

<u>Citation</u>	<u>Class</u>	<u>Type of Violation</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth and Each Subsequent Offense</u>
N.J.A.C. 7:27-16.3(t)	Records	M	\$500	\$1,000	\$2,500 ³	\$7,500 ³

(n)-(t) (No change.)

(a)

**AIR QUALITY, ENERGY, AND SUSTAINABILITY
DIVISION OF AIR QUALITY**

**Notice of Administrative Change and
Announcement of Availability of a New General
Permit (GP-016A) for Manufacturing and Materials
Handling Equipment**

N.J.A.C. 7:27-8.8(c)

Take notice that the Department of Environmental Protection (Department) is announcing the availability of a new General Permit GP-016A for manufacturing and materials handling equipment each with a potential to emit less than the reporting threshold for each air contaminant for minor facilities. This GP is replacing the current general permits GP-002 (Confined Abrasive Blasting Equipment), GP-003 (Woodworking Equipment), and GP-016 (Small Emitter General Air Permit - SEGAP).

This general permit is available beginning on November 20, 2017, and is being included in the list of sources at N.J.A.C. 7:27-8.8(c) for which general permits are available.

GP-016A allows for the construction, installation, reconstruction, modification, and operation of a single or multiple pieces of uncontrolled or controlled manufacturing and materials handling equipment each with a potential to emit less than the reporting threshold for each air contaminant as specified in the GP.

A general permit is a pre-approved permit to construct and certificate to operate, issued pursuant to N.J.A.C. 7:27-8.8, for one or more types of similar sources at a minor facility. A minor facility operator with a qualifying source may register for and operate under the conditions of the general permit, rather than submit a case-by-case permit application.

The Department published notice of the proposed general permit in the March 20, 2017, New Jersey Register at 49 N.J.R. 568(b), pursuant to the Air Pollution Control Act, N.J.S.A. 26:2C-9.2. The Department did not receive public comments during the 30-day comment period.

The general permit continues to provide for inspections and evaluations to ensure conformance with all provisions of N.J.A.C. 7:27. This general permit is issued under the authority of N.J.S.A. 26:2C-9.2 and N.J.A.C. 7:27-8.

How to Obtain a General Permit

To view the requirements of GP-016A, Manufacturing and Materials Handling Equipment, go to <http://www.state.nj.us/dep/aqpp/gp.html>. To register for an available general permit, click on the online application hyperlink under the general permit and follow the directions.

For technical questions, please contact the Bureau of Stationary Sources Help Desk at 609-633-2829 or 609-633-7259.

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

SUBCHAPTER 8. PERMITS AND CERTIFICATES FOR MINOR FACILITIES (AND MAJOR FACILITIES WITHOUT AN OPERATING PERMIT)

7:27-8.8 General permits

(a)-(b) (No change.)

(c) A general permit is available for the following sources:

1. (No change.)

[2. One or more pieces of woodworking equipment, located at the same facility, where all air contaminant emissions from the equipment are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;]

2. (Reserved)

3.-5. (No change.)

[6. One or more pieces of enclosed abrasive blasting equipment, located at the same facility, where all particulate air contaminant emissions from the equipment are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;]

6. (Reserved)

7.-16. (No change.)

[17. Equipment in which the combined weight of all raw materials used exceeds 50 pounds in any one hour, in accordance with N.J.A.C. 7:27-8.2(c)19, provided the emissions of all air contaminants are less than the reporting threshold specified in the General Operating Permit. In determining the weight of the raw materials used, the weight of the following shall be excluded, in accordance with N.J.A.C. 7:27-8.2(c)19ii:

i. Air;

ii. Water;

iii. Containers, provided that the container is not consumed as part of the operation of the equipment; and

iv. Paper, metal, or plastic that is twisted, bent or folded, in the equipment, provided that the twisting, bending, or folding does not cause visible emissions or air pollution; or]

17. Single or multiple pieces of uncontrolled or controlled manufacturing and materials handling equipment each with a potential to emit less than the reporting threshold for each air contaminant as specified in the GP (GP-016A);

18. (Reserved);

19. (No change.)

