a study that proves the additional visual label will make the intended safety information more apparent.

RESPONSE: The Department believes a study is not necessary to come to the conclusion that an additional warning in visual form will encourage safer gas tank management.

COMMENT: The commenter inquires about whether there was a recent event related to LPG tank safety that motivated the administrative rule change.

RESPONSE: The change in label requirements is motivated by a proactive desire to improve the safety of the conditions in which LPG tanks are handled, rather than a reactive response to a prior event.

COMMENT: The commenter states that the administrative rule change does not provide guidelines related to the label’s required color, size, or shape, and requests further instruction on this issue.

RESPONSE: The manufacturers of the visual label may use their own judgment and expertise to construct the guidelines related to the label’s color, size, or shape to the extent that the label complies with N.J.A.C. 5:18-1.6(e).