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RULE PROPOSALS

**LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE
SAFE AND SECURE COMMUNITIES PROGRAM**

41 N.J.R. 1978(a)

Proposed Readoption with Amendments: *N.J.A.C. 13:79*

Proposed New Rules: *N.J.A.C. 13:79-3.5 and 4.4*

Click here to view Interested Persons Statement

Authorized By: Anne Milgram, Attorney General.

Authority: *N.J.S.A. 52:17B-168*.

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

Proposal Number: PRN 2009-130.

Submit written comments via overnight or regular mail **only** by July 3, 2009 to:

Heddy Levine-Sabol, Chief
Division of Criminal Justice
Program Development/Grants Section
Safe and Secure Communities Program (Public Comments)
Division of Criminal Justice
P.O. Box 085
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The agency proposal follows:

Summary

The Division of Criminal Justice (Division) proposes to readopt the Safe and Secure Communities Program rules,

N.J.A.C. 13:79. Pursuant to *N.J.S.A. 52:14B-5.1* and Executive Order No. 66 (1978), the rules in this chapter are scheduled to expire on March 24, 2009. In accordance with *N.J.S.A. 52:14B-5.1c*, the submission of this notice of proposal to the Office of Administrative Law extends that expiration date 180 days to September 20, 2009.

The Division has reviewed the rules and determined that they remain necessary, reasonable, adequate and responsive to the purposes for which the Division originally promulgated this chapter. The Division proposes to readopt this chapter with amendments.

These rules were precipitated by the enactment the Safe and Secure Communities Act, P.L. 1993, c. 220, *N.J.S.A. 52:17B-159* et seq., on August 2, 1993. The Act was intended to hire additional municipal police officers and other law enforcement personnel; create a funding source by imposing additional penalties on lawbreakers; and allocate these officers in a community-oriented manner.

The Attorney General now proposes to readopt the existing rules, with amendments.

A summary of each section of the chapter proposed for readoption and a summary of the proposed amendments follows:

N.J.A.C. 13:79-1 is the subchapter outlining the purpose, scope and definitions of the rules.

N.J.A.C. 13:79-1.1 sets forth the purpose of the rules.

N.J.A.C. 13:79-1.2 sets forth the scope of the rules.

N.J.A.C. 13:79-1.3 defines the terms employed in this chapter. An amendment is proposed to include in the definition of "police officers" or "officers" as those officers "who are regular, sworn, appointed municipal officers who have the full power to arrest and who regularly exercise police powers regarding the enforcement of the general criminal and motor vehicle laws of this State." This definition is consistent with *N.J.S.A. 40A:14-122*, which establishes a class of regular police officers who are appointed and who exercise police powers under *N.J.S.A. [page=1979] 40A:14-152*. The amendment clarifies that special police officers are not included in the count of number of regular complement of officers. Special Police officers are not considered members of a police force, but perform temporary duties, for a limited number of hours. *N.J.S.A. 40A:14-146.8* et seq. This amendment is consistent with the legislative intent behind the Safe Communities Act, which was to hire additional, appointed and sworn municipal police officers.

N.J.A.C. 13:79-2 is the subchapter setting forth the objectives of the Safe and Secure Communities Program; the funding uses and limitations; the notification, application process and award of funds; and that the application and supporting documentation are confidential and are not public records.

N.J.A.C. 13:79-2.1 sets forth the objectives of the program. An amendment is proposed to update program objectives to the evolving law enforcement and crime prevention strategies, which adapt to the changing needs of municipalities. The proposed amendment defines the basic objective of the program generally as providing "the municipalities with funding for additional law enforcement personnel to adopt community-policing strategies and other innovative community-police based strategies to prevent crime; to encourage community participation in law enforcement efforts and to move toward intelligence-led, data-driven policing strategies and other innovative strategies to combat crime." This proposed amendment is consistent with Governor Jon S. Corzine's *Strategy for Safe Streets and Neighborhoods, Enforcement*, released in October 2007.

N.J.A.C. 13:79-2.2 describes the fund's use and limitations.

N.J.A.C. 13:79-2.3 outlines the notification and award of funds process.

N.J.A.C. 13:79-2.4 sets forth the application deadline.

N.J.A.C. 13:79-2.5 provides that the application and supporting documents are confidential and are not public records and shall not be released except to the municipality or to governmental representatives in connection with their official duties.

N.J.A.C. 13:79-3 is the subchapter describing law enforcement personnel grants; setting forth the eligibility criteria and process requirements for municipalities to receive grants; and outlining the procedure for reconsideration of denied applications.