20. (Reserved);

21.-23. (No change.)

(d)-(o) (No change.)

HUMAN SERVICES

(b)

DIVISION OF DEVELOPMENTAL DISABILITIES

Records Confidentiality and Access to Client, Division, and Provider Records

Readoption with Amendments: N.J.A.C. 10:41

Proposed: July 17, 2017, at 49 N.J.R. 2179(a).

Adopted: October 16, 2017, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: October 23, 2017, as R.2017 d.199, **without change**.

Authority: N.J.S.A. 9:6-8.10a, 30:1-12, 30:4-24.3, 30:6D-4(f), and 47:1A-1 et seq.; 34 CFR 361.38, 42 CFR Part 2 and 45 CFR Parts 160 and 164; and 42 U.S.C. §§ 3601 et seq.

Effective Dates: October 23, 2017, Readoption; November 20, 2017, Amendments.

Expiration Date: October 23, 2024.

Summary of Public Comment and Agency Response:

One comment was received from Robert Stack, President and CEO of Community Options, Inc.

COMMENT: Community Options, Inc., believes that the revisions address needed changes relative to confidentiality, but noted a lack of reference to cyber security. The commenter believes that privacy concerns should be addressed with respect to the increased use of electronic billing now and in the future, and that provisions should be made to review how advanced technology and cyber security needs should be applied.

RESPONSE: The Department agrees that privacy and confidentiality must be maintained for electronic records and notes that the rules specifically include electronic documents within the definition of provider records, and provide that any client records that are maintained electronically are subject to the same requirements as records that are maintained on paper.

Federal Standards Statement

The rules readopted with amendments are consistent with the Federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 (HIPAA), 45 CFR Parts 160 and 164 and the Federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq., as they relate to access to and disclosure of protected health information. The rules do not impose any greater requirements than those imposed by Federal statutes and regulations.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:41.

Full text of the adopted amendments follows:

CHAPTER 41

RECORDS: CONFIDENTIALITY AND ACCESS TO CLIENT, DIVISION, AND PROVIDER RECORDS

SUBCHAPTER 1. GENERAL PROVISIONS

10:41-1.3 Definitions

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

...
 "Community Services Office" means a location housing components of Division community services operations. An individual's Community Services Office contact is determined by the county in which he or she resides. Community Services Office contact information can be found at <http://www.state.nj.us/humanservices/dd/staff/cso/index.html>.

...
 "Service component" means any developmental center, local office, or central office unit.

...
 "Under contract" means a provider under a written agreement with the Division or a provider approved by the Division to provide disability services to individuals who are eligible to receive services from the Division.

SUBCHAPTER 2. DIVISION POLICY ON CONFIDENTIALITY OF RECORDS

10:41-2.1 Division policy on confidentiality of records

(a)-(b) (No change.)

(c) The release of Division records, as defined in N.J.A.C. 10:41-1.3, shall be in accordance with N.J.S.A. 47:1A-1 et seq., the Open Public Records Act, and this chapter. All such records shall be redacted in accordance with N.J.A.C. 10:41-4.3.

(d) Records that are otherwise protected by law, for example, individual HIV/AIDS information as indicated in N.J.S.A. 26:5C-5 et seq., and individual drug and alcohol abuse information as indicated in 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records, shall not be disclosed without a specific authorization for the release of such information or a judicial order.

(e)-(g) (No change.)

SUBCHAPTER 3. CLIENT AND AGENCY RECORDS

10:41-3.2 Public and non-public Division and provider records

(a) (No change.)

(b) The following Division and provider records are not public and can only be released upon judicial order. These Division and provider records include:

1.-4. (No change.)

5. Intra- and inter-agency communications and procedures that are considered by the Division to be advisory, consultative, and deliberative material; risk management documents; and self-critical analyses;

6. Investigations conducted by the Department's Office of Licensing; and

7. (No change.)

