

CIVIL SERVICE

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CIVIL SERVICE COMMISSION

Selection and Appointment

Proposed Readoption with Amendments: N.J.A.C. 4A:4

Proposed Repeal: N.J.A.C. 4A:4-2.13

Authorized By: Civil Service Commission, Robert M. Czech,
Chairperson, Civil Service Commission.

Authority: N.J.S.A. 11A:2-6(d), 11A:4-1 et seq., 11A:7-13, 38:23A-2, 40A:9-1.3 through 1.10, 40A:14-9.9, 40A:14-10.1a, 40A:14-12, 40A:14-45, 40A:14-123.1a, 40A:14-127, 40A:14-127.1, and 40A:14-180; P.L. 1992, c. 197 and P.L. 2008, c. 29; and Executive Order No. 10 (1982).

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

Proposal Number: PRN 2017-038.

A **public hearing** concerning the proposed readoption with amendments will be held on:

April 19, 2017 at 3:00 P.M.
Civil Service Commission Room
44 South Clinton Avenue
Trenton, New Jersey

Please call Walker Ristau at (609) 777-0910 if you wish to be included on the list of speakers.

Submit written comments by May 19, 2017, to:

Christopher Myers, Assistant Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
PO Box 312
Trenton, New Jersey 08625-0312
or electronically at: <http://info.csc.state.nj.us/cscmailer>.

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 4A:4 was scheduled to expire on February 20, 2016. That date was extended 12 months to February 20, 2017, by Gubernatorial action, pursuant to N.J.S.A. 52:14B-5.1.d(1). (see 48 N.J.R. 485(a)) As the Civil Service Commission (Commission) filed this notice of readoption with the Office of Administrative Law prior to February 20, 2017, the expiration date is extended 180 days to August 19, 2017, pursuant to N.J.S.A. 52:14B-5.1.(2). The Commission has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by law. Since N.J.A.C. 4A:4 was last readopted in 2008, various amendments have been adopted pursuant to Commission review of the rules.

Initially, it is noted that a number of sections in N.J.A.C. 4A:4 still refer to the Department of Personnel, Commissioner of Personnel, and Merit System Board, although the terminology changed pursuant to P.L. 2008, c. 29. All sections will be described in this Summary with language as currently expressed in these sections. Technical amendments are proposed pursuant to P.L. 2008, c. 29. Throughout the chapter, references to the "Department of Personnel" or the "Department" would be changed to the "Civil Service Commission," "Chairperson or designee," "a representative of the Civil Service Commission," or "Civil Service Commission staff," as appropriate. Similarly, references to the "Commissioner of Personnel" or "Commissioner" would be changed to the "Chairperson" or "Chairperson or designee," as appropriate. References to the "Chairperson of the Civil Service Commission or designee" or "Chair/CEO" would be changed to the "Chairperson or designee." References to the "Merit System Board," "Commissioner or Board," or "Board" would be changed to the "Civil Service Commission." Finally, reference to the "Division of EEO/AA" would be changed to "EEO/AA."

Subchapter 1 concerns types of appointments that may be made, and includes the following rules: N.J.A.C. 4A:4-1.1, Career service appointments; 1.2, Senior executive service appointments: State service; 1.3, Unclassified appointments; 1.4, Conditional regular appointments. It is proposed that a new paragraph be added to N.J.A.C. 4A:4-1.4(c), concerning career service appointments, which would allow the Chairperson of the Civil Service Commission or his or her designee to approve provisional appointments pending promotional examination procedures of individuals in titles in the non-competitive division to unrelated entry level or above entry level titles in the competitive division. To properly effectuate this purpose, it is also proposed that N.J.A.C. 4A:4-2.4(c) and 2.5(d) be similarly amended. It is noted that in 2015, the Commission has relaxed N.J.A.C. 4A:4-1.4(c) on a number of occasions to allow for such appointments, the most recent being at its meeting on November 10, 2016.

N.J.A.C. 4A:4-1.5 concerns provisional appointments. It is proposed that N.J.A.C. 4A:4-1.5(a)2 be amended to reflect the common practice of requiring the appointing authority to certify that the appointee meets the minimum qualifications for the provisional title, as this agency does not determine if a provisional appointee meets the minimum qualifications for the title until the examination is announced. 4A:4-1.6 concerns interim appointments. It is proposed that N.J.A.C. 4A:4-1.6(h)1 be amended to provide that an employee serving an interim appointment receive a retroactive appointment date consistent with the date of his or her interim appointment upon completion of a working test period if the closing or phasedown of a government operation is rescinded after the interim appointment is made. The amendment is proposed as a matter of fairness to the employee. N.J.A.C. 4A:4-1.7 concerns temporary appointments and N.J.A.C. 4A:4-1.8 deals with emergency appointments. N.J.A.C. 4A:4-1.9 concerns the return of employees to their permanent titles and this involves employees with permanent status who are returned to their permanent titles following a working test period in another title or following a conditional regular appointment, an interim appointment, or other specific types of finite, non-permanent appointments. N.J.A.C. 4A:4-1.10 concerns approval of appointments by the Civil Service Commission. It is noted that N.J.A.C. 4A:4-1.10(a) provides that all appointments, promotions, and related personnel actions are subject to Civil Service Commission review and approval, whether these personnel actions are in the career, unclassified, or senior executive service. This subsection clarifies that the Commission's appointment approval authority is a key part of the comprehensive regulatory scheme vested in the Chairperson of the Civil Service Commission to establish and maintain a civil service classification plan and, in State service, a Statewide compensation plan. See N.J.S.A. 11A:3-1 and 11A:3-7; N.J.A.C. 4A:3-3.2, 3.3, and 4.1. Moreover, N.J.A.C. 4A:4-1.10(c) provides that the Commission may order a retroactive appointment date due to administrative error, administrative delay, or other good cause, upon notice to affected parties. This provision ensures the availability of a remedy in cases where, through no fault of an employee, his or her appointment date was erroneously recorded by the appointing authority or by the Commission. Such a remedy may be effected whether or not the eligible list from which the employee was appointed is active or has expired.

Subchapter 2 covers competitive examinations. N.J.A.C. 4A:4-2.1, Announcements and applications, concerns the process of announcing open competitive and promotional examinations and application filing requirements. It is proposed that a new paragraph be added to subsection (c). New paragraph (c)6 would allow announcements for state open competitive examinations to include the location of the vacancy(ies). Currently, subsection (d), currently provides that promotional examinations shall be reannounced if, within one year of the closing date, the examination has not been developed and scheduled. However, in practice, circumstances may change within one year of the closing date and make the reannouncement of the examination unnecessary. For example, the position could be vacated or reclassified to another title, which would obviate the need for an examination for the title initially announced. Accordingly, it is proposed that subsection (d) be amended to provide that such examinations may be reannounced. Additionally, it is proposed that subsection (e) be amended to require that applications must be received by 4:00 P.M. on the announced closing date. This

amendment would allow Civil Service Commission staff to provide support to applicants experiencing technical difficulties with their online applications during normal working hours.

N.J.A.C. 4A:4-2.2 sets forth the types of examinations that may be administered. New paragraph (a)6 is proposed, which would include computer-based tests as a type of examination. N.J.A.C. 4A:4-2.3, Open competitive examinations, sets forth the criteria for announcing an open competitive examination, as well as minimum eligibility requirements. It is proposed that paragraph (b)3 be amended to provide that an application for an open competitive examination must be received by the announced time on the announced date. N.J.A.C. 4A:4-2.4, Promotional title scope: local service, concerns the method by which the titles are chosen to which a promotional examination will be open in local service. An amendment is proposed for subsection (c), which would permit, in appropriate circumstances as determined by the Chairperson or designee, such as a determination in a position classification review, promotional announcements to be opened to noncompetitive titles for an unrelated entry level or above entry level title in the competitive division of the career service. This would increase efficiency in the selection and appointment process because it would permit employees in noncompetitive titles whose positions are reclassified to an unrelated competitive title to compete promotionally for the position they encumber. Currently, appointing authorities must petition the Commission for a rule relaxation in order to permit the incumbent to compete in a promotional examination for the position.

N.J.A.C. 4A:4-2.5, Promotional title scope: State service, sets forth similar provisions pertaining to State service. An amendment is proposed at paragraph (b)2, which would allow appointing authorities to request limits to the title scope for a promotional announcement when it is open to a range of class codes, which would increase efficiency in the selection process. An amendment is also proposed for subsection (d), which mirrors, for the same reasons, the proposed amendment to N.J.A.C. 4A:4-2.4(c).

N.J.A.C. 4A:4-2.6, Eligibility for promotional examination, concerns eligibility criteria for promotional tests apart from title scopes. It is proposed that N.J.A.C. 4A:4-2.6(c)1 be amended to provide that out-of-title experience may be accepted for good cause. Good cause would include, but not be limited to, instances where the number of employees eligible for examination will result in an incomplete list or where the number of applications does not exceed the number of provisional incumbents by more than one. This amendment would allow Agency Services to accept an applicant's out-of-title experience, thereby easing administrative burden by reducing the number of eligibility appeals required to be reviewed by the Commission. It is also proposed that subsection (g) be amended to clarify that only an appointing authority may request that the time requirements specified in subsections (a) and (b) may be reduced to completion of the working test period. N.J.A.C. 4A:4-2.7, Promotion upon waiver of competitive examination, concerns the circumstances under which a promotional examination may be waived.