N.J.A.C. 13:79-3.1 describes the application process for a personnel grant. An amendment is proposed to delete the following phrase: "and a successive grant shall be proportionately reduced if a municipality reduces the number of personnel funded from the grant." This language was added in the 1998 reoption. *30 N.J.R. 3852(a)*. Due to declining program revenues, the Attorney General proposes to remove this language to ensure that limited grant funds are apportioned among those municipalities, which have maintained the full complement of officers and full number of officers hired with grant funds. This amendment conforms with legislative purpose behind the grant program. *N.J.S.A. 52:17B-164a*.

N.J.A.C. 13:79-3.2 states that no new initial grants shall be awarded.

N.J.A.C. 13:79-3.3 describes the grant award process for successive projects, the contracting procedure, as well as the notification method utilized by the Division to advise municipalities whose projects are found to be not eligible for continued funding. An amendment is proposed to conform the rule to the current practice of requiring municipalities to include special conditions and a description of planned grant activities in their filed applications. The proposed amendment deletes the requirement that applications include a narrative of past accomplishments. This deletion conforms with the current practice of requiring an annual narrative report to be submitted separate from the application for grant funds. See the proposed amendment to *N.J.A.C. 13:79-4.3(a)1*.

Another amendment is proposed in subsection (a) to delete references to "effectively meeting the objectives of the project." This amendment conforms with the proposed amendment to *N.J.A.C. 13:79-2.1*, which allows municipal police departments greater flexibility in applying current law enforcement and crime prevention strategies for the specific needs of their communities.

N.J.A.C. 13:79-3.4 states that no appeals from the Division's determination are allowed.

Proposed new rule *N.J.A.C. 13:79-3.5* adds a new section to codify formula-based grant awards. Each year the Attorney General will review program revenues and program costs. If projected program revenues from the Safe Neighborhoods Services Fund, *N.J.S.A. 2C:43-3.2*, are not sufficient to pay for program costs in the State fiscal year, the Attorney General will apportion program revenues among eligible municipalities. Consideration is given to the participating municipalities' eligibility criteria - "the number of violent and nonviolent crimes per officer exceeded 70% of the Statewide average of municipalities with a municipal police department or force, as reported in the 1991 Uniform Crime report published by the Division of State Police." *N.J.S.A. 52:17B-161*. The funding formula calculates the reported municipal violent and non-violent crimes and number of police officers statistics as a ratio in comparison to the most recently published statistics in the Uniform Crime Reports.

N.J.A.C. 13:79-4 is the subchapter outlining the accountability requirements for a municipality that is awarded a grant, including programmatic and fiscal reporting standards.

N.J.A.C. 13:79-4.1 describes what certifications applicant municipalities submit in applying for a grant under this program. Amendments are proposed to replace the phrases "selected as a grant recipient" with "that receives a grant" to clarify that eligible grant recipients receive continuation funding and are not selected. *N.J.S.A. 52:17B-167d*.

N.J.A.C. 13:79-4.2 outlines the contract prerequisites an eligible municipality must comply with in order to receive a grant. An amendment is proposed to delete the phrase "selected as a grant recipient under this program" to clarify that

eligible grant recipients receive continuation funding, and are not selected. N.J.S.A. 52:17B-167d. An amendment also is proposed to add the phrase "paying all costs in excess of the grant award." This amendment conforms this section to existing rule language in *N.J.A.C. 13:79-3.1(d)*.

N.J.A.C. 13:79-4.3 sets forth the reporting procedure that municipal grantees must follow in order to comply with the program's requirements. Subsection (a) amendments are proposed to change grammar and clarify that eligible grant recipients receive continuation funding, and are not selected. N.J.S.A. 52:17B-167d. An amendment is proposed to change the submission of narrative report from a quarterly to an annual basis in conformance with current practice. An amendment is proposed to recodify existing provisions under paragraphs (a)3 and 4 and subsection (b) as new *N.J.A.C. 13:79-4.4*. These existing subsections apply to grantee responsibilities, and not grantee reporting. An amendment also is proposed to clarify that the Division of Criminal Justice may request statistical reports from grantees on a as needed basis.

Proposed new rule *N.J.A.C. 13:79-4.4* sets forth minimum financial requirements and accounting standards for grantees.

N.J.A.C. 13:79-5 is the subchapter setting forth the responsibility of the Division to provide technical and operational assistance to grantees.