SUBCHAPTER 4. CONFIDENTIALITY OF RECORDS

10:41-4.1 Safeguarding records

(a) (No change.)

(b) The Division's chief executive officer, community services administrator, or unit director shall safeguard the records of individuals in his or her Division service component, and shall determine who may access, inspect, or copy the records, how the records may be used, how long the records may be used, and other restrictions on access to the records, in accordance with this chapter and the HIPAA Privacy Rule, 41 CFR Parts 160 and 164.

(c)-(f) (No change.)

(g) Records shall be released to entities outside the Department of Human Services, such as the Centers for Medicare and Medicaid Services, New Jersey Department of Health, and Disability Rights New Jersey, if authorized by the Department to monitor the quality of services offered to the individual or as otherwise authorized by law. The persons identified in this subsection shall agree in writing to safeguard the confidentiality of records.

(h)-(j) (No change.)

10:41-4.2 Records held by providers under contract with the Division or licensed by the Department

(a)-(b) (No change.)

(c) Requests for copies of client records received by a provider under contract with the Division or licensed by the Department shall be referred to a Community Services Administrator. The provider shall forward the records to the Community Services Administrator. The Division shall be responsible for forwarding the records to the requester.

(d)-(g) (No change.)

10:41-4.3 Redaction of records

(a) When providing client records, all individual identifying information regarding individuals other than the individual who is the subject of the request, must be redacted, including, but not limited to, names, initials, and specific descriptions, from all client and agency records before they are disclosed. Redaction of individual identifying information shall be in accordance with 45 CFR 164.514(b)(2)(i). The Division MIS identification number may be used to identify individuals other than the individual who is the subject of the request.

(b) (No change.)

SUBCHAPTER 5. ACCESS AND RELEASE OF RECORDS

10:41-5.1 Access to client record

(a) An individual currently or formerly receiving services from the Division, or an individual's legal guardian, is entitled to inspect or request a copy of the client record. The Division shall require that the request to inspect the client record be in writing. The Division, or agency, must provide access or deny the request for access to the client record as soon as possible but no later than 30 days of the receipt of the request, as described in 45 CFR 164.524(b).

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

10:41-5.2 Release of client records

(a) (No change.)

(b) An individual currently or formerly receiving services from the Division, or an individual's legal guardian, shall receive a copy of the client record within 30 days of receipt by the Division of a valid written authorization or shall be advised in writing of reason for denial, as described in 45 CFR 164.524(b).

(c) Records of an individual shall be provided to other persons upon receipt of a valid written authorization by the individual or the individual’s legal guardian.

(d) Client records may be released without authorization if the request meets one of the exceptions set forth below:

1.-6. (No change.)

7. To an agency authorized to investigate allegations of abuse or neglect of an individual, for example, the Division of Child Protection and Permanency (DCP&P) in the Department of Children and Families in the case of children, the Ombudsman for the Institutionalized Elderly for individuals over 60 years of age, and Adult Protective Services in the case of an adult living in his or her own home;

8.-9. (No change.)

10:41-5.4 Records of deceased individuals

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

(d) Records shall be provided to Disability Rights New Jersey in accordance with 42 U.S.C. § 15043.

10:41-5.5 Records created or held by other entities

(a) Requests for copies of Division of Child Protection and Permanency (DCP&P) reports involving the investigation of abuse and neglect of individuals served by the Division of Developmental Disabilities shall be referred to DCP&P.

(b) Requests for copies of Division of Mental Health and Addiction Services’ (DMHAS) reports of investigations involving individuals served by the Division of Developmental Disabilities shall be referred to DMHAS.

(c) Requests for copies of Department’s Office of Investigation (OI) reports of investigations involving individuals served by the Division shall be referred to OI.

(d) Requests for copies of Department’s Office of Licensing (OOL) reports of licensing investigations involving individuals served by the Division shall be referred to OOL.