N.J.A.C. 4A:4-2.8, Scheduling of examinations, concerns the scheduling of tests and the timely arrival of candidates at the test site. It is proposed that paragraph (c)1 be amended to treat computer-based tests the same as written examinations. N.J.A.C. 4A:4-2.9, Make-up examinations, sets forth the criteria for administering make-up examinations, the method for requesting a make-up, and special circumstances affecting make-ups, such as the situations of employees on military leave or who have been the subject of disciplinary action. It is further proposed that the procedures for make-up examinations for professional level engineering promotional examinations, defined in subsection (b), and public safety promotional examinations, detailed in subsection (c) be amended to be identical. Thus, it is proposed that existing subsection (c) and existing subsections (d) through (j) be recodified accordingly. N.J.A.C. 4A:4-2.10, Conduct and security of examinations, sets forth basic procedures for test administration and necessary security measures. It is proposed that new paragraph (b)1 be added to state that all types of mobile phone or electronic recording/imaging devices are prohibited in the building where the examination is being conducted. N.J.A.C. 4A:4-2.11, Residence standards, sets forth general principles concerning the establishment of a

legal residence in the context of examinations requiring residence in a specific municipality or county or in the State of New Jersey. N.J.A.C. 4A:4-2.12, Professional qualifications substitution program, sets forth a mechanism by which some examination applicants may be able to substitute certain work experience for education required for examination eligibility purposes. N.J.A.C. 4A:4-2.13, College Level Examination Program (CLEP), specifies that CLEP scores may be substituted for college credits required for open competitive and promotional eligibility under certain circumstances. This section, regarding the acceptance of CLEP scores, is no longer in use, and is, therefore, proposed for repeal.

N.J.A.C. 4A:4-2.14, Accommodation and waiver of examinations for persons with disabilities, sets forth procedures for reasonable accommodations for people with disabilities who wish to take a civil service examination and the circumstances under which a test may be waived for a person with disabilities. N.J.A.C. 4A:4-2.15, Rating of examinations, sets forth the procedures for rating examinations. N.J.A.C. 4A:4-2.16, Retention and inspection of examination records, sets forth procedures for the retention of examination records and designates which records are open to public inspection and under what circumstances. N.J.A.C. 4A:4-2.17, Application processing fees, provides for examination application fees and exceptions to paying such fees.

Subchapter 3 concerns eligible lists. N.J.A.C. 4A:4-3.1, Types of eligible lists, sets forth the types of eligible lists that may be established, including open competitive, promotional, regular reemployment, police or fire reemployment, and special reemployment. It is proposed that N.J.A.C. 4A:4-3.1(a)4 be amended to reflect P.L. 2015, c. 17, which created sheriff's officer reemployment lists. The Commission notes that the retroactive clause of P.L. 2015, c. 17, which states that the act is retroactive to January 1, 2002, is ambiguous, as it could be interpreted to mean that former permanent sheriff's officers who resigned in good standing on or after January 1, 2002, and are appointed from a sheriff's officer reemployment list may displace current sheriff's officers who were appointed from open-competitive eligible lists. It is the long-standing policy of the Commission to not disturb appointments of permanent employees, as appointing authorities have a legitimate expectation of finality regarding the employment status of long-term tenured employees. The potential disruption to an appointing authority's operation that could be caused by displacing a sheriff's officer who was appointed from an open competitive list between January 1, 2002 and February 4, 2015, could be detrimental to public safety. Thus, it would be unfair for an individual on the sheriff's officer reemployment list, who only has an inchoate right to a position, to potentially abrogate the tenure rights of long-term employees. Therefore, it is proposed that a new subsection (b) be added to state that any person appointed as a sheriff's officer prior to the February 5, 2015, passage of P.L. 2015, c. 17, will not be displaced by a person appointed from a sheriff's officer special reemployment list.

N.J.A.C. 4A:4-3.2, Order of names on eligible lists, sets forth the procedures for ordering names on the types of eligible lists indicated in N.J.A.C. 4A:4-3.1, and provides some examples. It is proposed that subsection (d) be amended to reflect P.L. 2015, c. 17, which created sheriff's officer reemployment lists. N.J.A.C. 4A:4-3.3, Duration and cancellation of eligible lists, sets forth the duration of the different types of lists and the circumstances under which an eligible list may be cancelled. Although P.L. 2015, c. 17, does not expressly state that sheriff's officer reemployment lists have unlimited duration, the legislative intent clearly indicates that the act was supposed to provide for sheriff's officer reemployment lists of unlimited duration. Further support for this interpretation lies in the act's retroactivity to January 1, 2002. As regular reemployment lists expire after three years, retroactivity to January 1, 2002, would be meaningless unless sheriff's officer reemployment lists have an unlimited duration. Therefore, an amendment is proposed to N.J.A.C. 4A:4-3.3(b)3, which would provide that sheriff's officer reemployment lists are of an unlimited duration. N.J.A.C. 4A:4-3.4, Revival of eligible lists, concerns the circumstances under which an eligible list may be revived. N.J.A.C. 4A:4-3.5, Consolidation of eligible lists, sets forth some methods by which eligible lists may be consolidated under appropriate circumstances. N.J.A.C.

4A:4-3.6, Additions to eligible lists, sets forth the circumstances under which names may be added to an eligible list and the rights of an eligible whose name is added to a list. N.J.A.C. 4A:4-3.7, Priority of eligible lists, establishes the priority of the usage of the lists and identifies certain types of appointments that take priority over others. It is proposed that N.J.A.C. 4A:4-3.7(a)4 be amended to reflect P.L. 2015, c. 17, which created sheriff's officer reemployment lists.

N.J.A.C. 4A:4-3.8, Correction of errors, sets forth the circumstances under which an error on a list may be corrected and the effect such a correction may have on other appointments and list certifications. N.J.A.C. 4A:4-3.9, Reemployment program for certain law enforcement officers and firefighters, sets forth the program established by statute, N.J.S.A. 40A:14-180, in which a municipality or a county with a police department, a fire department, or a fire district may appoint laid off police officers and firefighters from other jurisdictions to fill vacancies. N.J.A.C. 4A:4-3.10, Procedures for reemployment program for certain law enforcement officers and firefighters, delineates the procedures for making such appointments and the rights individuals receiving such appointments have.

Subchapter 4 governs certifications from eligible lists. N.J.A.C. 4A:4-4.1, Need for certification, sets forth the circumstances under which a certification of an eligible list may be requested. N.J.A.C. 4A:4-4.2, Issuance of certification, includes procedures for issuing a certification of a list, an appointing authority's entitlement to a complete certification and how that is defined, and the procedures to follow if a certification is not complete. It is proposed that paragraph (c)1 be amended to reflect P.L. 2015, c. 17, which created sheriff's officer reemployment lists. N.J.A.C. 4A:4-4.3, Certification from appropriate lists, permits a certification to be issued for an appropriate title of the same or higher level, in the same or a related series, or from a common or a similar State or local service list under certain circumstances when an eligible list for a given title is either unavailable or incomplete. N.J.A.C. 4A:4-4.4, Limitation on number of times eligible is certified, limits the number of times a non-veteran eligible can be certified to the same appointing authority from an open competitive list. N.J.A.C. 4A:4-4.5, Certifications limited to persons of a particular sex, religion, or national origin, permits a certification to be issued based on a bona fide occupational qualification. N.J.A.C. 4A:4-4.6, Eligibles on military leave, provides for the rights of eligibles on military leave, and the options of an appointing authority under those circumstances. N.J.A.C. 4A:4-4.7, Removal of names, itemizes valid causes for removal of an eligible's name from a list and the procedures followed in the list removal process. N.J.A.C. 4A:4-4.8, Disposition of a certification, sets forth the procedures to follow in making appointments from a certification. It is proposed that N.J.A.C. 4A:4-4.8(a)2 be amended to reflect P.L. 2015, c. 17, which created sheriff's officer reemployment lists. N.J.A.C. 4A:4-4.9, Date of appointment, sets forth the parameters within which the date of appointment from an eligible list may be set. N.J.A.C. 4A:4-4.10, Certification of additional eligibles, addresses a situation in which an eligible who accepts employment cannot begin work within three weeks or such other reasonable time as specified by the appointing authority.

Subchapter 5 concerns working test periods. N.J.A.C. 4A:4-5.1, General provisions, defines the concept of the working test period. It is proposed that N.J.A.C. 4A:4-5.1(b)1 be amended to reflect P.L. 2015, c. 17, which created sheriff's officer reemployment lists. N.J.A.C. 4A:4-5.2, Duration, sets forth the duration of the working test period, which depends on whether the title is in State or local service, whether the working test period needs to be lengthened beyond its normal duration, and also whether an eligible is appointed to an entry level law enforcement, correction officer, juvenile detention officer, or firefighter title. N.J.A.C. 4A:4-5.3, Progress reports, provides a schedule for the completion of working test period progress reports. N.J.A.C. 4A:4-5.4, Working test period appeals, permits an employee to appeal a separation at the end of the working test period due to unsatisfactory performance. An amendment clarifying that "procedures" in this rule refer to appeal procedures is proposed. N.J.A.C. 4A:4-5.5, Restoration to eligible list or former title, concerns an employee's right to be restored to an eligible list or former title upon separation during or at the end of a working test period.

Subchapter 6 concerns examination and selection disqualification and appeals. N.J.A.C. 4A:4-6.1, Examination and selection disqualification, addresses the various grounds for disqualification from a test or from appointment of an applicant or eligible. N.J.A.C. 4A:4-6.2, Actions against disqualified persons, sets forth the measures that may be taken against a disqualified person, including rejection of an examination application, removal of an eligible's name from a list, and removal from employment, among other actions. N.J.A.C. 4A:4-6.3, Examination and selection appeals, sets forth the types of examination and selection appeals that an individual may file and the procedures that are to be followed in filing such appeals. N.J.A.C. 4A:4-6.4, Review of examination items, scoring, and administration, sets forth the periods within which a test candidate may review a test paper and file a particular type of appeal and addresses examination security issues related to the review process. In order to eliminate any ambiguity, it is proposed that N.J.A.C. 4A:4-6.4(c) be amended to specify that examination administration appeals must be filed in writing at the examination site on the day of the examination. N.J.A.C. 4A:4-6.5, Medical and/or psychological disqualification appeals, concerns appeals by an eligible of his or her disqualification from appointment for medical or psychological reasons and sets forth the procedures to be followed in this appeal process. An amendment is proposed to subsection (e), which would facilitate the timely processing of medical/psychological disqualification appeals by requiring appellants to submit a report from a New Jersey licensed physician within 90 calendar days of the filing of his or her appeal to the Civil Service Commission. N.J.A.C. 4A:4-6.6, Disqualification appeals, sets forth the procedures for filing appeals other than those described elsewhere in the chapter.

