

CHAPTER 45A

ADMINISTRATIVE RULES OF THE  
DIVISION OF CONSUMER AFFAIRS

Authority

N.J.S.A. 45:14-57 and 56:8-1 et seq., specifically 56:8-4; and P.L. 2009, c. 152 (N.J.S.A. 56:8-185 through 56:8-194), and P.L. 2014, c. 34.

Source and Effective Date

R.2012 d.016, effective December 14, 2011.  
See: 43 N.J.R. 1130(a), 44 N.J.R. 166(b).

Chapter Expiration Date

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, expires on December 14, 2018.

Chapter Historical Note

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, Subchapter 1, Deceptive Practices in Mail Order or Catalog Business, was adopted as R.1973 d.176, effective August 1, 1973. See: 5 N.J.R. 151(b), 5 N.J.R. 290(a).

Subchapter 2, Motor Vehicle Advertising Practices, was adopted as R.1973 d.183, effective July 15, 1973. See: 5 N.J.R. 191(a), 5 N.J.R. 290(d).

Subchapter 4, Banned Hazardous Products, was adopted as R.1973 d.222, effective August 15, 1973. See: 5 N.J.R. 229(d), 5 N.J.R. 317(c).

Subchapter 8, Tire Distributors and Dealers, was adopted as R.1973 d.309, effective December 1, 1973. See: 5 N.J.R. 354(a), 5 N.J.R. 390(e).

Subchapter 3, Sale of Meat at Retail, was adopted as R.1973 d.169, effective January 1, 1974. See: 5 N.J.R. 154(a), 5 N.J.R. 239(b).

Subchapter 5, Delivery of Household Furniture and Furnishings, was adopted as R.1973 d.262, effective January 1, 1974. See: 5 N.J.R. 287(a), 5 N.J.R. 357(b).

Subchapter 7, Deceptive Practices Concerning Automotive Repairs and Advertising, was adopted as R.1973 d.307, effective January 1, 1974. See: 5 N.J.R. 351(b), 5 N.J.R. 390(b).

Subchapter 9, Retail Store Advertising and Marketing Practices, was adopted as R.1974 d.15, effective March 1, 1974. See: 5 N.J.R. 422(a), 6 N.J.R. 82(b).

Subchapter 10, Servicing and Repairing of Home Appliances, was adopted as R.1974 d.16, effective March 1, 1974. See: 5 N.J.R. 421(a), 6 N.J.R. 82(c).

Subchapter 12, Sale of Animals, was adopted as R.1975 d.351, effective November 20, 1975. See: 7 N.J.R. 231(b), 7 N.J.R. 571(c).

Subchapter 13, Powers to be Exercised by County and Municipal Officers of Consumer Affairs, was adopted as R.1976 d.245, effective August 3, 1976. See: 8 N.J.R. 233(b), 8 N.J.R. 439(b).

Subchapter 14, Unit Pricing of Consumer Commodities in Retail Establishments, was adopted as R.1976 d.265, effective August 23, 1976. See: 8 N.J.R. 304(a), 8 N.J.R. 439(e).

Subchapter 6, Automotive Sales Practices, was adopted as R.1979 d.392, effective October 1, 1979. See: 11 N.J.R. 386(a), 11 N.J.R. 580(e).

Subchapter 16, Home Improvement Practices, was adopted as R.1980 d.111, effective April 1, 1980. See: 11 N.J.R. 577(a), 12 N.J.R. 209(b).

Subchapter 9, Retail Store Advertising and Marketing Practices, was repealed and Subchapter 9, Merchandise Advertising, was adopted as new rules by R.1980 d.200, effective May 6, 1980. See: 12 N.J.R. 45(a), 12 N.J.R. 348(b).

Subchapter 17, Sale of Advertising in Journals Relating or Purporting to Relate to Police, Firefighting or Charitable Organizations, was adopted as R.1981 d.294, effective August 6, 1981. See: 13 N.J.R. 235(b), 13 N.J.R. 520(b).

Subchapter 15, Disclosure of Refund Policy in Retail Establishment, was adopted as R.1982 d.29, effective February 1, 1982. See: 13 N.J.R. 665(a), 14 N.J.R. 160(a).

Subchapter 21, Representations Concerning and Requirements for the Sale of Kosher Food, was adopted as R.1984 d.113, effective April 2, 1984. See: 16 N.J.R. 220(a), 16 N.J.R. 741(a).

Subchapter 20, Resale of Tickets of Admission to Places of Entertainment, was adopted as R.1984 d.196, effective May 21, 1984. See: 16 N.J.R. 417(a), 16 N.J.R. 1281(b).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Deceptive Practices Concerning Automotive Practices, was readopted as R.1984 d.526, effective October 24, 1984. See: 16 N.J.R. 2349(a), 16 N.J.R. 3214(a).

Subchapter 7, Deceptive Practices Concerning Automotive Repairs and Advertising, was readopted as R.1984 d.527, effective October 24, 1984. See: 16 N.J.R. 2350(a), 16 N.J.R. 3214(b).

Pursuant to Executive Order No. 66(1978), Subchapter 16, Home Improvement Practices, expired April 1, 1985.

Pursuant to Executive Order No. 66(1978), Subchapter 9, Merchandise Advertising, was readopted as R.1985 d.256, effective April 29, 1985. See: 17 N.J.R. 678(a), 17 N.J.R. 1323(b).

Subchapter 16, Home Improvement Practices, was adopted as new rules by R.1985 d.255, effective May 20, 1985. See: 17 N.J.R. 679(a), 17 N.J.R. 1325(a).

Subchapter 23, Deceptive Practices Concerning Watercraft Repair, was adopted as R.1985 d.306, effective June 17, 1985. See: 17 N.J.R. 680(a), 17 N.J.R. 1581(a).

Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, was adopted as R.1985 d.407, effective August 5, 1985. See: 17 N.J.R. 1241(a), 17 N.J.R. 1901(b).

Pursuant to Executive Order No. 66(1978), Subchapter 14, Unit Pricing of Consumer Commodities in Retail Establishments, expired on October 9, 1985.

Subchapter 14, Unit Pricing of Consumer Commodities in Retail Establishments, was adopted as new rules by R.1985 d.643, effective December 16, 1985. See: 17 N.J.R. 2232(b), 17 N.J.R. 2991(c).

Subchapter 2, Motor Vehicle Advertising Practices, was repealed and Subchapter 2, Motor Vehicle Advertising Practices, was adopted as new rules by R.1987 d.341, effective August 17, 1987. See: 19 N.J.R. 1056(a), 19 N.J.R. 1562(c).

Subchapter 21, Representations Concerning and Requirements for the Sale of Kosher Food, and Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, were repealed and Subchapter 21, Sale of Kosher Products, and Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, were adopted as new rules by R.1987 d.450, effective November 2, 1987. See: 19 N.J.R. 1060(a), 19 N.J.R. 2060(d).

Subchapter 25, Sellers of Health Club Services, was adopted as R.1988 d.23, effective January 4, 1988. See: 19 N.J.R. 1967(a), 20 N.J.R. 103(a).