10:41-5.6 Copying fees

(a) Copies of records that may be released shall be provided in accordance with the provisions of this chapter and upon payment of the fees listed in N.J.S.A. 47:1A-5.

(b) (No change.)

(a)

DIVISION OF DEVELOPMENTAL DISABILITIES

Human Rights Committees

Readoption with Amendments: N.J.A.C. 10:41A

Proposed: May 15, 2017, at 49 N.J.R. 1177(a).

Adopted: October 16, 2017, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: October 24, 2017, as R.2017 d.200, **without change**.

Authority: N.J.S.A. 30:6D-1 et seq.

Effective Dates: October 24, 2017, Readoption;
November 20, 2017, Amendments.

Expiration Date: October 24, 2024.

Summary of Public Comment and Agency Response:

The Department received one comment from the public. A summary of the comment and the Division’s response follows:

COMMENT: Parent and guardian, Laura A. Weinberg, MS-SLS/SLP, MBA, expressed disagreement with a provision excluding groups with “future interests,” such as Disability Rights New Jersey, from being a member of a human rights committee (HRC), stating that Disability Rights NJ would have limited potential financial gains from actions of the HRC, and that the provision would exclude expert advocates from membership. The commenter also noted that ownership and other financial conflicts of interest are not named, and expressed that rather than exclude advocacy groups from membership, potential financial conflicts deemed relevant should be disclosed and made transparent.

RESPONSE: The Division thanks the commenter for her comment. The Division notes, however, that financial concerns are not the reason groups that may represent an individual’s future interests are not to be appointed as members of an HRC. Rather, as stated in the rules, such groups have a role and authority that exists independent of the HRC. This role must be independent of the HRC to allow for proper advocacy on behalf of individuals. The Division also notes that pursuant to N.J.A.C. 10:41A-3.1(e), the rules would allow advocates to become members of HRCs, as membership may include individuals with developmental disabilities, guardians or family members of individuals with developmental disabilities, persons with experience and background with rights issues, and persons with prior experience serving on HRCs, among others. Finally, the rules require a member of the HRC to abstain from voting on any matter in which he or she has a conflict of interest, which would include potential financial conflicts.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal requirements or standards.

Full text of the rules readopted with amendments can be found in the New Jersey Administrative Code at N.J.A.C. 10:41A.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

10:41A-1.2 Scope

The rules in this chapter establish the composition and operation of the Human Rights Committee in developmental centers, the Office of Community Services, and in the provider agencies and facilities under contract with or regulated by the Division.

10:41A-1.3 Definitions

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

“Administrator” means the Chief Executive Officer (CEO) of a developmental center, the Community Services Administrator, or the Executive Director or CEO of a provider agency under contract with, or regulated by, the Division.

... “Chief Executive Officer (CEO)” means the person having administrative authority over, and responsibility for, a provider agency under contract with the Division, a State-operated developmental center, or a private residential facility licensed under N.J.A.C. 10:47.

... “Committee meeting minutes” or “minutes” means a tangible record of the HRC meeting. Minutes shall include, but are not limited to: the date and time of meeting, who called it to order, who attended, all motions made, any conflicts of interest or abstentions from voting, when the meeting ended, and who drafted the minutes. Minutes shall include a brief summary of each matter addressed, the discussions conducted, a short statement of each recommendation made by the Committee, and a brief explanation of the rationale for the recommendation.

“Community services administrator” means a person or his or her designee having administrative authority and responsibility over a community services unit.

... “Human Rights Committee (HRC)” means a group comprised of affiliated and nonaffiliated professionals, individuals served, advocates and/or interested persons from the community at large who function as an advisory body to the CEO, Executive Director, or Community Services Administrator, on issues directly or indirectly affecting the rights of individuals served. At least two members are impartial outsiders, in that they would not have an interest represented by any other of the required members or the facility itself.

... “Non-affiliated member” means a member of a committee who is not employed by the service component, facility, or agency. This includes members of the New Jersey Council on Developmental Disabilities or former residents and staff of the facility.