Subchapter 7 concerns appointments and employee movements not covered elsewhere in the chapter. N.J.A.C. 4A:4-7.1, Transfers within the same governmental jurisdiction, covers permanent, temporary, and emergency transfers of employees and sets forth procedures to follow in those instances. N.J.A.C. 4A:4-7.1A, Intergovernmental transfers, concerns the movement of a permanent employee between government jurisdictions operating under Title 11A and provides cross-references to other civil service rules regarding the effect of such movements on the various leave programs, seniority used for different purposes, and other aspects of the civil service system. It is noted that the Commission has relaxed this rule on numerous occasions. Therefore, it is proposed that N.J.A.C. 4A:4-7.1A(a)1 be added to provide for the current practice of permitting non-permanent employees serving in entry-level law enforcement titles who were appointed from an eligible list and have completed the required Police Training Commission training course to intergovernmentally transfer upon consent of the sending and receiving jurisdictions. However, such employees will be required to complete the full 12-month working test period with the receiving jurisdiction. N.J.A.C. 4A:4-7.2, Reassignments, defines employee reassignments. N.J.A.C. 4A:4-7.3, Relocation assistance: State service, governs financial assistance to permanent State employees who are transferred or reassigned to a new work location due to the movement of an office or a unit or the closing or phasedown in anticipation of a closing of a State operation; it is noted that such financial assistance is subject to available appropriations. N.J.A.C. 4A:4-7.4, Retention of rights, sets forth the rights retained by an employee who is permanently or temporarily transferred, receives an intergovernmental transfer, or is reassigned. N.J.A.C. 4A:4-7.5, Transfer during a working test period, sets forth limits on an employee transfer during a working test period and the employee's rights in this type of situation.

N.J.A.C. 4A:4-7.6, Lateral title change, defines the meaning of a lateral title change of an employee and includes procedures for determining whether the employee retains permanent status or must be appointed pending examination. It is proposed that subsection (b) be amended to require that the determination of whether titles are substantially similar shall be in accordance with N.J.A.C. 4A:8-2.1(a). N.J.A.C. 4A:4-7.7, Appeals, concerns appeals that may be filed regarding transfers, reassignments, and lateral title changes. N.J.A.C. 4A:4-7.8, Voluntary demotion, defines the voluntary demotion of an employee and sets forth the parameters within which such a personnel action may be taken and the circumstances under which an employee who has been voluntarily demoted may return to his or her prior

permanent title. N.J.A.C. 4A:4-7.9, Resignation/new appointment, governs the appointment of a permanent employee from an open competitive list to a title in a different organizational unit who is considered to have resigned from the previous permanent title. N.J.A.C. 4A:4-7.10, Regular reemployment, governs the procedures by which a permanent employee may be appointed from a regular reemployment list or a police or fire reemployment list and provides when seniority commences in those situations. For the reasons outlined in the discussion of the amendments to N.J.A.C. 4A:4-3.1, it is proposed that this rule be amended to provide that sheriff's officer reemployment lists are of an unlimited duration. N.J.A.C. 4A:4-7.11, Transfer or combining of functions, governs the status of employees affected by a transfer or combining of functions between two or more civil service agencies or political subdivisions. N.J.A.C. 4A:4-7.12, Reinstatement following disability retirement, governs the rights of a permanent employee placed on disability retirement to return to work.

As the Commission 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 rules in N.J.A.C. 4A:4 proposed for readoption with amendments and a repeal would continue to provide a clear, regulatory framework for vital activities of the Civil Service Commission concerning selection and appointment. These rules have a substantial impact upon hundreds of thousands of civil service employees and candidates for employment, as well as several hundred State and local appointing authorities. In the absence of readoption of this chapter, these individuals and government agencies would have no guidance on matters involving selection and appointment of personnel, other than the provisions of Title 11A, New Jersey Statutes.

In particular, the amendments to N.J.A.C. 4A:4-1.1(c)3, 2.4(c) and (c)4, and 2.5(d) and (d)3, which permit the Division of Agency Services to approve provisional appointments pending promotional examination procedures of individuals in titles in the non-competitive division to unrelated entry level or above entry level titles in the competitive division, would have a positive social impact by increasing efficiency and easing administrative burden.

The proposed amendment to N.J.A.C. 4A:4-1.5(a)2, which states that an appointing authority must certify that the provisional appointee meets the minimum requirements for the title is not expected to have a significant social impact, as it codifies current practice. However, the amendment to N.J.A.C. 4A:4-1.6(h)1, which provides that an employee serving an interim appointment receive a retroactive appointment date consistent with the date of his or her interim appointment upon completion of a working test period if the closing or phasedown of a government operation is rescinded after the interim appointment is made, is proposed as a matter of fairness to the employee and, thus, expected to have a positive social impact.

The proposed amendment to N.J.A.C. 4A:4-2.1(c)6, which notifies applicants, in the examination announcement for a State open competitive examination, of the location of the job vacancy, is expected to have a positive social impact by giving applicants greater information about the examination. By requiring applications to be received by 4:00 P.M. on the closing date rather than 11:50 P.M., the amendments to N.J.A.C. 4A:4-2.1(e) and 2.3(b)3 are also anticipated to have a positive social impact by ensuring those applicants who experience technical difficulties in submitting their applications can receive timely agency support before the application deadline.

The readoption of N.J.A.C. 4A:4-2.3(b)2, regarding methods of age reduction for purposes of meeting the maximum hiring age of 35 for municipal police officers, would ensure that individuals over the age of 35 with prior law enforcement experience receive appropriate consideration. Readoption of this paragraph would assist agency staff, appointing authorities, and members of the public in becoming familiar with the concept of age reduction in the context of municipal police officer eligibility.

A positive social impact is expected from the amendments to N.J.A.C. 4A:4-2.2(a)6 and 2.8(c)1, which allow computer-based tests as a type of examination, as the amendments merely codify current

practice. The amendment to N.J.A.C. 4A:4-2.5(b)2, which would allow appointing authorities to request limits to the title scope for a promotional announcement when it is open to a range of class codes, would have a positive social impact by increasing efficiency in the selection process.

Currently, only the Commission may find good cause to accept an appellant's out-of-title work experience for an open competitive announcement. By allowing the Division of Agency Services to accept an applicant's out-of-title experience, the proposed amendment to N.J.A.C. 4A:4-2.6(c)1 is expected to reduce the amount of appeals before the Commission and ensure a more timely acceptance of out-of-title work experience where appropriate. The proposed amendment to N.J.A.C. 4A:4-2.6(g) is expected to have a positive social impact by clarifying that only an appointing authority may request that certain time requirements may be reduced to completion of the working test period.

No significant social impact is expected from the proposed amendment to N.J.A.C. 4A:4-2.9, which would make the make-up examination procedures for certain public safety titles identical to those of professional level engineering titles. In general, the make-up examination procedures for professional level engineering titles are less strict and, therefore, affected public safety test takers would likely benefit from this amendment.

The proposed amendment to N.J.A.C. 4A:4-2.10, which provides a new paragraph (b)1 to clarify that all types of mobile phone or electronic recording/imaging devices are prohibited in the building where the examination is being conducted, would ensure greater examination security.

No significant social impact is expected from the repeal of N.J.A.C. 4A:4-2.13, which concerns the acceptance of CLEP scores, as CLEP scores are no longer accepted. A positive impact is expected from the proposed amendments to N.J.A.C. 4A:4-3.1, 3.7(a)4, 4.8(a)2, and 5.1(b)1 by ensuring these rules comply with P.L. 2015, c. 17, which established reemployment lists for sheriff's officers. Additionally, the proposed amendment to N.J.A.C. 4A:4-3.1, which states that any person appointed prior to the effective date of P.L. 2015, c. 17, shall not be displaced by a person appointed from a sheriff's officer reemployment list, is expected to have a positive social impact on sheriff's officers, as the displacement of current sheriff's officers and the possible effect on seniority could have a negative impact on morale. The proposed amendments to N.J.A.C. 4A:4-3.3(b)3 and 7.10(c), which set forth that sheriff's officer reemployment lists are of unlimited duration, are expected to have a positive social impact by codifying the legislative intent behind P.L. 2015, c. 17, to ensure that sheriff's officer reemployment lists, like police officer and firefighter reemployment lists, do not expire. A regular reemployment list is of limited duration and expires after three years.

The readoption of N.J.A.C. 4A:4-4.7(b) would benefit eligibles whose names are being removed from an eligible list by request of the appointing authority. Provisions would require an appointing authority to provide copies of all relevant list removal materials to the eligible, either at his or her request or upon the eligible's appeal. Any eligible would benefit from being aware of the specific grounds for the removal request, so that he or she may either frame the arguments in an appeal or simply be aware of possible problems with his or her credentials for future employment opportunities.

The proposed amendments to N.J.A.C. 4A:4-5.4 that clarify that "procedures" refer to appeal procedures, and N.J.A.C. 4A:4-6.4, specifying that examination administration appeals must be filed in writing at the examination site on the day of the examination, are intended to eliminate ambiguity. The proposed amendment to N.J.A.C. 4A:4-6.5(e) is anticipated to have a positive impact by facilitating the timely processing of medical or psychological disqualification appeals by requiring appellants to submit a report from a New Jersey licensed physician within 90 calendar days of the filing of his or her appeal to the Civil Service Commission.

The Commission has relaxed N.J.A.C. 4A:4-7.1A, which concerns intergovernmental transfers, on numerous occasions. The proposed amendment is anticipated to have a positive social impact because it would reduce the amount of requests for rule relaxations before the Commission. Finally, the proposed amendment to N.J.A.C. 4A:4-7.6(b),

which requires that the determination of whether titles are substantially similar shall be in accordance with N.J.A.C. 4A:8-2.1(a), is expected to have a positive impact by ensuring better uniformity in the rules.

Economic Impact

The proposed readoption of N.J.A.C. 4A:4 with amendments and a repeal would have at least a partial economic impact upon employees, appointing authorities, and the public at large.

In particular, the amendments to N.J.A.C. 4A:4-1.1(c)3, 2.4(c) and (c)4, and 2.5(d) and (d)3, which permit the Division of Agency Services to approve provisional appointments pending promotional examination procedures of individuals in titles in the non-competitive division to unrelated entry level or above entry level titles in the competitive division, would have an economic impact by increasing efficiency and ease administrative burden.