Subchapter 12, Sale of Animals, was repealed and Subchapter 12, Sale of Animals, was adopted as new rules by R.1988 d.271, effective June 20, 1988. See: 19 N.J.R. 853(a), 20 N.J.R. 501(b), 20 N.J.R. 1463(a).

Subchapter 25, Sellers of Health Club Services, was repealed and Subchapter 25, Sellers of Health Club Services, was adopted as new rules by R.1988 d.520, effective November 7, 1988. See: 20 N.J.R. 2036(a), 20 N.J.R. 2790(b).

Subchapter 26, Automotive Dispute Resolutions, was adopted as R.1989 d.65, effective February 6, 1989. See: 20 N.J.R. 2681(b), 21 N.J.R. 339(b).

Subchapter 2, Motor Vehicle Advertising Practices, was repealed and Subchapter 2, Motor Vehicle Advertising Practices, was adopted as new rules by R.1989 d.253, effective May 15, 1989. See: 21 N.J.R. 115(a), 21 N.J.R. 1368(a).

Subchapter 17, Sale of Advertising in Journals Relating or Purporting to Relate to Police, Firefighting or Charitable Organizations, was repealed by R.1990 d.606, effective December 17, 1990. See: 22 N.J.R. 2396(a), 22 N.J.R. 3758(a).

Subchapter 19, Petition for Rulemaking, was adopted as R.1990 d.371, effective August 6, 1990. See: 22 N.J.R. 786(a), 22 N.J.R. 2331(c).

Petition for Rulemaking. See: 22 N.J.R. 3166(b).

Pursuant to Executive Order No. 66(1978), Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.1990 d.606, effective November 9, 1990. See: 22 N.J.R. 2396(a), 22 N.J.R. 3758(a).

Subchapter 24, Toy and Bicycle Safety, was adopted as R.1993 d.372, effective July 19, 1993. See: 24 N.J.R. 3019(b), 24 N.J.R. 3666(a), 25 N.J.R. 3235(a).

Subchapter 21, Sale of Kosher Products, and Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, were repealed and Subchapter 21, Regulations Concerning the Sale of Food Represented as Kosher, was adopted as new rules by R.1994 d.204, effective April 18, 1994. See: 25 N.J.R. 3086(a), 26 N.J.R. 1667(a).

Pursuant to Executive Order No. 66(1978), Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.1995 d.618, effective November 6, 1995, and Subchapter 2, Motor Vehicle Advertising Practices, Subchapter 6, Deceptive Practices Concerning Automotive Sales Practices, Subchapter 7, Deceptive Practices Concerning Automotive Repairs and Advertising, and Subchapter 8, Tire Distributors and Dealers, were recodified as Subchapter 26A, Motor Vehicle Advertising Practices, Subchapter 26B, Automotive Sales Practices, Subchapter 26C, Automotive Repairs, and Subchapter 26D, Tire Distributors and Dealers, by R.1995 d.618, effective December 4, 1995. See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

Subchapter 28, Motor Vehicle Leasing, was adopted as R.1996 d.129, effective March 4, 1996. See: 27 N.J.R. 4130(a), 28 N.J.R. 1394(b).

Subchapter 26E, Motorized Wheelchair Dispute Resolution, was adopted as R.1996 d.407, effective August 19, 1996. See: 28 N.J.R. 2320(a), 28 N.J.R. 3965(a).

Subchapter 26F, Unfair Trade Practices—Used Motor Vehicles—Sale and Warranty, was adopted as R.1999 d.45, effective February 1, 1999. See: 30 N.J.R. 518(a), 31 N.J.R. 446(a).

Pursuant to Executive Order No. 66(1978), Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.2000 d.460, effective October 20, 2000. See: 32 N.J.R. 3282(a), 32 N.J.R. 4126(a).

Subchapter 29, Property Condition Disclosure, was adopted as new rules by R.2004 d.193, effective May 17, 2004. See: 35 N.J.R. 1644(a), 36 N.J.R. 2534(a).

Subchapter 27, New Jersey Uniform Prescription Blanks Program, was adopted as new rules by R.2004 d.238, effective June 21, 2004. See: 35 N.J.R. 4172(a), 36 N.J.R. 3059(a).

Subchapter 22, Halal Food, adopted as new rules by R.2004 d.337, effective September 7, 2004. See: 35 N.J.R. 3754(a), 36 N.J.R. 4152(b).

Subchapter 17, Home Improvement Contractor Registration, was adopted as new rules by R.2004 d.418, effective November 1, 2004 (operative November 9, 2004). See: 36 N.J.R. 3506(a), 36 N.J.R. 4984(a).

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.2006 d.141, effective March 21, 2006. See: 37 N.J.R. 4369(a), 38 N.J.R. 1760(a).

Subchapter 4, Banned Hazardous Products, was renamed Rules Concerning Hazardous Products by R.2007 d.342, effective November 5, 2007. See: 39 N.J.R. 2321(a), 39 N.J.R. 4850(a).

Subchapter 24A, Flame Resistance Standards for Tents and Sleeping Bags, was adopted as new rules by R.2008 d.111, effective May 5, 2008. See: 39 N.J.R. 5056(a), 40 N.J.R. 2287(a).

Subchapter 30, Vehicle Protection Product Warranties, was adopted as new rules by R.2009 d.192, effective June 15, 2009. See: 40 N.J.R. 6404(a), 41 N.J.R. 2493(a).

Subchapter 6, Internet Dating Services, was adopted as new rules by R.2009 d.240, effective August 3, 2009. See: 40 N.J.R. 3957(a), 41 N.J.R. 2977(a).

Subchapter 8, Prepaid Calling Cards, was adopted as new rules by R.2010 d.016, effective January 19, 2010. See: 41 N.J.R. 1970(a), 42 N.J.R. 497(a).

Subchapter 31, Private Property and Non-consensual Towing Companies, was adopted as new rules by R.2010 d.017, effective January 19, 2010. See: 41 N.J.R. 2206(a), 42 N.J.R. 502(a).

Subchapter 32, Prescription Drug Retail Price List, was adopted as new rules by R.2011 d.168, effective June 20, 2011. See: 42 N.J.R. 1327(a), 43 N.J.R. 1424(b).

Subchapter 33, Compassionate Use Medical Marijuana, was adopted as new rules by R.2011 d.293, effective December 5, 2011. See: 42 N.J.R. 2743(a), 43 N.J.R. 3194(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was scheduled to expire on September 17, 2013. See: 43 N.J.R. 1203(a).

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.2012 d.016, effective December 14, 2011. As a part of R.2012 d.016, Subchapter 15, Disclosure of Refund Policy in Retail Establishment, was repealed, effective January 17, 2012. See: Source and Effective Date. See, also, section annotations.

Subchapter 34, International Labor Matching Organizations and International Matchmaking Organizations, was adopted as new rules by R.2012 d.141, effective August 6, 2012. See: 44 N.J.R. 1185(a), 44 N.J.R. 2059(a).

Subchapter 17A, Home Elevation Contractor Registration, was adopted as special new rules by R.2014 d.160, effective October 1, 2014, (to expire May 12, 2015). See: 46 N.J.R. 2188(a).

