

RULE PROPOSALS

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INTERESTED PERSONS

The Department of Corrections provides notices of rule proposals in the New Jersey Register (N.J.R.), a semi-monthly official publication of the Office of Administrative Law which contains all State agency rule proposals and adoptions. The following paragraph is quoted from the Proposal section of the New Jersey Register:

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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**CORRECTIONS**

**THE COMMISSIONER**

**Inmate Telephone Calls**

**Proposed Amendments: N.J.A.C. 10A:18-8.1 and 8.2**

Authorized By: Gary M. Lanigan, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

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

Proposal Number: PRN 2018-036.

Submit written comments by June 15, 2018, to:

Kathleen Cullen  
Administrative Rules Unit  
Office of the Commissioner  
New Jersey Department of Corrections  
PO Box 863  
Trenton, New Jersey 08625-0863  
or via e-mail to [ARU@doc.nj.gov](mailto:ARU@doc.nj.gov)

The agency proposal follows:

**Summary**

The Superior Court of New Jersey, Appellate Division, has remanded to the Department of Corrections the case of *Edward Grimes v. New Jersey Department of Corrections*, 452 *N.J.Super* 396 (2017). The Court found that the New Jersey Department of Corrections (DOC) has informally adopted a policy that does not permit inmates to place telephone calls to cellular, business, or non-traditional telephone numbers. This policy applies to all correctional facilities but is not codified in statute or regulation. The Court has concluded and required promulgation of the calling policy in conformity with the rulemaking procedures of the Administrative Procedures Act (APA), N.J.S.A. 52:14B-4 through 5.

Upon further review, the DOC has decided to modify the calling policy to permit inmate calls to any telephone number subscribed to by an individual at a verifiable address with certain limitations and restrictions for safety and security reasons. By putting in place a revised telephone number calling policy that permits inmate calls to a wider variety of telephone numbers, inmates could potentially be able to add a broadened number of family members and/or friends to their call lists and potentially increase inmate contact with family members and/or friends.

The proposed amendments are intended to codify the modified calling policy and incorporate additional details found in the current calling policy. The Department proposes to add new N.J.A.C. 10A:18-8.1(a)2 in order to codify the need for development of internal management procedures for inmate telephone number calling lists and conditions that may potentially be applied at N.J.A.C. 10A:18-8.1(a)4. These proposed amendments will require a technical change to recodify existing N.J.A.C. 10A:18-8.1(a)2 and 3 as (a)3 and 4.

The Department proposes to add new N.J.A.C. 10A:18-8.2(a), which expands the current calling policy, with limitations and conditions, by adding language that permits inmates to place phone calls to any phone number subscribed to by an individual at a verifiable address. The rule includes limitations and conditions that may be placed on telephone privileges on a case-by-case basis consistent with individual circumstances and the responsibilities associated with the safe and secure operation of a correctional facility, telephone privilege revocation for abuse, and/or other disciplinary infractions/sanctions as set forth at N.J.A.C. 10A:4-5.1. As a result of adding a new subsection (a), the Department proposes to recodify existing N.J.A.C. 10A:18-8.2(a) through (d) as (b) through (e).

In addition, the Department proposes to codify existing limitations on inmate calls to toll-free numbers, information service numbers, and from participation in any call involving three-way calls or transfers to any number other than those appearing on the approved inmate call list by adding new subsections (f) and (g).

The Department of Corrections has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

### **Social Impact**

Given the proposed amendments, inmates will be able to make telephone calls to friends, family members, and other individuals that currently do not subscribe to traditional line telephone services and only have cellular or non-traditional phone numbers. This type of personal contact has been found to have a positive influence on inmate rehabilitation. It is expected that the cost of meeting and maintaining the proposed amendments will have little or no cost to the DOC as inmates and/or parties on their call lists bear the expense of inmate calls. There may be a small incremental increase in administrative activity associated with screening inmate call lists to ensure the telephone numbers submitted are subscribed to by an individual at

a verifiable address, but it is expected that the cost can be met with the established budget and that additional funding will not be required.

#### **Economic Impact**

Additional funding is not necessary to implement the requirements of the proposed amendments. The cost of meeting and maintaining the requirements of the proposed amendments can be met by the Department through the established budget with funds allocated by the State.

#### **Federal Standards Statement**

The proposed amendments promulgated under the authority of the rulemaking requirements of the Department of Corrections as established at N.J.S.A. 30:1B-6 and 30:1B-10. The proposed amendments are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

#### **Jobs Impact**

The Department of Corrections does not anticipate that any jobs will be generated or lost as a result of the proposed amendments.

#### **Agriculture Industry Impact**

The proposed amendments will have no impact on the agriculture industry.

#### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the proposed amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments affect inmates, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

#### **Housing Affordability Impact Analysis**

The proposed amendments will have no impact on the affordability of housing and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing in New Jersey. The proposed amendments concern inmate telephone calls to friends and family members, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

#### **Smart Growth Development Impact Analysis**

The proposed amendments will have no impact on smart growth development because the proposed amendments do not 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. The proposed amendments concern inmate telephone calls to friends and family members, the New Jersey Department of Corrections, and governmental entities responsible for the enforcement of the rules.

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

### **SUBCHAPTER 8. TELEPHONE**

#### **10A:18-8.1 Written procedures**

(a) Designated staff at each correctional facility shall develop and implement written procedures, which provide inmates with reasonable and equitable access to public telephones. These procedures shall specify:

1. (No change.)

- 2. Establishing and changing individual inmate telephone number calling or IPIN list;**  
[2.] **3.** (No change in text.)  
[3.] **4.** Any limitation **and/or condition** on telephone calls.

10A:18-8.2 Notice to [inmates] **inmates-telephone privileges**

**(a) Inmates are afforded the privilege of placing phone calls from designated public phones in each correctional facility to any phone number subscribed to by an individual at a verifiable address. Limitations and conditions may be placed on telephone privileges by the Administrator of each correctional facility on a case-by-case basis consistent with individual circumstances and the responsibilities associated with the safe and secure operation of a correctional facility. Conditions and/or limitations on telephone privileges may include revocation of telephone privileges for abuse of the privilege and/or other disciplinary infractions and sanctions as set forth at N.J.A.C. 10A:4-5.1.**

Recodify existing (a)-(d) as (b)-(e) (No change in text.)

**(f) Inmate calls are not permitted to toll-free numbers (800, 888, 877, 866, 855, 844, etc.) or information service numbers (976, 411, 611, 911, 555-1212, etc.).**

**(g) Inmate calls may not involve three-way calls or transfers to any other number.**