The proposed amendment to N.J.A.C. 4A:4-1.5(a)2, which states that an appointing authority must certify to instead require that the appointing authority certify that the appointee meets the minimum requirements for the title is not expected to have a significant economic impact, as it codifies current practice. However, the proposed amendment to N.J.A.C. 4A:4-1.6(h)1, which provides that an employee serving an interim appointment receive a retroactive appointment date consistent with the date of his or her interim appointment upon completion of a working test period if the closing or phasedown of a government operation is rescinded after the interim appointment is made, could have a positive economic impact on the affected employee.

The proposed amendments to N.J.A.C. 4A:4-2.1(c)6, which notifies applicants in the examination announcement for a State open competitive examination the location of the job vacancy is not expected to have an economic impact. Similarly, the proposed amendments to N.J.A.C. 4A:4-2.1(e) and 2.3(b)3, which concern the application filing deadline, are also not anticipated to have an economic impact.

No economic impact is expected from the proposed amendments to N.J.A.C. 4A:4-2.2(a)6 and 2.8(c)1, which allow computer-based tests as a type of examination, as the amendments merely codify current practice. Nevertheless, the preference of computer-based tests over paper tests yields a positive economic benefit in the savings of printing costs. The proposed amendment to N.J.A.C. 4A:4-2.5(b)2, which would allow appointing authorities to request limits to the title scope for a promotional announcement when it is open to a range of class codes, would have an economic impact by increasing efficiency in the selection process.

Currently, only the Commission may find good cause to accept an appellant's out-of-title work experience for an open competitive announcement. By allowing the Division of Agency Services to accept an applicant's out-of-title experience, the proposed amendment to N.J.A.C. 4A:4-2.6(c)1 is expected to have a positive economic impact by reducing the amount of appeals before the Commission and thereby increasing administrative efficiency. The proposed amendment to N.J.A.C. 4A:4-2.6(g) is not expected to have an economic impact, as it merely clarifies that only an appointing authority may request that certain time requirements may be reduced to completion of the working test period.

No significant economic impact is expected from the proposed amendment to N.J.A.C. 4A:4-2.9, which would make the make-up examination procedures for certain public safety titles identical to those of professional level engineering titles. In general, the make-up examination procedures for professional level engineering titles are less strict and, therefore, affected public safety test takers would likely benefit from this amendment.

The amendment to N.J.A.C. 4A:4-2.10, which provides a new paragraph (b)1 to clarify that all types of mobile phone or electronic recording/imaging devices are prohibited in the building where the examination is being conducted, is not anticipated to have any economic impact.

No significant economic impact is expected from the repeal of N.J.A.C. 4A:4-2.13, which concerns the acceptance of CLEP scores, as CLEP scores are no longer accepted.

No appreciable economic impact is expected from the proposed amendments to N.J.A.C. 4A:4-3.1(a)4, 3.7(a)4, 4.8(a)2, and 5.1(b)1,

which all ensure these rules comply with P.L. 2015, c. 17, which established reemployment lists for sheriff's officers. The proposed amendments to N.J.A.C. 4A:4-3.3(b)3 and 7.10(c), which set forth that sheriff's officer reemployment lists are of unlimited duration, are expected to have a positive economic impact on former permanent sheriff's officers who resigned in good standing on or after January 1, 2002, by codifying the legislative intent behind P.L. 2015, c. 17, to ensure that sheriff's officer reemployment lists, like police officer and firefighter reemployment lists, do not expire. Additionally, clarifying that individuals currently serving as sheriff's officers will not be displaced by persons appointed from a sheriff's officer reemployment list will ensure that current officers are not negatively impacted by these amendments.

The proposed amendments to N.J.A.C. 4A:4-5.4, which clarify that "procedures" refer to appeal procedures, and N.J.A.C. 4A:4-6.4, which specify that examination administration appeals must be filed in writing at the examination site on the day of the examination, are intended to eliminate ambiguity and are accordingly expected to not have an appreciable economic impact. Similarly, the proposed amendment to N.J.A.C. 4A:4-6.5(e) is not anticipated to have a significant economic impact, as it is intended to facilitate the timely processing of medical or psychological disqualification appeals by requiring appellants to submit a report from a New Jersey licensed physician within 90 calendar days of the filing of his or her appeal to the Civil Service Commission.

The Commission has relaxed N.J.A.C. 4A:4-7.1A, which concerns intergovernmental transfers, on numerous occasions. Therefore, the proposed amendment is anticipated to have a positive economic impact because it would reduce the amount of requests for rule relaxations before the Commission and, thereby, increase administrative efficiency. Finally, the proposed amendment to N.J.A.C. 4A:4-7.6(b), which requires that the determination of whether titles are substantially similar shall be in accordance with N.J.A.C. 4A:8-2.1(a), is not expected to have an appreciable economic impact, as it merely ensures better uniformity in the rules.

Federal Standards Statement

A Federal standards analysis is not required because N.J.A.C. 4A:4 is not subject to any Federal requirements or standards.

Jobs Impact

It is not anticipated that any jobs would be generated or lost if the rules at N.J.A.C. 4A:4 proposed for readoption with amendments and a repeal were adopted. The rules proposed for readoption with amendments and a repeal govern aspects of an existing program for selection and appointment in the civil service system.

Agriculture Industry Impact

It is not anticipated that the rules at N.J.A.C. 4A:4 proposed for readoption with amendments and a repeal would have any agriculture industry impact. The rules involve public sector employment.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the rules proposed for readoption with amendments and a repeal would have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments and a repeal regulate employment in the public sector.

Housing Affordability Impact Analysis

Since they concern selection and appointment to positions in State and local civil service, the rules proposed for readoption with amendments and a repeal will have no impact on the number of housing units, the affordability of housing, or the average cost of housing in New Jersey.

Smart Growth Development Impact Analysis

Since they concern selection and appointment to positions in State and local civil service, the rules proposed for readoption with amendments and a repeal will have no impact on smart growth development or new construction within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 4A:4.

Full text of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4A:4-2.13.

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

SUBCHAPTER 1. TYPES OF APPOINTMENTS

4A:4-1.1 Career service appointments

(a) (No change.)

(b) The [Commissioner] **Chairperson or designee** may authorize an appointing authority to make a regular appointment of a qualified person to a title in the noncompetitive division of the career service without an examination. Preference shall be given to disabled veterans and then veterans. See N.J.A.C. 4A:5 on [veterans] **veterans'** preference.

(c) The [Commissioner] **Chairperson or designee** may authorize the promotion, through promotional examination procedures, from the noncompetitive division, of permanent employees who meet the open competitive requirements, to:

1. A related entry level title in the competitive division; [or]

2. In appropriate situations, to a related above-entry level title in the competitive division[.]; or

3. An unrelated entry level or above-entry level title in the competitive division, in appropriate situations, such as a classification determination.

4A:4-1.2 Senior executive service appointments: State service

(a) A senior executive service appointment may be made to any position allocated to the senior executive service by the [Board] **Civil Service Commission**.

(b) (No change.)

4A:4-1.3 Unclassified appointments

(a) An unclassified appointment may be made to any title or position allocated to the unclassified service by statute or the [Board] **Civil Service Commission**.

(b) (No change.)

4A:4-1.5 Provisional appointments

(a) A provisional appointment may be made only in the competitive division of the career service when all of the following conditions are met:

1. (No change.)

2. The **appointing authority certifies that the** appointee meets the minimum qualifications for the title at the time of the appointment; and

3. (No change.)

(b) Any employee who is serving on a provisional basis and who fails to file for and take an examination [which] **that** has been announced for his or her title shall be separated from the provisional title. The appointing authority shall be notified by the [Department] **Chairperson or designee** and shall take necessary steps to separate the employee within 30 days of notification, which period may be extended by the [Commissioner] **Chairperson or designee** for good cause.

4A:4-1.6 Interim appointments

(a) (No change.)

(b) When an appointing authority makes an appointment to a specific position in State service or a specific title in local service, an interim appointment shall be made where the position/title is held by a permanent employee who:

1.-2. (No change.)

3. Has been removed or demoted for disciplinary reasons and is awaiting final administrative action by the [Merit System Board] **Civil Service Commission** on appeal; or

4. (No change.)

(c) An interim appointment may be made where the position/title will be abolished at a future date pursuant to a closing or phasedown of a government operation. Such an interim appointment may be made only following official notification to the [Commissioner of Personnel] **Chairperson or designee** by the applicable department head, in State

service, or by the appointing authority, in local service, of the closing or phasedown.

(d)-(e) (No change.)

(f) Any interim appointment shall remain in effect only during the period of time that the permanent employee is on an approved leave of absence, on indefinite suspension, or awaiting final administrative action of the [Merit System Board] **Civil Service Commission** on the appeal of a disciplinary demotion or removal, or during the period leading up to the date on which the closing or phasedown of the government operation is scheduled to conclude.

1. (No change.)

(g) (No change.)

(h) If a complete eligible list exists for the title, the interim appointment shall be made from that list. An interim appointee's name shall remain on the eligible list for consideration for permanent employment.

1. If the closing or phasedown of a government operation is rescinded after an interim appointment has been made from an eligible list, the interim appointee who was appointed from the eligible list shall receive a permanent appointment subject to the satisfactory completion of a working test period, regardless of whether the eligible list has already expired. **Upon completion of a current working test period, the interim appointee will receive a retroactive permanent appointment date consistent with the date of his or her interim appointment from the eligible list.**

(i)-(k) (No change.)

4A:4-1.7 Temporary appointments

(a) The [Commissioner] **Chairperson or designee** may approve temporary appointments to positions in which the job assignment is for an aggregate period of not more than six months in a 12-month period. A temporary appointment for a maximum of 12 months may be approved by the [Commissioner] **Chairperson or designee** to a position established as a result of a short-term grant.

(b)-(d) (No change.)

4A:4-1.8 Emergency appointments

The [Commissioner] **Chairperson or designee** may authorize an emergency appointment for a period not to exceed 30 days when the appointing authority certifies that the failure to make such appointment will result in harm to persons or property.

4A:4-1.9 Return of employees to their permanent titles

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

(c) The appointing authority and the returning employee may agree to use the following optional procedures to effect the return of the permanent employee:

1. (No change.)