## CHAPTER TABLE OF CONTENTS

### SUBCHAPTER 1. DECEPTIVE MAIL ORDER PRACTICES

13:45A-1.1 General provisions

### SUBCHAPTER 2. (RESERVED)

### SUBCHAPTER 3. SALE OF MEAT AT RETAIL

13:45A-3.1 Definitions  
 13:45A-3.2 Labeling and advertising requirements  
 13:45A-3.3 Exemption for certain meats  
 13:45A-3.4 Exemptions for meat inspected under United States Department of Agriculture  
 13:45A-3.5 Name in addition to the species and primal cut  
 13:45A-3.6 Advertising when additional name used  
 13:45A-3.7 Use of United States Department of Agriculture grading terms  
 13:45A-3.8 Use of United States Department of Agriculture grading terms for pork

## ADMINISTRATIVE RULES

- 13:45A-3.9 Labeling or advertising when certain United States Department of Agriculture grading terms used
- 13:45A-3.10 Labeling of certain meat food products
- 13:45A-3.11 Fabricated steak
- 13:45A-3.12 Supply of meat advertised
- 13:45A-3.13 Frozen meat
- 13:45A-3.14 Violations
- 13:45A-3.15 Meat charts

### SUBCHAPTER 4. RULES CONCERNING HAZARDOUS PRODUCTS

- 13:45A-4.1 Unconscionable commercial practice
- 13:45A-4.2 Definitions
- 13:45A-4.3 Violations

### SUBCHAPTER 5. DELIVERY OF HOUSEHOLD FURNITURE AND FURNISHINGS

- 13:45A-5.1 Delivery practices; generally
- 13:45A-5.2 Contract forms; date of order
- 13:45A-5.3 Contract form; delayed delivery
- 13:45A-5.4 Violations; sanctions

### SUBCHAPTER 6. INTERNET DATING SERVICES

- 13:45A-6.1 Purpose and scope
- 13:45A-6.2 Definitions
- 13:45A-6.3 Criminal background information
- 13:45A-6.4 Date of criminal background information

### SUBCHAPTER 7. (RESERVED)

### SUBCHAPTER 8. PREPAID CALLING CARDS

- 13:45A-8.1 Scope
- 13:45A-8.2 Definitions
- 13:45A-8.3 Disclosure requirements
- 13:45A-8.4 Prohibited practices
- 13:45A-8.5 Required toll-free telephone number
- 13:45A-8.6 Verbal disclosure requirements
- 13:45A-8.7 Availability of minutes advertised or promoted
- 13:45A-8.8 Billing decrement rounding and monetary rounding
- 13:45A-8.9 Call detail information; records
- 13:45A-8.10 Activation and recharging
- 13:45A-8.11 Minimum active period; maintenance fees
- 13:45A-8.12 Required refunds
- 13:45A-8.13 Surcharges
- 13:45A-8.14 Access number
- 13:45A-8.15 Violations

### SUBCHAPTER 9. GENERAL ADVERTISING

- 13:45A-9.1 Definitions
- 13:45A-9.2 General advertising practices
- 13:45A-9.3 Price reduction advertisements; merchandise advertised at a price of less than \$100.00
- 13:45A-9.4 Price reduction advertisements; items of merchandise specifically advertised at a price of more than \$100.00
- 13:45A-9.5 Price reduction advertisements; merchandise advertised as a savings of a percentage or a range of percentages
- 13:45A-9.6 Pricing; prohibition on fictitious pricing and methods of substantiation
- 13:45A-9.7 Application of regulation
- 13:45A-9.8 Retail discounts in scanner stores; percentage-off discounts; point-of-sale discounts; multi-tiered pricing offers; targeted discounts

### SUBCHAPTER 10. SERVICING AND REPAIRING OF HOME APPLIANCES

- 13:45A-10.1 Definitions
- 13:45A-10.2 Required information
- 13:45A-10.3 Deceptive practices
- 13:45A-10.4 Exceptions
- 13:45A-10.5 Violations

### SUBCHAPTER 11. (RESERVED)

### SUBCHAPTER 12. SALE OF ANIMALS

- 13:45A-12.1 Definition
- 13:45A-12.2 General provisions
- 13:45A-12.3 Required practices related to the health of animals and fitness for sale and purchase

### SUBCHAPTER 13. POWERS TO BE EXERCISED BY COUNTY AND MUNICIPAL OFFICERS OF CONSUMER AFFAIRS

- 13:45A-13.1 Statement of general purpose and intent
- 13:45A-13.2 Definitions
- 13:45A-13.3 General provisions
- 13:45A-13.4 Qualifications of county or municipal director
- 13:45A-13.5 Termination of authority to exercise delegated authority
- 13:45A-13.6 Delegated powers
- 13:45A-13.7 Limitations; litigation
- 13:45A-13.8 Restrictions; powers
- 13:45A-13.9 (Reserved)

### APPENDIX

### SUBCHAPTER 14. UNIT PRICING OF CONSUMER COMMODITIES IN RETAIL ESTABLISHMENTS

- 13:45A-14.1 General provisions
- 13:45A-14.2 Definitions
- 13:45A-14.3 Persons and operations exempted from complying with Unit Price Disclosure Act
- 13:45A-14.4 Regulated consumer commodities and their approved units of measure
- 13:45A-14.5 Exempt consumer commodities
- 13:45A-14.6 Calculation of the numerical unit price of a regulated consumer commodity
- 13:45A-14.7 Unit price labels approved for display
- 13:45A-14.8 Unit price signs and unit price lists
- 13:45A-14.9 Unit price tags
- 13:45A-14.10 Means of disclosing unit price information
- 13:45A-14.11 Placement of unit price information on consumer commodities by nonretailers
- 13:45A-14.12 (Reserved)
- 13:45A-14.13 Nonintentional technical errors
- 13:45A-14.14 Waiver of unit price requirements
- 13:45A-14.15 Penalties

### SUBCHAPTER 15. (RESERVED)

### SUBCHAPTER 16. HOME IMPROVEMENT PRACTICES

- 13:45A-16.1 Purpose and scope
- 13:45A-16.1A Definitions
- 13:45A-16.2 Unlawful practices

### SUBCHAPTER 17. HOME IMPROVEMENT CONTRACTOR REGISTRATION

- 13:45A-17.1 Purpose and scope
- 13:45A-17.2 Definitions
- 13:45A-17.3 Registration required
- 13:45A-17.4 Exemptions
- 13:45A-17.5 Initial and renewal applications
- 13:45A-17.6 Disclosure statement
- 13:45A-17.7 Duty to update information
- 13:45A-17.8 Requirement to cooperate
- 13:45A-17.9 Refusal to issue, suspension or revocation of registration; hearing; other sanctions
- 13:45A-17.10 Reinstatement of suspended registration
- 13:45A-17.11 Ownership and use of registration number; replacement and duplicate certificates
- 13:45A-17.12 Mandatory commercial general liability insurance

- 13:45A-17.13 Requirements of certain home improvement contracts  
 13:45A-17.14 Fees

