

COMMUNITY AFFAIRS

DIVISION OF FIRE SAFETY

Fire Service Resource Emergency Deployment

Proposed Readoption with Amendments: N.J.A.C. 5:75A

Authorized By: Richard Mikutsky, Director, Division of Fire Safety.

Authority: N.J.S.A. 52:14E-20.

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

Proposal Number: PRN 2023-104.

Submit written comments by December 15, 2023, to:

Geraldine Callahan

Department of Community Affairs

PO Box 800

Trenton, New Jersey 08625

Fax No. (609) 984-6696

Geraldine.Callahan@dca.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 5:75A were scheduled to expire on September 19, 2023. These rules establish a mechanism to coordinate fire resources throughout the State, and facilitate a quick, efficient response to emergency incidents or situations that require immediate deployment of those resources to protect life and property from the danger or destruction of fire, explosion, or other disasters. The Department of Community Affairs (Department), Division of Fire Safety (Division) has reviewed the rules and determined that they

should be readopted with amendments because the rules remain necessary, proper, reasonable, efficient, and responsive to the purposes for which they originally were adopted. As the Department has filed this notice of readoption prior to the expiration date, that date is extended 180 days to March 17, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The provisions of the rules to be readopted along with the proposed amendments are summarized below.

Subchapter 1. General Provisions

N.J.A.C. 5:75A-1 sets forth the general provisions of the rules, including authority, intent and purpose, scope, and definitions. The proposed amendment at N.J.A.C. 5:75A-1.5 includes the addition of the definition of “chief officer” to define the new term found at proposed N.J.A.C. 5:75A-2.3(d), which describes the specific type of line supervisory position that is typically involved in policy making for the fire department, in addition to the existing strategic and tactical functions necessary to assist the incident commander. The proposed term refers to those individuals holding the title of: Fire Chief, District Fire Chief, Deputy Fire Chief, Assistant Fire Chief, Battalion Fire Chief, or any other title in which the individual performs the functions of any of the aforementioned titles.

Subchapter 2. Local and County Fire Service Resource Emergency Deployment

N.J.A.C. 5:75A-2.2 addresses the preparation and adoption of local fire mutual aid plans. The proposed amendment at N.J.A.C. 5:75A-2.2(i) includes the administrative correction of inserting “ESF 4” after “Emergency Operations Plan Fire Rescue Annex.” “ESF 4” stands for Emergency Support Functions, Firefighting.

N.J.A.C. 5:75A-2.3 addresses the appointment and duties of the county fire coordinators and deputies. The proposed amendment at N.J.A.C. 5:75A-2.3(c) includes the administrative

correction of inserting “ESF 4” after “Emergency Operations Plan Fire Rescue Annex.” The proposed amendment at N.J.A.C. 5:75A-2.3(d) includes the clarification of the specific type of line supervisory position as a chief officer in a career, volunteer, or combination fire department. Additionally, inserting the most up-to-date requirements while removing previously expired ones. The proposed amendment at N.J.A.C. 5:75A-2.3(e) includes an administrative correction of a typographic error and a clarification that only duly appointed county fire coordinators and deputy county fire coordinators will be recognized by the State Fire Coordinator. The proposed amendment at N.J.A.C. 5:75A-2.3(f) includes the clarification of the specific type of line supervisory position as a chief officer in a career, volunteer, or combination fire department. Additionally, inserting the most up-to-date requirements while removing previously expired ones.

N.J.A.C. 5:75A-2.4 addresses county fire mutual aid plans. The proposed amendment at N.J.A.C. 5:75A-2.4(g) includes the administrative correction of inserting “ESF 4” after “Emergency Operations Plan Fire Rescue Annex.”

N.J.A.C. 5:75A-2.5 addresses the local fire unit’s participation in the county mutual aid plan.

N.J.A.C. 5:75A-2.6 addresses procedures during a fire emergency incident.

N.J.A.C. 5:75A-2.7 addresses procedures during a fire disaster incident.

Subchapter 3. Regional and State Coordination of Fire Service Resources

N.J.A.C. 5:75A-3.1 sets forth the powers of the State Fire Coordinator.

N.J.A.C. 5:75A-3.2 address regional fire coordinators. The proposed amendment at N.J.A.C. 5:75A-3.2(a) includes the removal of the reference to the New Jersey Office of Emergency Management and the addition of the names of the four regional response areas of the

New Jersey Office of Homeland Security and Preparedness. Additionally, the administrative correction replaces “three” with “four” to represent the response areas. The proposed amendment at N.J.A.C. 5:75A-3.2(c) includes the addition that employees of the Division of Fire Safety shall be appointed (rather than “named”) as the regional coordinators.

N.J.A.C. 5:75A-3.3 addresses the inter-county and regional coordination of fire service resources.

N.J.A.C. 5:75A-3.4 addresses the State coordination of fire service resources.

N.J.A.C. 5:75A-3.5 addresses the enforcement of an order of deployment.

N.J.A.C. 5:75A-3.6 addresses penalties and procedures for violation, hinderance, or interference of the State Fire Coordinator’s order.

N.J.A.C. 5:75A- 3.7 addresses Commissioner and State Fire Coordinator consultation with various entities prior to proposing amendments to the rules.

As the Department has provided a 60-day comment period on this notice of proposal, it is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments all relate directly to the coordination of fire service resources to facilitate quick and efficient responses to emergency incidents or situations. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated and will continue to protect the safety and well-being of the public.

Economic Impact

The Department does not anticipate that the rules proposed for readoption with amendments would have any economic impact.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments are not being proposed in order to implement, comply with, or participate in any program established pursuant to Federal law or pursuant to a State law that incorporates or refers to Federal law, standards, or requirements.