2. The status and compensation rights of the returning employee shall be determined in accordance with normal [merit system] **civil service** rules and policies.

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

4A:4-1.10 Approval of appointments by Civil Service Commission

(a) All initial and subsequent appointments, promotions, and related personnel actions in the career, unclassified, or senior executive service are subject to the review and approval of the [Civil Service Commission] **Chairperson or designee**.

1. (No change.)

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

SUBCHAPTER 2. COMPETITIVE EXAMINATIONS

4A:4-2.1 Announcements and applications

(a) On a daily basis, open competitive examination announcements shall be posted on, and applications made available through, the Civil Service Commission web site (<http://www.state.nj.us/csc>) and may be publicized by other appropriate means, as approved by the Chairperson [of the Civil Service Commission] or designee, to secure sufficient qualified candidates.

(b) (No change.)

(c) Examination announcements shall include at least the following information:

1.-3. (No change.)

4. Filing information; [and]

5. In open competitive examinations, a reference to duties and responsibilities[.]; **and**

6. For State open competitive announcements: location of the vacancy(ies).

(d) A promotional examination [shall] **may** be reannounced if, within one year of the closing date, if the examination has not been developed and scheduled.

(e) Unless otherwise provided for by the Chairperson [of the Civil Service Commission] or designee, applications for open competitive and promotional examinations shall be submitted to the Civil Service Commission no later than [11:59] **4:00** P.M. on the announced application filing date. [When an application is mailed, the application's postmark date shall be considered the date on which the application is submitted.]

(f)-(g) (No change.)

(h) All examination applications shall remain confidential, except as the Chairperson [of the Civil Service Commission] or designee may determine to be in the public interest.

(i) (No change.)

4A:4-2.2 Types of examinations

(a) The [Commissioner of the Department of Personnel] **Chairperson or designee** shall administer examinations for appointment in the competitive division of the career service, which may include any one or more of the following:

1.-5. (No change.)

6. Computer-based tests;

[6.] **7.** (No change in text.)

[7.] **8.** Other appropriate measures of knowledge, skills, and abilities.

(b) The [Department of Personnel] **Chairperson or designee** may select special examiners to act as subject matter specialists or to provide other assistance. Employees of the State or local jurisdictions may be so engaged as part of their official duties during normal working hours with the approval of their appointing authority. Extra compensation may be provided by the [Department of Personnel] **Chairperson or designee** for such service outside normal working hours.

(c) (No change.)

4A:4-2.3 Open competitive examinations

(a) Vacancies shall be filled by promotional examination, unless the [Commissioner] **Chairperson or designee** determines that it is in the best interest of the career service to hold an open competitive examination. The determination to announce an open competitive examination shall be based on at least one of the following conditions:

1.-5. (No change.)

(b) Unless otherwise specified, an applicant shall meet the following criteria by the announced closing date:

1. Be a resident of the State or specified local jurisdiction (see N.J.A.C. 4A:4-2.11), except when:

i. A different residency requirement is specified by law or provided by the [Commissioner] **Chairperson or designee**; or

ii. (No change.)

2. Meet all requirements specified in the examination announcement:

i. (No change.)

ii. For good cause, the [Commissioner] **Chairperson or designee** may deem an individual a former law enforcement officer as defined in (b)2i above, even though the individual's separation from service shall not occur except upon a new appointment.

iii. (No change.)

3. File an application with all supporting documents or proofs by the announced filing date **and time**.

(c) In announcing open competitive examinations, the [Department of Personnel] **Chairperson or designee** may provide a single application for several announcements and/or title areas (such as police, sheriff, corrections, and bilingual). The applicant's eligibility for particular announcements and/or title areas may depend upon the applicant's residency as indicated on the application.

(d) (No change.)

4A:4-2.4 Promotional title scope: local service

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

(c) When a promotion is to be made from the noncompetitive division of the career service to a related entry level title in the competitive division of the career service, **or, in appropriate circumstances as determined by the Chairperson or designee, an unrelated entry level or above entry level title in the competitive division of the career service**, the examination shall be open to all applicants who meet the complete open competitive requirements and who are either serving in:

1.-2. (No change.)

3. All related noncompetitive titles; [or]

4. Unrelated noncompetitive titles, in appropriate circumstances as determined by the Chairperson or designee; or

[4.] **5.** (No change in text.)

(d) The title scopes described in (a)2 and 3 and (c)2 through [4] **5** above or any combination of such scopes may be used when a wider title scope is appropriate or the appointing authority provisionally promotes an employee who does not have permanent status in the next lower in-series title of the title series established by the Civil Service Commission.

(e) In extraordinary circumstances, the Chairperson [of the Civil Service Commission] **or designee** may set another appropriate title scope.

(f) (No change.)

4A:4-2.5 Promotional title scope: State service

(a) (No change.)

(b) When a promotion is within the same category as listed in (a) above, the examination, with or without all or part of the open competitive requirements, as appropriate, shall be open to permanent competitive division employees serving in one of the following:

1. (No change.)

2. The next lower in-series title, if one exists, and [all] other competitive division titles [at] **within a range of** specified class code levels **as specified by the appointing authority** below the promotional title. See N.J.A.C. 4A:1-1.3 for definition of class code.

[3. The next lower in-series title, if one exists, and all other permanent competitive division employees who meet the complete open competitive requirements.]

3. In appropriate circumstances, serving in specified unrelated noncompetitive titles as determined by the Chairperson or designee and possessing the complete open competitive requirements.

4. To related titles, pursuant to an established plan approved by the Chairperson [of the Civil Service Commission] or designee.

5.-6. (No change.)

(c) (No change.)

(d) When a promotion is to be made from the noncompetitive division to a related title in the competitive division, **or in appropriate circumstances as determined by the Chairperson or designee to an unrelated entry level or above entry level title in the competitive division**, the examination shall be open to all permanent employees who meet one of the following:

1.-5. (No change.)

(e) (No change.)

4A:4-2.6 Eligibility for promotional examination

(a) Applicants for promotional examinations shall meet all of the following criteria by the announced closing date:

1.-2. (No change.)

3. Have not received a Performance Assessment Review (PAR) final rating below the [Commendable] **Successful** level (or equivalent in an approved local service evaluation program) in each of the two rating periods immediately preceding the announced closing date; and

4. (No change.)

(b) (No change.)

(c) Except when permitted by the [Civil Service Commission] **Chairperson or designee** for good cause, [such as a documented affirmative action basis] applicants for promotional examinations with open competitive requirements may not use experience gained as a result

of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process. [Civil Service Commission staff may recommend to the Commission for good cause situations where out-of-title work should be accepted.] **Good cause may include, but not be limited to, the following:**

1. Where the number of employees eligible for examination will result in an incomplete list, or where the number of applications does not exceed the number of provisional incumbents by more than one, the applicant may submit a detailed statement from his or her supervisor describing the out-of-title duties performed and the reasons why it was necessary to perform such duties. A statement shall also be submitted from the appointing authority verifying the supervisor's statement and indicating interest in making an appointment from the resultant eligible list.

(d)-(e) (No change.)

(f) Employees who are separated or displaced as a result of a layoff and who subsequently return to a title and unit scope to which a promotional examination is open between the filing deadline and the examination date, shall be allowed to file for the examination.

(g) [The] **An appointing authority may request that the time requirements specified in (a) and (b) above [may] be reduced to completion of the working test period if:**

1.-2. (No change.)

3. Other valid reasons as determined by the Chairperson [of the Civil Service Commission] or designee.

4A:4-2.7 Promotion upon waiver of competitive examination

(a) Following the announcement of a promotional examination, the [Commissioner] **Chairperson or designee** may authorize the promotion of a qualified permanent employee in the career service by regular appointment without competitive examination and without the establishment of an eligible list if:

1.-4. (No change.)

4A:4-2.8 Scheduling of examinations

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

(c) Candidates shall be at the examination site at the designated time. Candidates arriving late shall only be admitted as follows:

1. Unless the examination notice states otherwise, candidates for written or **computer-based** examinations or examinations containing written and performance parts shall be admitted to the examination if they arrive at the test room within 15 minutes after the designated time.

2. (No change.)

(d) (No change.)

(e) Jurisdictions operating under Title 11A, New Jersey Statutes, shall furnish sufficient facilities for the conduct of examinations when requested by the [Department of Personnel] **Chairperson or designee**.

4A:4-2.9 Make-up examinations

(a) Make-up examinations **for open competitive and general promotional testing**, except for professional level engineering promotional examinations and **public safety promotional examinations** under (b) below [and public safety open competitive and promotional examinations under (c) below], may be authorized for the following reasons:

1.-7. (No change.)

(b) For professional level engineering, **police, fire, correction officer, sheriff's officer, juvenile detention officer, and other public safety** promotional examinations, make-up examinations may be authorized only in cases of:

1.-5. (No change.)

(c) For police, fire, correction officer, sheriff's officer, juvenile detention officer, and other public safety open competitive and promotional examinations, make-ups may be authorized only in cases of:

1. Death in the candidate's immediate family;

2. Error by the Civil Service Commission or the appointing authority;

3. When required for certain persons returning from military service (see N.J.A.C. 4A:4-4.6A); or

4. A catastrophic health condition or injury, which shall be defined as either:

i. A life-threatening condition or combination of conditions; or

ii. A period of disability required by the candidate's mental or physical health or the health of the candidate's fetus which requires the care of a physician who provides a medical verification of the need for the candidate's absence from work for 60 or more work days.]

[(d)] (c) (No change in text.)

[(e)] (d) Employees who have been removed for disciplinary reasons or indefinitely suspended pending criminal charges, and are thereafter exonerated of **all charges**, shall have an opportunity to take promotional examinations that have not yet been administered, or make-up examinations for active promotional lists, if the suspension or removal resulted in the employee's non-participation in the promotional examination.