#### SUBCHAPTER 17A. HOME ELEVATION CONTRACTOR REGISTRATION

- 13:45A-17A.1 Purpose and scope  
 13:45A-17A.2 Definitions  
 13:45A-17A.3 Registration required  
 13:45A-17A.4 Initial and renewal applications  
 13:45A-17A.5 Disclosure statement  
 13:45A-17A.6 Duty to update information  
 13:45A-17A.7 Requirement to cooperate  
 13:45A-17A.8 Refusal to issue, suspension, or revocation of registration; hearing; other sanctions  
 13:45A-17A.9 Reinstatement of suspended registration  
 13:45A-17A.10 Ownership and use of registration number; replacement and duplicate certificates  
 13:45A-17A.11 Mandatory insurance and bonding  
 13:45A-17A.12 Requirements of certain home elevation contracts  
 13:45A-17A.13 Fees  
 13:45A-17A.14 Identification badges and notice statement

#### SUBCHAPTER 18. PLAIN LANGUAGE REVIEW

- 13:45A-18.1 Fee for contract review

#### SUBCHAPTER 19. PETITION FOR RULEMAKING

- 13:45A-19.1 Petition for promulgating, amending or repealing rules

#### SUBCHAPTER 20. RESALE OF TICKETS OF ADMISSION TO PLACES OF ENTERTAINMENT

- 13:45A-20.1 Definitions  
 13:45A-20.1A (Reserved)  
 13:45A-20.2 Registration  
 13:45A-20.3 Fees: new or renewal certificate of registration  
 13:45A-20.4 Place of business  
 13:45A-20.5 Sale or exchange  
 13:45A-20.6 Records  
 13:45A-20.7 Advertising

#### SUBCHAPTER 21. REGULATIONS CONCERNING THE SALE OF FOOD REPRESENTED AS KOSHER

- 13:45A-21.1 Definitions  
 13:45A-21.2 Disclosure requirements  
 13:45A-21.3 Labeling requirements  
 13:45A-21.4 Recordkeeping requirements  
 13:45A-21.5 Filing requirements  
 13:45A-21.6 Inspections of dealers  
 13:45A-21.7 Unlawful practices  
 13:45A-21.8 Presumptions

#### SUBCHAPTER 22. HALAL FOOD

- 13:45A-22.1 Purpose and scope  
 13:45A-22.2 Definitions  
 13:45A-22.3 Disclosure statement; posting of disclosure  
 13:45A-22.4 Oral disclosure  
 13:45A-22.5 Reliance on representation; good faith; defense  
 13:45A-22.6 Recordkeeping requirements  
 13:45A-22.7 Presumptions  
 13:45A-22.8 Inspection of dealers  
 13:45A-22.9 (Reserved)  
 13:45A-22.10 Unlawful practices

#### APPENDIX A THROUGH D. (RESERVED)

#### SUBCHAPTER 23. DECEPTIVE PRACTICES CONCERNING WATERCRAFT REPAIR

- 13:45A-23.1 Definitions  
 13:45A-23.2 Deceptive practices: watercraft repairs

#### SUBCHAPTER 24. TOY AND BICYCLE SAFETY

- 13:45A-24.1 Purpose and scope  
 13:45A-24.2 Reporting of toy-related injuries  
 13:45A-24.3 Recall notices for children's products  
 13:45A-24.4 Bicycle safety notices

#### SUBCHAPTER 24A. FLAME RESISTANCE STANDARDS FOR TENTS AND SLEEPING BAGS

- 13:45A-24A.1 Definitions  
 13:45A-24A.2 Flame resistance standards

#### SUBCHAPTER 25. SELLERS OF HEALTH CLUB SERVICES

- 13:45A-25.1 "Health club" defined  
 13:45A-25.2 Registration; fees  
 13:45A-25.3 Exemption from registration  
 13:45A-25.4 Exemption from security requirement  
 13:45A-25.5 Documentation of maintenance of security  
 13:45A-25.6 Health club contracts  
 13:45A-25.7 Violations; sanctions

#### SUBCHAPTER 26. AUTOMOTIVE DISPUTE RESOLUTION

- 13:45A-26.1 Purpose and scope  
 13:45A-26.2 Definitions  
 13:45A-26.3 Statements to consumer; other notices  
 13:45A-26.4 Lemon Law Unit  
 13:45A-26.5 Preliminary steps to initiate a Lemon Law action within the Division of Consumer Affairs Lemon Law Unit  
 13:45A-26.6 Eligibility  
 13:45A-26.7 Application  
 13:45A-26.8 Filing fee  
 13:45A-26.9 Processing of applications  
 13:45A-26.10 Notification and scheduling of hearings  
 13:45A-26.11 Computation of refund  
 13:45A-26.12 Final decision  
 13:45A-26.13 Appeals  
 13:45A-26.14 Manufacturer's reporting requirements  
 13:45A-26.15 Index of disputes

#### SUBCHAPTER 26A. MOTOR VEHICLE ADVERTISING PRACTICES

- 13:45A-26A.1 Scope  
 13:45A-26A.2 Application  
 13:45A-26A.3 Definitions  
 13:45A-26A.4 Bait and switch  
 13:45A-26A.5 Advertisements; mandatory disclosure requirements in all advertisements for sale  
 13:45A-26A.6 Advertisements; mandatory disclosure in advertisements for lease of a new or used motor vehicle  
 13:45A-26A.7 Unlawful advertising practices  
 13:45A-26A.8 Certain credit and installment sale advertisements  
 13:45A-26A.9 On-site disclosures  
 13:45A-26A.10 Record of transactions

#### SUBCHAPTER 26B. AUTOMOTIVE SALES PRACTICES

- 13:45A-26B.1 Definitions  
 13:45A-26B.2 Pre-delivery service fees  
 13:45A-26B.3 Documentary service fee  
 13:45A-26B.4 Violations

#### SUBCHAPTER 26C. AUTOMOTIVE REPAIRS

- 13:45A-26C.1 Definitions  
 13:45A-26C.2 Deceptive practices; automotive repairs

#### SUBCHAPTER 26D. TIRE DISTRIBUTORS AND DEALERS

- 13:45A-26D.1 General provisions  
 13:45A-26D.2 Deceptive practices  
 13:45A-26D.3 Violations

## ADMINISTRATIVE RULES

### SUBCHAPTER 26E. MOTORIZED WHEELCHAIR DISPUTE RESOLUTION

- 13:45A-26E.1 Purpose and scope
- 13:45A-26E.2 Definitions
- 13:45A-26E.3 Manufacturer warranty
- 13:45A-26E.4 Wheelchair Lemon Law Unit
- 13:45A-26E.5 Repair of nonconformity
- 13:45A-26E.6 Eligibility
- 13:45A-26E.7 Application
- 13:45A-26E.8 Filing fee
- 13:45A-26E.9 Processing of applications
- 13:45A-26E.10 Notification and scheduling of hearings
- 13:45A-26E.11 Computation of refund
- 13:45A-26E.12 Final decision
- 13:45A-26E.13 Appeals
- 13:45A-26E.14 Manufacturer's informal dispute resolution system
- 13:45A-26E.15 Index of disputes