Job Impact

The Department does not anticipate that any jobs will be created or lost as a result of the rules proposed for readoption with amendments.

Agriculture Industry Impact

The Department does not anticipate that the rules proposed for readoption with amendments would have any impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments impose reporting, recordkeeping, and compliance requirements on some fire departments or companies with less than 100 full-time employees; therefore, the rules would have an impact on "small businesses," as defined in the New Jersey Regulatory Flexibility Act, [N.J.S.A. 52:14B-16](#) et seq. No differing requirements are established since these rules affect public safety. All public fire departments and companies must develop and maintain mutual aid plans and forward copies to the applicable coordinators. Additionally, there are training and drill requirements. Finally, the applicable entities must provide resource lists to the State Fire Coordinator upon request. These requirements were in place prior to the initial adoption of this chapter because of existing emergency management directives.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments concern only the coordination of fire

service resources and there is an extreme unlikelihood that these rules will have any impact on the affordability of housing in New Jersey or evoke a change in the average cost associated with housing. The Department anticipates no impact upon housing production costs or affordability, or the cost or supply of affordable housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments concern only the coordination of fire service resources and the Department anticipates no impact upon housing production within Planning Areas 1 and 2, or within designated centers, pursuant to the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:75A.

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

SUBCHAPTER 1. GENERAL PROVISIONS

5:75A-1.5 Definitions

The following terms shall have the meanings indicated, except where the context clearly [indicates] **requires** otherwise[:].

...

“Chief officer” refers to any fire service personnel who lawfully utilizes or who otherwise officially and lawfully holds the titles of Fire Chief, District Fire Chief, Deputy Fire Chief, Assistant Fire Chief, Battalion Fire Chief, or any other title in which the individual performs the functions of the aforementioned titles, whether in a permanent, provisional, or acting capacity, in a volunteer, career, or combination fire department.

...

SUBCHAPTER 2. LOCAL AND COUNTY FIRE SERVICE RESOURCE EMERGENCY DEPLOYMENT

5:75A-2.2 Preparation, adoption of local fire mutual aid plans

(a)-(h) (No change.)

(i) Each local fire mutual aid plan shall consider the anticipated fire service resources for occupancies or possible incidents likely to require local mutual aid and shall be referenced in the county Emergency Operations Plan Fire Rescue Annex **ESF 4**.

5:75A-2.3 Appointment, duties of county fire coordinator; deputies

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

(c) The State fire coordinator shall determine the duties and responsibilities as deemed necessary for the positions of county fire coordinator and deputy county fire coordinator. The duties and responsibilities shall include, but not be limited to:

1. (No change.)

2. Preparation of the county Emergency Operations Plan Fire Annex **ESF 4** in conjunction with the county emergency management coordinator and in accordance with the

standards established by the State Office of Emergency Management; and

3. (No change.)

(d) The county emergency management coordinator in each county shall, in consultation with the fire chiefs of the units of the fire service within each county, submit the name of at least one candidate to the State fire coordinator for consideration as the county fire coordinator.

1. Each candidate shall possess a minimum of seven years of documented fire service experience, two of which shall have been [in a line supervisory position,] **as a chief officer**, and shall meet the following criteria to be eligible for and retain appointment as the county fire coordinator.

i. Incident Management Certification Level [1] **3** issued by the Division of Fire Safety; **and**

[ii. After December 31, 2004, Incident Management Certification Level 2 issued by the Division of Fire Safety;

iii. After December 31, 2005, Incident Management Certification Level 3 issued by the Division of Fire Safety; and]

[iv.] **ii.** (No change in text.)

(e) The State fire coordinator shall appoint the county fire coordinator from the list of eligible candidates submitted by the county emergency management coordinator.

1. Each county fire coordinator shall serve for a two-year term and until his or her successor is appointed. Vacancies shall be [filed] **filled** in the same manner as the original appointment.

2. The State Fire Coordinator shall only recognize those county fire coordinators and deputy county fire coordinators, duly appointed in accordance with this chapter.

(f) The county fire coordinator in each county shall, in consultation with the fire chiefs of the units of the fire service within each county, appoint the deputy county fire coordinator or coordinators.

1. Each candidate shall possess a minimum of four years of documented fire service experience, one of which shall have been [in a line supervisory position] **as a chief officer** and meet the following criteria to be eligible for and retain appointment as a deputy county fire coordinator.

i. Incident Management Certification Level [1] **3** issued by the Division of Fire Safety; **and**

[ii. After December 31, 2004, Incident Management Certification Level 2 issued by the Division of Fire Safety; and]

[iii.] **ii.** (No change in text.)

(g)-(h) (No change.)

5:75A-2.4 County fire mutual aid plans

(a)-(f) (No change.)

(g) Each county fire mutual aid plan shall consider the anticipated fire service resources for occupancies or possible incidents likely to require county fire mutual aid and shall be referenced in the county Emergency Operations Plan Fire Rescue Annex **ESF 4**.

SUBCHAPTER 3. REGIONAL AND STATE COORDINATION OF FIRE SERVICES RESOURCES

5:75A-3.2 Regional coordinators

(a) There shall be a minimum of [three] **four** regional fire coordinators appointed by the State fire coordinator, each assigned to geographical areas that are consistent with [those areas established by the New Jersey Office of Emergency Management.] **the following regional response areas:**

1. Urban Area Security Initiative (UASI);

2. Northwest;

3. Shore; and

4. Delaware River.

(b) (No change.)

(c) Division of Fire Safety employees [may] **shall** be [named] **appointed** as regional coordinators.