[(f)] (e) Except as provided in N.J.A.C. 4A:4-4.6A, a candidate must request, in writing, a make-up examination, within five days after the examination date due to one of the valid reasons set forth in (a)[,] or (b)[,] or (c) above, as applicable. However, a candidate must submit a written request for a make-up examination within five days of receipt of the examination notice in case of one of the valid reasons set forth in (a)[,] or (b)[,] or (c) above, as applicable, of which a candidate is aware upon receipt of the examination notice, except that the candidate shall follow the procedures set forth in N.J.A.C. 4A:4-4.6A, where applicable.

[(g)] (f) Make-up examinations will be administered to the extent possible under the same conditions as the original examination but, in the case of public safety examinations under [(c)] (b) above, shall be different in content from the original examination.

[(h)] (g) (No change in text.)

[(i)] (h) All candidates taking a make-up examination[s], except a physical performance examination, shall, as a precondition to taking the make-up examination, be required to sign a statement that they have no knowledge of the content of the examination as a result of information gained from or furnished by other candidates who participated in the original examination, or third parties, provided that:

1. In the case of open competitive and promotional public safety examinations referred to in [(c)] (b) above, candidates shall sign an additional statement accepting the make-up examination as a substitute for the original examination, provided, however, that signing this statement shall not preclude the candidate from challenging the validity of the make-up examination's items, the scoring of the make-up, or the make-up test conditions. See N.J.A.C. 4A:4-6.3 and 6.4.

[(j)] (i) (No change in text.)

4A:4-2.10 Conduct and security of examinations

(a) The [Department] **Civil Service Commission** shall insure that all applicants for an examination are given equal opportunity to demonstrate their relative merit and fitness.

(b) In the conduct or administration of an examination, the following shall be considered prohibited actions:

1. Bringing cellphones (including work-issued phones), smart phones, and/or any type of electronic recording/imaging device into the building where the examination is being conducted;

Recodify existing 1.-7. as 2.-8. (No change in text.)

(c)-(d) (No change.)

4A:4-2.12 Professional qualifications substitution program

(a) (No change.)

(b) The [Department] **Civil Service Commission** shall make the determination whether prior work experience may be substituted for specified education requirements.

4A:4-2.13 (Reserved)

4A:4-2.14 Accommodation and waiver of examinations for persons with disabilities

(a) Otherwise qualified applicants with disabilities may request an accommodation in taking an examination by indicating their request for accommodation on the examination application.

1. Upon receipt of the request for accommodation, [the Department] **Civil Service Commission staff** shall make reasonable accommodation where appropriate and notify the candidate of the arrangements.

(b) The [Commissioner] **Chairperson or designee** may waive an examination for an otherwise qualified candidate or provisional with a physical, mental, or emotional affliction, injury, dysfunction,

impairment, or disability [which] **that** makes it physically or psychologically not practicable to undergo the testing procedure for a particular title, but does not prevent satisfactory performance of the title's responsibilities under conditions of actual service.

1. A request for waiver shall be in writing, filed with the [Department] **Chairperson or designee** and contain:

i-iv. (No change.)

v. Agreement to undergo any additional physical or psychological examinations that the [Department] **Chairperson or designee** deems appropriate.

(c) If reasonable accommodation can be made, the waiver request will be denied and arrangements **will be** made for such accommodation.

(d) If reasonable accommodation is not possible, the [Commissioner] **Chairperson or designee** will decide whether to grant a waiver, and if granted, whether the candidate will be employed or placed on an eligible list and in appropriate cases, granted seniority.

4A:4-2.15 Rating of examinations

(a) Ratings may be computed by a valid statistical method based on the use of scoring formulas and/or conversion tables.

1. When education and experience are to be rated as part of an examination, they shall be graded through the use of scales prepared by the Chairperson [of the Civil Service Commission] or designee.

(b)-(h) (No change.)

(i) A candidate for an examination may be permitted to use an examination score for a period of time, or for more than one title or more than one test, as determined by the Chairperson [of the Civil Service Commission] or designee.

(j) (No change.)

4A:4-2.16 Retention and inspection of examination records

(a) (No change.)

(b) All examination records listed in (a)1, 4, and 5 above shall be open to public inspection.

1.-3. (No change.)

4. The [Commissioner] **Chairperson or designee** shall determine which other records may be open to public inspection and the conditions for such inspection.

4A:4-2.17 Application processing fees

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

(d) An applicant for an open competitive examination will be granted a waiver of the fee if the applicant provides documentation showing that, as of the closing date, he or she is receiving General Assistance benefits, benefits under the Work First New Jersey Act, or Supplemental Security Income. Proof must consist of one of the following:

1.-3. (No change.)

(e) (No change.)

SUBCHAPTER 3. ELIGIBLE LISTS

4A:4-3.1 Types of eligible lists

(a) The [Chair/CEO] **Chairperson or designee** may establish the following types of eligible lists:

1.-3. (No change.)

4. Police, **sheriff's officer**, or fire reemployment, which shall include former permanent uniformed members of a police **department, sheriff's office**, or fire department who **have** resigned in good standing and whose reemployment is certified by the appointing authority as being in the best interest of the service; and

5. (No change.)

(b) **In accordance with P.L. 2015, c. 17, any permanent sheriff's officer who resigned in good standing on or after January 1, 2002, may request that his or her name be placed on a sheriff's officer reemployment list. However, any person appointed as a sheriff's officer prior to the February 2, 2015, effective date of P.L. 2015, c. 17, shall not be displaced by a person appointed from a sheriff's officer reemployment list.**

4A:4-3.2 Order of names on eligible lists

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

(d) Eligibles on regular or police, **sheriff's officer**, and fire reemployment lists shall be ranked in the order of seniority in the permanent title from which they resigned, retired, or were voluntarily demoted, with the name of the person with the greatest seniority appearing first on the list.

(e) (No change.)

4A:4-3.3 Duration and cancellation of eligible lists

(a) (No change.)

(b) Open competitive and promotional lists shall be promulgated for three years from the date of their establishment, unless the [Commissioner] **Chairperson or designee** determines that, under the circumstances, a shorter time period is appropriate.

1. An eligible list may, for good cause, be extended by the [Commissioner] **Chairperson or designee** prior to its expiration date, except that no list shall have a duration of more than four years.

2. (No change.)

3. Special reemployment, police reemployment, **sheriff's officer reemployment**, and fire reemployment lists shall have unlimited durations.

(c) The [Commissioner] **Chairperson or designee** may, in cases of fraud, illegality, test invalidity, error by the [Department] **Civil Service Commission staff**, or other good cause, cancel an eligible list prior to its expiration date by issuing an order, which shall provide a means for the notification of eligibles. The [Commissioner] **Chairperson or designee** shall also [provide a copy of this order to] **notify** affected appointing authorities.

(d)-(e) (No change.)

4A:4-3.4 Revival of eligible lists

(a) The [Commissioner] **Civil Service Commission** may revive an expired eligible list under the following circumstances:

1. (No change.)

2. To implement an order of the [Commissioner or Board] **Civil Service Commission** in an appeal or proceeding instituted during the life of the list;

3.-5. (No change.)

4A:4-3.5 Consolidation of eligible lists

(a) The [Commissioner] **Chairperson or designee** may consolidate successive eligible lists for a given title [which] **that** result from successive open competitive or promotional examinations by one or more of the following methods:

1.-3. (No change.)

(b) (No change.)

4A:4-3.6 Additions to eligible lists

(a) The Chairperson [of the Civil Service Commission] or designee may add names to an eligible list at any time during the life of the list under the following circumstances:

1.-5. (No change.)

(b) (No change.)

4A:4-3.7 Priority of eligible lists

(a) When there is more than one current eligible list for a title, the priority of the lists shall be as follows:

1.-3. (No change.)

4. Regular reemployment, police, **sheriff's officer**, or fire reemployment; and

5. (No change.)

(b)-(e) (No change.)

4A:4-3.8 Correction of errors

(a) The [Department] **Civil Service Commission staff** may correct an error at any time during the life of an eligible list.

(b) The [Commissioner] **Chairperson or designee** shall determine whether such correction shall affect any prior appointments or certifications.

(c) (No change.)

4A:4-3.10 Procedures for reemployment program for certain law enforcement officers and firefighters

(a) A municipality, county, or fire district interested in making an appointment pursuant to N.J.A.C. 4A:4-3.9 (hereafter "program") may contact the [Department of Personnel] **Chairperson or designee** for a list of persons compiled as follows:

1.-3. (No change.)

(b) A person who would like to be placed on a list of persons as indicated in (a) above may contact [the Department of Personnel] **Civil Service Commission staff** to apply for inclusion on a list.

1. (No change.)

(c) In selecting a person from the list, the municipality, county, or fire district shall verify and certify to the [Department of Personnel] **Chairperson or designee**, the eligibility of the person for appointment pursuant to this program.

1.-2. (No change.)

(d) An appointment made under this program:

1. Shall be reported to the [Department of Personnel] **Civil Service Commission**;

2.-4. (No change.)

5. Shall not be made to a title other than an entry level title without [Department of Personnel] **Civil Service Commission** approval.

(e) (No change.)

SUBCHAPTER 4. CERTIFICATION FROM ELIGIBLE LISTS

4A:4-4.1 Need for certification

(a) When a vacancy is to be filled in the competitive division of the career service from an eligible list, the appointing authority shall request a certification of names for regular appointment. Such request shall be submitted in advance under procedures set by the [Department of Personnel] **Chairperson or designee** to enable the [Department] **appropriate Commission staff** to issue or authorize the necessary certification or advise that there is no appropriate eligible list.

(b) When a permanent competitive position has been filled on a nonpermanent basis, the [Department of Personnel] **Chairperson or designee** shall determine whether there is a need to issue a certification.

4A:4-4.2 Issuance of certification

(a) Upon determining that there is a need for a certification as provided in N.J.A.C. 4A:4-4.1, the [Department of Personnel] **Chairperson or designee** shall issue, or authorize the issuance of, a certification to the appointing authority containing the names and addresses of the eligibles with the highest rankings on the appropriate list.

1. When the [Department of Personnel] **Civil Service Commission** has accepted a single application for one or more title areas[,] pursuant to N.J.A.C. 4A:4-2.3(c), the certification shall be drawn from the pool of eligibles, based on their title area and county preference and their residency.

(b) When a certification is issued, the [Department] **Chairperson or designee** shall notify, or authorize the notification of, the eligibles whose names appear on the list, at the last known address. See N.J.A.C. 4A:4-3.2(e) for address change notification.