### SUBCHAPTER 26F. UNFAIR TRADE PRACTICES—USED MOTOR VEHICLES—SALE AND WARRANTY

- 13:45A-26F.1 Purpose and scope
- 13:45A-26F.2 Definitions
- 13:45A-26F.3 Dealer warranty; form; scope; purchaser's obligations
- 13:45A-26F.4 Waiver of warranty
- 13:45A-26F.5 Bond requirement
- 13:45A-26F.6 Administrative fee
- 13:45A-26F.7 Procedures regarding repair of material defect
- 13:45A-26F.8 Used Car Lemon Law Unit; duties; address
- 13:45A-26F.9 Procedures for resolving a complaint
- 13:45A-26F.10 Application for dispute resolution
- 13:45A-26F.11 Processing of applications
- 13:45A-26F.12 Notification of scheduling of hearings
- 13:45A-26F.13 Final decision
- 13:45A-26F.14 Computation of refund
- 13:45A-26F.15 Appeals
- 13:45A-26F.16 Dealer's informal dispute resolution procedures
- 13:45A-26F.17 Index of disputes
- 13:45A-26F.18 Violations

#### APPENDIX A

#### APPENDIX B

#### APPENDIX C

#### APPENDIX D

### SUBCHAPTER 27. NEW JERSEY UNIFORM PRESCRIPTION BLANKS PROGRAM

- 13:45A-27.1 Purpose and scope
- 13:45A-27.2 Definitions
- 13:45A-27.3 NJPB required for prescriptions
- 13:45A-27.4 Recordkeeping, reporting, and security requirements for licensed prescribers, healthcare facilities, and pharmacists
- 13:45A-27.5 Group practice
- 13:45A-27.6 Vendor application
- 13:45A-27.7 Manufacture and distribution by approved vendors; withdrawal or termination from NJPB program
- 13:45A-27.8 NJPB printing specifications
- 13:45A-27.9 Vendor requirements
- 13:45A-27.10 Vendor security requirements
- 13:45A-27.11 Confidentiality
- 13:45A-27.12 Enforcement
- 13:45A-27.13 Renewal of approved vendor status

### SUBCHAPTER 28. MOTOR VEHICLE LEASING

- 13:45A-28.1 through 13:45A-28.7 (Reserved)
- 13:45A-28.8 Right to review contract

### SUBCHAPTER 29. PROPERTY CONDITION DISCLOSURE

- 13:45A-29.1 Property Condition Disclosure Form

### SUBCHAPTER 30. VEHICLE PROTECTION PRODUCT WARRANTIES

- 13:45A-30.1 Purpose and scope
- 13:45A-30.2 Definitions
- 13:45A-30.3 Registration and renewal requirements
- 13:45A-30.4 Vehicle protection product warranty requirements
- 13:45A-30.5 Warranty reimbursement insurance policy requirements for registration of warrantors
- 13:45A-30.6 Registration exemptions
- 13:45A-30.7 Unlawful practices
- 13:45A-30.8 Violations
- 13:45A-30.9 Fees

### SUBCHAPTER 31. PRIVATE PROPERTY AND NON-CONSENSUAL TOWING COMPANIES

- 13:45A-31.1 Purpose and scope
- 13:45A-31.2 Words and phrases defined
- 13:45A-31.3 Liability insurance
- 13:45A-31.4 Schedule of other non-consensual towing and storage services
- 13:45A-31.5 Unreasonable fees
- 13:45A-31.6 Towing motor vehicles from private property
- 13:45A-31.7 Storage facilities
- 13:45A-31.8 Private property towing practices
- 13:45A-31.9 Recordkeeping
- 13:45A-31.10 Violations

### SUBCHAPTER 32. PRESCRIPTION DRUG RETAIL PRICE LIST

- 13:45A-32.1 Prescription drug retail price list; maintenance; posting of notice

### SUBCHAPTER 33. COMPASSIONATE USE MEDICAL MARIJUANA

- 13:45A-33.1 Purpose and scope
- 13:45A-33.2 Physician reporting requirements
- 13:45A-33.3 Alternative treatment center reporting requirements
- 13:45A-33.4 Electronic format required for the transmission of information; exemption
- 13:45A-33.5 Frequency requirements for transmitting information; confidentiality
- 13:45A-33.6 Waiver

### SUBCHAPTER 34. INTERNATIONAL LABOR MATCHING ORGANIZATIONS AND INTERNATIONAL MATCHMAKING ORGANIZATIONS

- 13:45A-34.1 Purpose and scope
- 13:45A-34.2 Definitions
- 13:45A-34.3 Registration
- 13:45A-34.4 Disqualifying crimes; petition for review
- 13:45A-34.5 Information provided to recruits
- 13:45A-34.6 Recordkeeping
- 13:45A-34.7 Violations

### SUBCHAPTER 1. DECEPTIVE MAIL ORDER PRACTICES

#### 13:45A-1.1 General provisions

(a) Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., this rule makes unlawful thereunder some specific practices in the mail order or catalog business.

Finding of N.J.A.C. 13:45A-16.2(a)6v violation upheld; total recovery under the Consumer Fraud Act for compensatory damages in small claims division court may not exceed \$1,000; judgment reduced to limit. *Wisser v. Kaufman Carpet Co., Inc.*, 188 N.J.Super. 574, 458 A.2d 119 (App.Div.1983).

Violation of Consumer Fraud Act. *Swiss v. Williams*, 184 N.J.Super. 243, 445 A.2d 486 (Dist. Ct. of Mercer Co.1982).

## SUBCHAPTER 17. HOME IMPROVEMENT CONTRACTOR REGISTRATION

Public Notice: Implementation of Home Improvement Contractor Registration Regulation, effective December 31, 2005.

See: 37 N.J.R. 87(a).

Public Notice: Implementation of Home Improvement Contractor Registration Regulations.

See: 37 N.J.R. 4558(a).

### 13:45A-17.1 Purpose and scope

(a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. as amended by P.L. 2004, c.16 (N.J.S.A. 56:8-136 et seq.), P.L. 2013, c. 144, and P.L. 2014, c. 34 by providing procedures for the regulation of home improvement contractors and establishing standards to facilitate enforcement of the requirements of the Act. The rules establish the Division's registration procedures for those persons who fall under the requirements of this law.

(b) These rules shall apply to home improvement contractors in this State, unless otherwise exempt under N.J.A.C. 13:45A-17.4. Home elevation contractors registered pursuant to N.J.A.C. 13:45A-17A.3 shall be subject to the rules of this subchapter when performing home improvements other than home elevations.

(c) Home improvement contractors who have entered into a contract with a consumer to perform home elevation services prior to October 1, 2014, shall be deemed to be in compliance so long as the contractor maintains written proof that the consumer has been apprised of the requirements that became effective on October 1, 2014, including those required at N.J.A.C. 13:45A-17A.4(b) and 17A.11(b) which will be implemented 30 days after adoption of this proposal, and the consumer has knowingly elected to proceed under the terms of that contract.

Special amendment, R.2014 d.160, effective October 1, 2014 (to expire May 12, 2015).

See: 46 N.J.R. 2188(a).

In (a) inserted "P.L. 2013, c. 144, and P.L. 2014, c. 34"; rewrote (b); and added (c).

### 13:45A-17.2 Definitions

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

"Advertise" means to communicate to the public by means of any print, electronic or any other media, including, but not limited to, newspapers, magazines, periodicals, journals, circulars, flyers, business cards, signs, radio, telephone, facsimile machine, television, computer or the Internet. "Advertise" includes having a person's name in a classified advertisement or directory in this State under any classification of home improvement as defined in this section but does not include simple residential alphabetical listings in standard telephone directories.