N.J.A.C. 13:79-5.1 provides that the Division is available to furnish technical and operational assistance to grantees. The proposed amendment generalizes the category of technical assistance offered by the Division. The proposed amendment deletes the list of specific categories of technical assistance, which included the developing and training of municipal police departments on community policing and violent offender removal programs. This proposed amendment conforms with proposed amendments to *N.J.A.C. 13:79-2.1* and 3.3 and current law enforcement and crime-prevention practices.

Because the Division provides a 60-day comment period, this notice is exempted from the rulemaking calendar requirement of *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

The rules proposed for readoption with amendments and new rules have had a positive social impact because they implement the legislation creating the Safe and Secure Communities Act. This act created a grant program, which funds the employment of additional municipal police officers and other law enforcement personnel. This grant program enables communities to combat crime and improve the quality of life of citizens. The rules proposed for readoption with amendments and new rules have a positive impact upon these municipalities and their citizens.

[page=1980] **Economic Impact**

The rules proposed for readoption with amendments and new rules do not have any adverse economic impact on the public because a substantial portion of grant revenues come from a fund generated from court imposed penalties on persons convicted of crimes, disorderly persons offenses, drunk driving violations and pre-trial intervention and conditional discharge dispositions. *N.J.S.A. 2C:43-3.2*. The Safe and Secure Communities Act, P.L. 1993, c. 220, *N.J.S.A. 52:17B-159* et seq. (hereafter "the Act") created a nonlapsing Safe Neighborhoods Services Fund to provide monies for these law enforcement personnel grants.

Since enactment, the fund has been supplemented annually by State appropriations. Due to budget cuts, State appropriations for the grant program have been reduced from \$ 3.6 million to \$ 1 million over time. Since program costs exceed program revenues, an amendment is proposed to apportion annual revenues among eligible municipalities according to a data-based formula.

As a condition of receiving a grant for the support of salaries of police officers and/or other law enforcement

personnel, a municipality is required to pay the fringe benefits and remaining costs of salary for those persons hired under the program. Reduced program revenues will necessitate participating municipalities assuming a larger amount of the salary costs to employ those officers and other law enforcement personnel supported with grant funds.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required because the subject matter of the rules proposed for readoption with amendments and new rules are governed by State law and not subject to any Federal requirements or standards.

Jobs Impact

The rules proposed for readoption with amendments and new rules are not expected to result in the generation or loss of jobs in the State.

Agriculture Industry Impact

The rules proposed for readoption with amendments and new rules will have no impact on the agricultural industry in New Jersey.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments and new rules do not impose reporting, recordkeeping or other compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq. The rules proposed for readoption with amendments and new rules apply only to those eligible municipalities applying for and receiving a grant under these rules. The rules do not impact small businesses.

Smart Growth Impact

The rules proposed for readoption with amendments and new rules will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments and new rules will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern a grant program that provides funds to eligible municipalities to support the salary of one or more officers.

Smart Growth Development Impact

The rules proposed for readoption with amendments and new rules will have an insignificant impact on smart growth development. There is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules concern a grant program that provides funds to eligible municipalities to support the salary of one or more officers.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at *N.J.A.C. 13:79*.

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

SUBCHAPTER 1. PURPOSE, SCOPE, DEFINITIONS

13:79-1.3 Definitions

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

...

"Police officers" or "officers" means the regular, sworn, appointed municipal officers who have the full power to arrest and who regularly exercise police powers regarding the enforcement of the general criminal and motor vehicle laws of this State.

...

SUBCHAPTER 2. THE SAFE AND SECURE COMMUNITIES PROGRAM

13:79-2.1 Program objectives

[(a)] The Safe and Secure Communities Program is designed to provide [assistance to] municipalities [for programs which accomplish the following objectives, as warranted by the needs of the community:

1. Policing in a community-oriented manner through an emphasis on the use of foot patrols, personal interaction between police officers and residents, and participation in community crime prevention programs;
2. Targeting law enforcement activities toward the specific needs of persons who live or work in a particular neighborhood, such as children, senior citizens, or merchants;
3. Encouraging resident involvement in activities that contribute to crime prevention, including citizen patrols, safe houses, neighborhood watch groups, and crime prevention educational programs;
4. Reducing the incidence of criminal behavior, such as drug trafficking or youth gang activity, that disrupts the normal functioning of a community;
5. Implementing the Violent Offenders Removal Program (VORP) to identify and expeditiously apprehend violent criminals who operate within a targeted area; and
6. Developing other innovative strategies which hold promise for preventing or reducing crime within a defined neighborhood or with respect to a particular demographic group within the municipality.] **with funding for additional law enforcement personnel to adopt community-policing strategies and other innovative community-police based strategies to prevent crime, to encourage community participation in law enforcement efforts and to move toward intelligence-led, data-driven policing strategies and other innovative strategies to combat crime.**