(c) An appointing authority shall be entitled to a complete certification for consideration in making a permanent appointment, which means:

1. From special, regular and police, **sheriff's officer**, and fire reemployment lists, the name of one interested eligible for each permanent appointment; or

2. (No change.)

(d) (No change.)

4A:4-4.3 Certification from appropriate lists

(a) When an eligible list for a title is either unavailable or incomplete, the [Department] **Chairperson or designee** may authorize a certification from an eligible list for an appropriate title of the same or higher level, in the same or related series under the following conditions:

1.-4. (No change.)

(b) The [Department of Personnel] **Chairperson or designee** may also authorize a certification from a common or similar State or local service eligible list under the following circumstances:

1.-4. (No change.)

(c)-(d) (No change.)

4A:4-4.5 Certifications limited to persons of a particular sex, religion, or national origin

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

(c) A request for a BFOQ designation shall be signed by the agency or department head, or designee, and the affirmative action officer, and submitted by the appointing authority to the [Department of Personnel] **Civil Service Commission**, Division of Equal Employment Opportunity and Affirmative Action (EEO/AA) and shall include:

1.-4. (No change.)

5. Such other information as requested by the [Division] **EEO/AA**.

(d) (No change.)

(e) The Director, [Division of] EEO/AA shall review the request and advise the appointing authority in writing of his or her decision to either accept the BFOQ request or not accept the request based on insufficient justification.

(f) The [Division of] EEO/AA will audit BFOQ positions to eliminate artificial barriers that may exist to equal employment opportunity and particular BFOQ designations may be reconsidered or eliminated.

(g) (No change.)

4A:4-4.7 Removal of names

(a) The name of an eligible may be removed from an eligible list for any of the following reasons:

1.-3. (No change.)

4. The eligible has a criminal record which adversely relates to the employment sought.

i. (No change.)

ii. The presentation of a pardon or an expungement shall prohibit removal from a list, except for law enforcement, correction officer, juvenile detention officer, firefighter, or judiciary titles and other titles as the Chairperson [of the Civil Service Commission] or designee may determine.

5.-10. (No change.)

11. Other valid reasons as determined by the Chairperson [of the Civil Service Commission] or designee.

(b)-(d) (No change.)

(e) The removal of names from an eligible list will advance the rank order of all names below it. The Chairperson [of the Civil Service Commission] or designee may supplement a certification to provide the appointing authority with the number of names necessary for a complete certification.

(f)-(h) (No change.)

4A:4-4.8 Disposition of a certification

(a) Upon receipt of a certification, an appointing authority shall take whichever of the following actions is appropriate when a permanent appointment is to be made:

1. (No change.)

2. Appoint the eligible whose name has been certified from regular or police, **sheriff's officer**, or fire reemployment lists; or

3. (No change.)

(b) The appointing authority shall notify the Civil Service Commission of the disposition of the certification by the disposition due date in the manner prescribed by the Chairperson [of the Commission] or [the Chairperson's] designee. The disposition due date may be extended beyond the expiration date of the eligible list to fill current vacancies. Under no circumstances shall a disposition due date be extended beyond the expiration date of the eligible list when vacancies do not exist. An anticipated vacancy shall not be considered the same as an existing vacancy. The report of disposition of the certification shall include:

1.-6. (No change.)

(c) (No change.)

(d) If the certification will result in the displacement of a provisional employee who has permanent status, and it is necessary to institute

layoff procedures, the Chairperson [of the Commission] or [the Chairperson's] designee may, upon written request from the appointing authority, extend the time for disposing of the certification for an additional 45 days. See N.J.A.C. 4A:8 for layoff procedures.

(e) (No change.)

4A:4-4.10 Certification of additional eligibles

If, after accepting employment, an eligible cannot begin work within three weeks or such other reasonable time as specified by the appointing authority, the appointing authority may consider the eligible unavailable and request that [the Department] **appropriate Commission staff** certify additional names.

SUBCHAPTER 5. WORKING TEST PERIOD

4A:4-5.1 General provisions

(a) (No change.)

(b) All regular appointments to a title in the career service shall be subject to a working test period, except:

1. Appointments from special, police, **sheriff's officer**, [and] fire, and regular reemployment lists;

2.-4. (No change.)

(c)-(e) (No change.)

4A:4-5.2 Duration

(a) (No change.)

(b) The length of the working test period, except as provided in (c) through (e) below, shall be as follows:

1. (No change.)

2. In State service, a period of four months of active service, which the [Commissioner] **Chairperson or designee** may extend on request of an appointing authority for an additional two months. Such request should be submitted to [the Department of Personnel] **appropriate Civil Service Commission staff** at least five working days before the end of the [four month] **four-month** period. The appointing authority shall notify the employee of the extension in writing on or before the last day of the [four month] **four-month** period.

i. Regularly appointed employees serving in intermittent titles shall serve a working test period of 88 work days, which, upon the request of the appointing authority, may be extended by the [Commissioner] **Chairperson or designee** for an additional 44 work days. For purposes of this [subsection] **subparagraph**, any part of a day shall constitute a work day.

ii. (No change.)

(c)-(e) (No change.)

4A:4-5.3 Progress reports

(a) The appointing authority shall prepare a progress report on the employee at the end of two months and a final report at the conclusion of the working test period. If the [Commissioner] **Chairperson or designee** has extended the working test period in State service pursuant to N.J.A.C. 4A:4-5.2(b)2, the appointing authority shall also prepare a progress report at the end of five months and a final report at the conclusion of the extended working test period.

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

(d) In State service, the appointing authority shall:

1. (No change.)

2. When an employee is being separated or returned to his or her permanent title due to unsatisfactory performance, submit to [the Department of Personnel] **appropriate Civil Service Commission staff**, within five days following the last day of the working test period, copies of all progress reports and the final report, and the written notice of separation or return to his or her permanent title;

3. (No change.)

4. Retain for auditing any other records so identified by the [Department of Personnel] **Chairperson or designee**.

(e) In local service, the appointing authority shall furnish working test period progress reports to [the Department of Personnel] **Civil Service Commission staff** upon request.

4A:4-5.4 Working test period appeals

(a) An employee may be separated for unsatisfactory performance at the end of the working test period. See N.J.A.C. 4A:2-4 for **appeal** procedures.

(b) An employee may be disciplined during the working test period. See N.J.A.C. 4A:2-2 and 3 for **appeal** procedures.

4A:4-5.5 Restoration to eligible list or former title

(a) An employee who, either during or at the end of a working test period, resigns in good standing or is separated due to unsatisfactory performance may, upon request, be restored to an eligible list, if the [Commissioner] **Chairperson or designee** determines that the employee is suitable for appointment to another position.

1. The [Commissioner] **Chairperson or designee** may consider:

i.-iii. (No change.)

2.-3. (No change.)

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

SUBCHAPTER 6. EXAMINATION AND SELECTION DISQUALIFICATION AND APPEALS

4A:4-6.1 Examination and selection disqualification

(a) A person may be denied examination eligibility or appointment when he or she:

1.-2. (No change.)

3. Is physically or psychologically unfit to perform effectively the duties of the title. However, an injury incurred in the armed forces shall not be considered a disqualification unless the Chairperson [of the Civil Service Commission] or designee considers the condition incapacitating;

4.-9. (No change.)

(b)-(d) (No change.)

4A:4-6.3 Examination and selection appeals

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

(c) Unless ordered by the Civil Service Commission or **Chairperson**, the filing of an appeal shall not affect the promulgation of a list, a certification, or an appointment. See N.J.A.C. 4A:4-1.4 for conditional appointments.

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

4A:4-6.4 Review of examination items, scoring, and administration

(a) No later than five business days after the examination has been held, candidates for multiple choice examinations may contact [the Department of Personnel] **appropriate Civil Service Commission staff** by telephone to make an appointment to review the keyed test booklet.

1.-2. (No change.)

(b) No later than five business days after the examination has been held, candidates for tests other than multiple choice may contact [the Department of Personnel] **Commission staff** by telephone to make an appointment to review the test. These candidates may file an appeal in writing of examination items and scoring **within** 20 days after the candidate's date of review. Candidates for tests other than multiple choice who do not request a review of their examination papers may file an appeal of examination items and scoring within 20 days of the notice date of examination results.

(c) An examination candidate wishing to challenge the manner in which the examination was administered [may] **must** file an appeal in writing at the examination site on the day of the examination.

(d) Candidates shall not be permitted to copy any of the questions and answers, but shall be allowed to make such limited notes as the [Department of Personnel] **Chairperson or designee** permits.

(e) In order to maintain the security of the examination process, the [Commissioner] **Chairperson or designee** may, on a particular examination, modify or eliminate the review of examination questions and answers. Candidates shall be notified of any such restrictions at the time that the examination is administered.

(f) The [Merit System Board] **Civil Service Commission** shall decide any appeal on the written record or such other proceeding as the [Board] **Commission** deems appropriate.

4A:4-6.5 Medical and/or psychological disqualification appeals

(a) An appointing authority may request that an eligible's name be removed from an eligible list due to disqualification for medical or psychological reasons which would preclude the eligible from effectively performing the duties of the title.

1. The appointing authority shall furnish to [the Department of Personnel] **appropriate Civil Service Commission staff** a copy of the certification and a report and recommendation supporting the removal request, prepared and signed by a physician, psychologist, or psychiatrist who is licensed in New Jersey or qualified and employed by the appointing authority in the Clinical Psychologist title series.

2.-3. (No change.)

(b) In accordance with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., an appointing authority may only require a medical and/or psychological examination after an offer of employment has been made and prior to appointment, and may condition the offer of employment on the results of such examinations, if:

1. (No change.)

2. Information obtained pursuant to this section regarding the medical condition or history of an employee shall be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except that:

i. Such information shall be available to appropriate appointing authority and [Department of Personnel] **Civil Service Commission** representatives in connection with inquiries into the ability of an applicant to perform essential job functions;

ii.-iv. (No change.)

3. (No change.)

(c) Upon receipt of satisfactory documentation, [the Department of Personnel] **appropriate Civil Service Commission staff** shall notify the eligible that:

1. (No change.)