"Director" means the Director of the Division of Consumer Affairs.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Employee" means employee as defined in N.J.A.C. 18:35-7.1.

"Home elevation contractor" means a person engaged in the business of making or selling home elevations and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

"Home improvement" means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or non-commercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, home elevation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or non-commercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or non-commercial property and includes any of the above activities performed under emergency conditions. The term does not apply to any work required to be performed by a licensed master plumber, licensed master heating, ventilating, air conditioning, and refrigeration contractor, or licensed electrical contractor. Home elevations are home improvements that require registration pursuant to N.J.A.C. 13:45A-17A.

"Home improvement contract" means an oral or written agreement for the performance of a home improvement between a contractor and an owner of residential or non-commercial property, or a contractor and a tenant or lessee of residential or noncommercial property, if the tenant or lessee is to be obligated for the payment of home improvements made in, to, or upon such property, and includes all agreements under which the contractor is to perform labor or

render services for home improvements, or furnish materials in connection therewith.

“Home improvement contractor” or “contractor” means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations and any other form of business organization or entity, and their officers, representatives, agents and employees.

“Residential or non-commercial property” means a structure used, in whole or in substantial part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures.

Special amendment, R.2014 d.160, effective October 1, 2014 (to expire May 12, 2015).

See: 46 N.J.R. 2188(a).

Added definition “Home elevation contractor”; and rewrote definition “Home improvement”.

### 13:45A-17.3 Registration required

(a) Unless exempt under N.J.A.C. 13:45A-17.4:

1. No person shall engage in the business of making or selling home improvements in this State unless registered with the Division in accordance with this subchapter; and

2. No person shall advertise indicating that the person is a contractor in this State unless the person is registered with the Division in accordance with this subchapter.

(b) Unless exempt under N.J.A.C. 13:45A-17.4, contractors hired by other contractors to make or sell any home improvements shall register with the Division in accordance with this subchapter.

(c) Officers and employees of a registered home improvement contractor shall not be required to register separately from the registered business entity provided that the officers and employees sell or make home improvements solely within their respective scopes of performance for that registered business entity.

(d) Officers and employees of a home improvement contractor that is exempt under N.J.A.C. 13:45A-17.4 shall not be required to register provided that the officers and employees sell or make home improvements solely within their respective scopes of performance for that exempt business entity.

(e) Home elevation contractors registered pursuant to N.J.A.C. 13:45A-17A.3 shall be permitted to engage in the business of making or selling home improvements.

Administrative change.

See: 37 N.J.R. 2212(a).

Amended by R.2012 d.016, effective January 17, 2012.

See: 43 N.J.R. 1130(a), 44 N.J.R. 166(b).

In the introductory paragraph of (a), substituted “Unless” for “On or after December 31, 2005, unless”.

Special amendment, R.2014 d.160, effective October 1, 2014 (to expire May 12, 2015).

See: 46 N.J.R. 2188(a).

Added (e).

### 13:45A-17.4 Exemptions

(a) The following persons are exempt from the registration requirements of this subchapter:

1. Any person registered pursuant to “the New Home Warranty and Builders’ Registration Act,” P.L. 1977, c.467 (N.J.S.A. 46:3B-1 et seq.), but only in conjunction with the building of a new home as defined in N.J.A.C. 5:25-1.3;

2. Any person performing a home improvement upon a residential or non-commercial property owned by that person, or by the person’s family;

3. Any person performing a home improvement upon a residential or non-commercial property owned by a bona fide charity or other non-profit organization;

4. Any person regulated by the State as an architect, professional engineer, landscape architect, land surveyor, electrical contractor, master plumber, locksmith, burglar alarm business, fire alarm business, or any other person in any other related profession requiring registration, certification, or licensure by the State, who is acting within the scope of practice of that profession;

5. Any person employed by a community association or cooperative corporation who is making home improvements within the person’s scope of employment at the residential or non-commercial property that is owned or leased by the community association or cooperative corporation;

6. Any public utility as defined under N.J.S.A. 48:2-13;

7. Any person licensed as a home financing agency, a home repair contractor or a home repair salesman pursuant to N.J.S.A. 17:16C-77, provided that the person is acting within the scope of such license;

8. Any home improvement retailer with a net worth of more than \$50,000,000 or any employee of such home improvement retailer who is making or selling such home improvements within the person’s scope of employment of the home improvement retailer; and

9. Any person holding a valid registration as a home elevation contractor pursuant to N.J.A.C. 13:45A-17A.3; provided that if the person’s home elevation registration is surrendered, suspended, revoked, not renewed, or otherwise is no longer valid, the person shall register as a home improvement contractor prior to engaging in the business of making or selling home improvements unless the person qualifies for exemption from registration pursuant to (a)1 through 8 above.

Special amendment, R.2014 d.160, effective October 1, 2014 (to expire May 12, 2015).

See: 46 N.J.R. 2188(a).

In (a)7, deleted “and” from the end, in (a)8, substituted “; and” for a period at the end; and added (a)9.

SUBCHAPTER 17A. HOME ELEVATION  
CONTRACTOR REGISTRATION**13:45A-17A.1 Purpose and scope**

(a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as amended by P.L. 2004, c. 16, P.L. 2013, c. 144, and P.L. 2014, c. 34 (the "Act") by providing procedures for the regulation of home elevation contractors and establishing standards to facilitate enforcement of the requirements of the Act. The rules establish the Division's registration procedures for home elevation contractors.

(b) These rules shall apply to home elevation contractors in this State.

**13:45A-17A.2 Definitions**

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

"Advertise" means to communicate to the public by means of any print, electronic, or any other media, including, but not limited to, newspapers, magazines, periodicals, journals, circulars, flyers, business cards, signs, radio, telephone, facsimile machine, television, computer, or the Internet. "Advertise" includes having a person's name in a classified advertisement or directory in this State under any classification of home improvement or home elevation as defined in this section, but does not include simple residential alphabetical listings in standard or Internet telephone directories.

"Badge declaration" means the electronic form that a registered entity must complete, as set forth in N.J.A.C. 13:45A-17A.14(b), that identifies individuals performing, engaging, or attempting to engage in the face-to-face sale of home improvements, including home elevations, on behalf of the entity at a location or locations in this State other than the business location or locations disclosed pursuant to N.J.A.C. 13:45A-17A.4(c).

"Director" means the Director of the Division of Consumer Affairs.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Employee" means an employee as defined in N.J.A.C. 18:35-7.1.

"Entity" means the business registered or to be registered as a home elevation contractor.

"Home elevation" means a home improvement consisting of lifting a home off a slab or existing foundation system and setting it back down on a new foundation or piers, posts, columns, or pilings.

"Home elevation contract" means a home improvement contract for a home elevation.

"Home elevation contractor" means a person engaged in the business of making or selling home elevations and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

"Home improvement" means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or non-commercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, home elevation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or non-commercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or non-commercial property and includes any of the above activities performed under emergency conditions. The term does not apply to any work required to be performed by a licensed master plumber, licensed master heating, ventilating, air conditioning, and refrigeration contractor, or licensed electrical contractor.