SUBCHAPTER 3. PROGRAM GRANTS

13:79-3.1 Project grants

(a) An eligible municipality may apply to the Division of Criminal Justice for a grant from the fund to be used exclusively to pay the salaries of police officers and other law enforcement personnel deployed in a law enforcement project, which is designed to meet the objectives of the program, but in no event shall the amount of a successive grant exceed a municipality's initial grant award amount [and a successive grant shall be proportionately reduced if a municipality reduces the number of personnel funded from the grant].

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

13:79-3.3 Successive project grants

(a) The [selection process and] criteria for a successive project grant is as follows:

1. The Division of Criminal Justice shall accept an application for a successive project grant, from any eligible municipality.

i. (No change.)

ii. An application for successive funding shall be filed on forms provided and within the time period specified by the Division. Such forms shall include: an application authorization, budget, grant agreement [page=1981] certification, general conditions, council resolution of participation and a description of the activities [and accomplishments achieved under the prior grant] **planned for the grant period.**

2. The Division shall review a filed application to determine whether or not a project is operating in accordance with [these rules and is effectively meeting the objectives of the project to justify continued funding] **this chapter.**

i. The Division shall award a successive grant to an eligible municipality, which demonstrates that its project is operating in accordance with [these rules and is effectively meeting the objectives of the project to justify continued funding] **this chapter.**

ii. The Division shall notify an eligible municipality if its application for a successive grant has been found either to not demonstrate that its project is operating in accordance with [these rules or that it is not effectively meeting the objectives of the project] **this chapter** to justify continued funding.

(1)-(3) (No change.)

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

13:79-3.5 Grant calculation

(a) If projected program revenues are not sufficient to pay for program costs, the Attorney General shall apportion program revenues among eligible municipalities by formula using crime data reported in the Division of State Police's Uniform Crime Reports.

(b) The funding formula measures eligible municipal police workload calculated considering eligibility criteria and reported number of municipal violent and nonviolent crimes and number of police officers.

SUBCHAPTER 4. GRANTEE ACCOUNTABILITY

13:79-4.1 Certification

(a) A municipality [selected as a grant recipient] **that receives a grant** under this program shall certify that all grant funds shall be used exclusively for the purposes specified in the grant award.

(b) A municipality [selected as a law enforcement personnel grant recipient] **that receives a grant under this program** shall certify that it shall not reduce its regular complement of police officers and other law enforcement personnel during any grant period.

13:79-4.2 Agreement prerequisites

(a) Prior to entering into an agreement with the Division of Criminal Justice to receive grant funds, a municipality [selected as a grant recipient under this program] shall provide:

1. (No change.)
2. Authorization by the governing body for the provision of fringe benefit expenses **and paying all costs in excess of the grant award.**

13:79-4.3 Reporting

(a) A municipality [selected as a grant recipient] **that receives a grant** under this program will [be required to] meet the Division of Criminal Justice's programmatic and fiscal reporting standards, including:

1. Submission of [quarterly] **annual** narrative and statistical reports to the Division of Criminal Justice describing program activities and progress for the award period;
2. Submission of quarterly fiscal reports to the Division of Criminal Justice; **and**
- 3. Submission of any statistical reports requested by the Division of Criminal Justice.**

13:79-4.4 Grantee requirements

(a) **A municipality that receives a grant under this program shall maintain the following:**

[3.] **1.** [Maintenance of a] **A** bookkeeping system, records[,] and separate grant files to account for all grant monies spent and all matching funds contributed to the program; and

[4.] **2.** [Maintenance of a] **A** separate account for all grant monies.

(b) [Subgrantee] **An** accounting system[s shall] **that** conforms to generally accepted accounting standards.

SUBCHAPTER 5. ASSISTANCE FOR GRANTEES

13:79-5.1 Technical and operational assistance

[(a)] The Division of Criminal Justice shall provide technical and operational assistance to grantees[, which shall include:].

[1. Assistance in implementing an effective community policing program, including training and development of operational plans, schedules, and strategies; and

2. Coordination of and assistance with violent offender removal programs (VORP).]