2. He or she may file an appeal with the [Merit System Board] **Civil Service Commission** within 20 days of such notification;

3.-4. (No change.)

(d) Upon receipt of a notice of an eligible's appeal, the appointing authority shall submit to the [Merit System Board] **Civil Service Commission**, within 20 days, all background information, including any investigations and all complete medical, psychological, and/or psychiatric reports [which] **that** were the basis for the removal request.

1. The appointing authority shall also furnish to the appellant's attorney or to a New Jersey licensed psychologist or psychiatrist of the appellant's choice upon request all of the information supplied to the [Merit System Board] **Civil Service Commission**.

2. (No change.)

(e) The appellant may submit to the [Merit System Board] **Civil Service Commission** a report from a New Jersey licensed physician, psychologist, or psychiatrist of his or her own choosing, **which must be submitted within 90 calendar days of the filing of his or her appeal to the Civil Service Commission**. The appellant shall furnish the appointing authority with copies of all submissions to the [Merit System Board] **Civil Service Commission**. See (f) below for report requirements.

(f) The [Merit System Board] **Civil Service Commission** may extend the time period for filing the required reports for good cause. Professional reports submitted by either of the parties shall include the following:

1.-5. (No change.)

(g) The [Merit System Board] **Civil Service Commission** shall either conduct a written record review of the appeal or submit psychological appeals to the New Jersey Personnel Medical Review Panel (Review Panel), and medical appeals to the New Jersey Personnel Medical Examiners Panel (Examiners Panel). The Panels are composed of professionals in the medical or psychological field. Either Panel may request additional psychological or medical reports, examinations, or other materials.

1.-2. (No change.)

3. The Panel shall prepare a written report and recommendation for the [Merit System Board] **Civil Service Commission**.

i. (No change.)

ii. Both parties may file written exceptions with the [Merit System Board] **Civil Service Commission** within 10 days of receipt of the report and cross-exceptions within five days.

4. In appropriate cases, the [Merit System Board] **Civil Service Commission** may refer an appellant for an independent professional evaluation.

5. The [Merit System Board] **Civil Service Commission** may assess costs and penalties against a party when the inadequacy of a professional report necessitates an independent professional evaluation, when a party causes unnecessary delay in the review process, or for other substantial violation of these rules.

(h) The [Merit System Board] **Civil Service Commission** shall review the appeal, including the written report and exceptions, if any, and render a written final decision.

SUBCHAPTER 7. OTHER APPOINTMENTS OR EMPLOYEE MOVEMENTS

4A:4-7.1 Transfers within the same governmental jurisdiction

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

(c) In local service, a permanent transfer shall require the consent of both organizational units and the approval of the [Chair/CEO of the Civil Service Commission] **Chairperson**. In State service, the consent of the affected employee shall also be required.

1.-2. (No change.)

(d) A temporary transfer may be voluntary or involuntary and is the movement of a permanent employee between organizational units within the same governmental jurisdiction for a maximum of six months to effect economies, make available a needed service for short periods, or for any other documented purpose, which is in the best interest of the public service. All temporary transfers must be approved by the [Chair/CEO of the Civil Service Commission] **Chairperson or designee**.

(e) An emergency transfer may be voluntary or involuntary and is the movement of a permanent employee between organizational units within the same governmental jurisdiction for a maximum of 30 days.

1. The [Chair/CEO of the Civil Service Commission] **Chairperson or designee** may authorize an emergency transfer when the appointing authority for the receiving unit certifies that the failure to make such transfer will result in harm to persons or property.

2. (No change.)

(f) Any affected employee must be given at least 30 days' written notice of an involuntary transfer, except an involuntary emergency transfer, in which case reasonable notice must be given.

1. (No change.)

2. Less than 30 days' notice may be given where the employee gives his or her consent for a shorter notice period or the [Chair/CEO of the Civil Service Commission] **Chairperson or designee** finds that a more immediate transfer is required to provide a needed service.

4A:4-7.1A Intergovernmental transfers

(a) An intergovernmental transfer is the movement of a permanent employee between governmental jurisdictions operating under Title 11A, New Jersey Statutes, or the appointment of an employee, by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from service from another governmental jurisdiction operating under Title 11A.

1. Non-permanent employees serving in entry-level law enforcement titles who were appointed from an eligible list and who have completed the required Police Training Commission training course may intergovernmentally transfer upon consent of the sending and receiving jurisdictions, but will be required to complete the full 12-month working test period with the receiving jurisdiction.

(b) An intergovernmental transfer shall require the consent in writing of the sending jurisdiction, if any, the receiving jurisdiction, and the affected employee, and the approval of the Chairperson [of the Civil Service Commission] or designee.

1. (No change.)

2. The optional waiver of accumulated sick leave and seniority rights by a law enforcement officer, including a sheriff's officer and a county

correction officer, shall require the consent in writing of the receiving jurisdiction, the affected employee, and the Chairperson [of the Civil Service Commission] or designee.

(c) A transferred employee shall be moved to a title substantially at the same level.

1. (No change.)

2. Where the title to which the employee is transferring is different from that held on a permanent basis in the sending jurisdiction, or from that held on a permanent basis prior to the effective date of a separation from service due to layoff, as the case may be, the receiving jurisdiction shall request that the Chairperson [of the Civil Service Commission] or designee approve the title, based on the following criteria:

i.-iv. (No change.)

(d)-(f) (No change.)

4A:4-7.3 Relocation assistance: State service

(a) Subject to available appropriations, the [Commissioner] **Chairperson or designee** may allow relocation[s] assistance for permanent employees who are transferred or reassigned on a permanent basis to a new work location due to a relocation of an office or unit, or a closing or phasedown in anticipation of closing of a State operation.

1.-2. (No change.)

(b) Such assistance may consist of all or part of the following:

1. (No change.)

2. A one-time moving expense allowance, which is to be set by the [Commissioner] **Chairperson or designee** not to exceed \$1,000 for the shipment of household items from the employee's prior domicile to a domicile established as a result of the new work assignment.

i.-ii. (No change.)

3. The relocation allowance, which is to be set by the [Commissioner] **Chairperson** not to exceed \$1,000 for costs involved in terminating a lease, in rental situations, or costs involved in the sale and purchase of a home, including, but not limited to, broker's fees and closing costs.

i.-ii. (No change.)

(c) (No change.)

4A:4-7.6 Lateral title change

(a) (No change.)

(b) If the nature of the work, education, and experience requirements of both titles are substantially similar, the employee shall retain his or her permanent status. **The determination whether both titles are substantially similar shall be in accordance with N.J.A.C. 4A:8-2.1(a).**

1.-2. (No change.)

(c) (No change.)

(d) A lateral title change shall require the consent of the employee, the head of the organizational unit, and the approval of the Chairperson [of the Civil Service Commission] or designee, except when the title change results from changes in the Civil Service Commission Classification Plan, reclassification of the employee's position, or a pre-layoff action agreed to by affected negotiations representatives and approved by the Chairperson or designee.

(e) (No change.)

4A:4-7.8 Voluntary demotion

(a)-(d) (No change.)

(e) With the approval of the Chairperson [of the Civil Service Commission] or designee, this section may also apply to employees with permanent status in titles in the non-competitive division who take a voluntary demotion to a title in the competitive division of the career service.

(f)-(g) (No change.)

4A:4-7.10 Regular reemployment

(a) (No change.)

(b) Upon recommendation of the appointing authority that such reemployment is in the best interest of the service, the [Chair/CEO of the Civil Service Commission] **Chairperson or designee** shall place the employee's name on a reemployment list. A regular reemployment list shall be subject to certification to all appointing authorities in a jurisdiction.

(c) Police, **sheriff's officer**, and fire reemployment lists shall have unlimited durations. Regular reemployment lists for all other titles shall have durations of three years from the date of resignation, retirement, or voluntary demotion, unless the list is extended pursuant to N.J.A.C. 4A:4-3.3[(a)1](b)1.

1. (No change.)

(d) (No change.)

4A:4-7.11 Transfer or combining of functions

(a) When any of the functions of a department, agency, or unit of a political subdivision operating under Title 11A, New Jersey Statutes, are transferred, consolidated, unified, absorbed, or combined with those of the State or of a separate political subdivision operating under Title 11A, New Jersey Statutes, [the Department of Personnel] **Civil Service Commission staff**, upon request of both appointing authorities, shall approve the transfer of some or all affected employees to the receiving unit.

(b)-(d) (No change.)

ENVIRONMENTAL PROTECTION

(a)

WATER RESOURCE MANAGEMENT

DIVISION OF WATER SUPPLY AND GEOSCIENCE

Safe Drinking Water Act Rules; Regulations

Governing the Certification of Laboratories and Environmental Measurements

Discretionary Changes to National Regulations; State-Specific Requirements for Total Coliform

Proposed Amendments: N.J.A.C. 7:10-1.3, 2.6, 5.1, 5.2, 5.4, 9.4, 10.5, 10.6, 11.5, and 11.10; and 7:18-4.6 and 5.6

Proposed New Rule: N.J.A.C. 7:10-5.8

Authorized By: Bob Martin, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1D-1 et seq., 58:10A-1 et seq., 58:11-9.1 et seq., 58:11-23 et seq., 58:11-64 et seq., and 58:12A-1 et seq.

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

DEP Docket Number: 01-17-02.

Proposal Number: PRN 2017-039.

A **public hearing** concerning this proposal will be held on April 10, 2017, at 1:00 P.M. until the close of comments:

New Jersey Department of Environmental Protection
Public Hearing Room
401 East State Street, 1st Floor
Trenton, New Jersey

Directions to the hearing room may be found at the Department's website, <http://www.state.nj.us/dep/where.htm>.

Written comments may also be submitted at the public hearing. It is requested (but not required) that anyone who testifies at the public hearing provide a copy of their comments to the stenographer at the hearing.

Submit comments by May 19, 2017, electronically at <http://www.nj.gov/dep/rules/comments>.

The Department of Environmental Protection (Department) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Ryan H. Knapick, Esq.
Attn: DEP Docket Number: 01-17-02
Office of Legal Affairs
Department of Environmental Protection
401 East State Street, 7th Floor