"Home improvement contract" means an oral or written agreement for the performance of a home improvement between a contractor and an owner of residential or non-commercial property, or a contractor and a tenant or lessee of residential or non-commercial property, if the tenant or lessee is to be obligated for the payment of home improvements made in, to, or upon such property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

"Home improvement contractor" means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

"Residential or non-commercial property" means a structure used, in whole or in substantial part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures.

"Sale of home improvements" means any action taken by or on behalf of an entity with the goal of entering into a contract with a consumer for the performance of a home

improvement, including a home elevation, which includes, but is not limited to: initial contact with the consumer; taking measurements; presenting estimates for the cost of a home elevation or other home improvement; and entering into the contract with the consumer for the completion of the home improvement or home elevation or both.

“Staff” means an employee or an individual who is engaged pursuant to a written agreement to provide consulting services to the home elevation contractor.

“State authorized vendor or vendors” means the business or businesses with which the State has contracted to act on behalf of the Director for the issuance and management of home improvement contractor identification badges.

### 13:45A-17A.3 Registration required

(a) On or after October 1, 2014, no person shall engage in the business of making or selling home elevations in this State unless registered with the Division in accordance with this subchapter, except as provided in (a)1 below:

1. If a home improvement contractor has entered into a contract with a consumer to perform home elevation services, prior to October 1, 2014, and the contractor maintains written proof that the consumer has been apprised of the requirements that became effective October 1, 2014, including those required at N.J.A.C. 13:45A-17A.4(b) and 17A.11(b) which will be implemented 30 days after adoption of this proposal, and has knowingly elected to proceed under the terms of that contract, the contractor will be deemed in compliance with this subchapter.

(b) No person shall advertise indicating that the person is a home elevation contractor in this State unless the person is registered with the Division in accordance with this subchapter.

(c) Any person registered as a home improvement contractor wishing to perform home elevations shall convert his or her home improvement registration into a home elevation registration at no additional fee by completing a home elevation contractor application. The initial term of such home elevation registration shall be the unexpired term of the home improvement registration that was converted.

(d) A person registered as a home elevation contractor shall be exempt from the requirement to register as a home improvement contractor pursuant to N.J.A.C. 13:45A-17.3(a)9; provided that if a person’s home elevation registration is surrendered, suspended, revoked, not renewed, or otherwise is no longer valid, such person shall register as a home improvement contractor under N.J.A.C. 13:45A-17.3 prior to engaging in the business of making or selling home improvements and shall obtain a new badge identifying the person as a home improvement contractor.

(e) Contractors that hire sub-contractors to make home elevations, but do not themselves perform home elevations, shall not be required to register as a home elevation contractor with the Division in accordance with this subchapter.

(f) Officers and employees of a registered home elevation contractor shall not be required to register separately from the registered business entity provided that the officers and employees sell or make home elevations within their respective scopes of employment for that registered business entity.

### 13:45A-17A.4 Initial and renewal applications

(a) Home improvement contractors seeking to become registered under this subchapter shall apply to convert their registration to a home elevation contractor by submitting the following information in addition to that required by (c) and (d) below, on forms provided by the Director:

1. A current and valid registration number;
2. A certification that the applicant contractor currently has, in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, including working directly on home elevation projects and training in the operation of home elevation equipment and describing such experience; and
3. Proof of the home elevation contractor’s insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(a)1.

(b) Home elevation contractors who have converted their HIC registrations under (a) above, and those who have initially registered after October 1, 2014, under (c) below, within 30 days of the adoption of the concurrent proposal, shall submit the following on forms provided by the Director:

1. Proof of the home elevation contractor’s insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(b);
2. A letter from a surety company authorized to do business in the State, addressed to the Division, to the effect that the applicant has a bonding capacity of at least \$500,000; and
3. A list of three references, complete with contact information, for whom the experienced individual in an ownership or staff position in the home elevation contractor has elevated a residential or non-commercial structure within the past five years.

(c) Applicants seeking to engage in home elevations who do not have a current and valid registration as a home improvement contractor shall apply for initial registration with the Division by submitting the following on forms provided by the Director:

1. The name and street address of each place of business of the home elevation contractor and any fictitious or trade name to be used by the home elevation contractor;

2. The type of business organization;

3. The name, residence, and business street address of each officer, director, principal, and person with an ownership interest of 10 percent or more in the entity, including the percentage of ownership held;

4. The name and number of any professional or occupational license, certificate, or registration issued by this State or any other governmental entity to any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity;

5. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity has been adjudged liable in an administrative or civil action involving any of the situations in (c)5i through v below either as a home improvement contractor or a home elevation contractor. For the purposes of this paragraph, a judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the entity, officer, director, principal, or person with an ownership interest of 10 percent or more in the entity engaged in an unlawful practice or practices related to any of the named situations in (c)5i through v below regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension, or revocation of a license, certification, or registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or Federal agency. As described above, this paragraph covers the following situations:

i. Obtaining any registration, certification, or license by fraud, deception, or misrepresentation;

ii. Engaging in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense;

iii. Engaging in gross negligence, gross malpractice, or gross incompetence;

iv. Engaging in acts of negligence, malpractice, or incompetence involving selling or making a home elevation or home improvement; or

v. Engaging in professional or occupational misconduct;

6. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home elevations or other home improvements in any state or Federal proceeding. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere, or

any other such disposition of alleged criminal activity shall be deemed a conviction;

7. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity has had its authority to engage in the activity regulated by the Director revoked or suspended by any other state agency or authority;

8. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity has violated or failed to comply with the provisions of any act, regulation, or order administered or issued by the Director;

9. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity believes it, he, or she is unable to meet the requirements of the Act (N.J.S.A. 56:8-136 et seq.) or rule in this subchapter for medical or any other good cause to the detriment of the public's health, safety, and welfare;

10. The name and street address of an agent in the State of New Jersey for service of process; and

11. A certification that the applicant currently has, in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, including working directly on home elevation projects and training in the operation of home elevation equipment and describing such experience.

(d) In addition to the information required in (c) above, the applicant shall include the following with the initial application:

1. A properly completed disclosure statement that complies with the requirements of N.J.A.C. 13:45A-17A.5;

2. Proof of the applicant's insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(a)1 or (b) as applicable;

3. When applicable, a letter from a surety company authorized to do business in the State, addressed to the Division, to the effect that the applicant has a bonding capacity of at least \$500,000;

4. The initial registration fee in the amount specified in N.J.A.C. 13:45A-17A.13 unless not required pursuant to N.J.A.C. 13:45A-17A.3(c); and

5. A list of three references, complete with contact information, for whom the experienced individual in an ownership or staff position in the applicant has elevated a residential or non-commercial structure within the past five years.

(e) An application that is not completed because of the applicant's failure to cure a deficiency or to comply with the Director's request for additional information within two years from the date of the last deficiency notice or the date of the

last written request for additional information shall be deemed to have been abandoned.

(f) A registered home elevation contractor shall include the following with the annual renewal application:

1. A completed renewal application on a form provided by the Director;
2. Proof of the home elevation contractor's insurance coverage in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(a)1;
3. A letter from a surety company authorized to do business in New Jersey and addressed to the Division to the effect that the applicant has a bonding capacity of at least \$500,000, and stating the amount of bonds required by N.J.A.C. 13:45A-17A.11(a)2 that the applicant has outstanding;
4. The renewal registration fee in the amount specified in N.J.A.C. 13:45A-17A.13; and
5. If the completed renewal application is received by the Division after the renewal application's due date as specified on the renewal application, the late fee in the amount specified in N.J.A.C. 13:45A-17A.13.

(g) A home elevation contractor shall, at all times throughout the registration term, have at least one named person in an ownership or staff position with a minimum of five years of experience in home elevation, including working directly on home elevation projects and training in the operation of home elevation equipment. If at any time, there is no such person in management or on staff, the home elevation contractor shall notify the Division, in writing, within three calendar days.

(h) The first registration period shall expire on March 31, 2016. Thereafter, a registration period shall commence on April 1 of each year and end on the following March 31.

#### 13:45A-17A.5 Disclosure statement

(a) Each applicant for initial registration shall file a disclosure statement with the Director stating whether it or any of its officers, directors, principals, or persons with an ownership interest of 10 percent or more in the home elevation contractor business has been convicted of any violations of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:

1. Any crime of the first degree;
2. Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or
3. Any other crime which is a violation of N.J.S.A. 2C:5-1 or 2C:5-2 (conspiracy), N.J.S.A. 2C:11-2 (criminal homicide), N.J.S.A. 2C:11-3 (murder), N.J.S.A. 2C:11-4

(manslaughter), N.J.S.A. 2C:12-1 (assault), N.J.S.A. 2C:12-3 (terroristic threats), N.J.S.A. 2C:13-1 (kidnapping), N.J.S.A. 2C:14-2 (sexual assault), subsection a. or b. of N.J.S.A. 2C:17-1 (arson and related offenses), subsection a. or b. of N.J.S.A. 2C:17-2 (causing or risking widespread injury or damage), N.J.S.A. 2C:15-1 (robbery), N.J.S.A. 2C:18-2 (burglary), N.J.S.A. 2C:20-4 (theft by deception), N.J.S.A. 2C:20-5 (theft by extortion), N.J.S.A. 2C:20-7 (receiving stolen property), N.J.S.A. 2C:20-9 (theft by failure to make required disposition of property received), N.J.S.A. 2C:21-2 (criminal simulation), N.J.S.A. 2C:21-2.1 (fraud relating to driver's license or other document issued by governmental agency to verify identity or age; simulation), N.J.S.A. 2C:21-2.3 (fraud relating to motor vehicle insurance identification card; production or sale), N.J.S.A. 2C:21-3 (frauds relating to public records and recordable instruments), N.J.S.A. 2C:21-4 (falsifying or tampering with records), N.J.S.A. 2C:21-6 (fraud relating to credit cards), N.J.S.A. 2C:21-7 (deceptive business practices), N.J.S.A. 2C:21-12 (defrauding secured creditors), N.J.S.A. 2C:21-14 (receiving deposits in a failing financial institution), N.J.S.A. 2C:21-15 (misapplication of entrusted property and property of government of financial institution), N.J.S.A. 2C:21-19 (wrongful credit practices and related offenses), N.J.S.A. 2C:27-2 (bribery in official and political matters), N.J.S.A. 2C:27-3 (threats and other improper influence in official and political matters), N.J.S.A. 2C:27-5 (retaliation for past official action), N.J.S.A. 2C:27-9 (public servant transacting business with certain persons), N.J.S.A. 2C:27-10 (acceptance or receipt of unlawful benefit by public servant for official behavior), N.J.S.A. 2C:27-11 (offer of unlawful benefit by public servant for official behavior), N.J.S.A. 2C:28-1 (perjury), N.J.S.A. 2C:28-2 (false swearing), N.J.S.A. 2C:28-3 (unsworn falsification to authorities), N.J.S.A. 2C:28-4 (false reports to law enforcement officials), N.J.S.A. 2C:28-5 (tampering with witnesses and informants; retaliation against them), N.J.S.A. 2C:28-6 (tampering with or fabricating physical evidence), N.J.S.A. 2C:28-7 (tampering with public records or information), N.J.S.A. 2C:28-8 (impersonating a public servant or law enforcement officer), N.J.S.A. 2C:30-2 (official misconduct), N.J.S.A. 2C:30-3 (speculating or wagering on official action or information), N.J.S.A. 2C:35-5 (manufacturing, distributing or dispensing a controlled dangerous substance), N.J.S.A. 2C:35-10 (possession, use or being under the influence or failure to make lawful disposition of a controlled dangerous substance), N.J.S.A. 2C:37-2 (promoting gambling), N.J.S.A. 2C:37-3 (possession of gambling records), or N.J.S.A. 2C:37-4 (maintenance of a gambling resort).

#### 13:45A-17A.6 Duty to update information

(a) Whenever any information required to be included in the application changes, including, but not limited to, a change to the certification required under N.J.A.C. 13:45A-17A.4(c)11, or if additional information should be added after

the filing of the application, the registered home elevation contractor shall provide that information to the Director, in writing, within 20 calendar days of the change or addition. Whenever any other information filed with the Director pursuant to the Act (N.J.S.A. 56:8-136 et seq.) or this subchapter has changed, the registered home elevation contractor shall provide that information to the Director, in writing, within 20 calendar days of the change or addition.

(b) Whenever any information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant or registered home elevation contractor, as appropriate, shall provide that information to the Director, in writing, within 30 calendar days of the change or addition.

(c) Whenever there is a deletion or addition to the list of individuals required to wear identification badges pursuant to N.J.A.C. 13:45A-17A.14, the registered home elevation contractor shall inform the Division within three business days of the deletion or addition by logging on to the Division's website and amending the badge declaration. Any additions to the list shall be accompanied by the badge fee. Any individual added to the entity's list of individuals required to wear a badge shall not perform, engage, or attempt to engage in the face-to-face sales of home elevations on behalf of the entity at a location or locations in this State other than the business location or locations disclosed by the entity pursuant to N.J.A.C. 13:45A-17A.4(c) until the individual has obtained and is wearing a badge.

(d) If, at any time, a home elevation contractor no longer has in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, the home elevation contractor shall notify the Division, in writing, within three calendar days.

#### **13:45A-17A.7 Requirement to cooperate**

Home elevation contractor applicants seeking to register with the Division and registered home elevation contractors shall have the continuing duty to provide any assistance or information; to produce any records requested by the Director; and to cooperate in any inquiry, investigation, or hearing conducted by the Director.

#### **13:45A-17A.8 Refusal to issue, suspension, or revocation of registration; hearing; other sanctions**

(a) The Director may refuse to issue or renew, or may suspend or revoke any registration issued by the Division upon proof that an applicant or registrant or any of its officers, directors, principals, or persons with an ownership interest of 10 percent or more in the entity:

1. Has obtained any registration, certification, or license by fraud, deception, or misrepresentation;

2. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense;

3. Has engaged in gross negligence, gross malpractice, or gross incompetence;

4. Has engaged in repeated acts of negligence, malpractice, or incompetence involving selling or making a home elevation or other home improvement;

5. Has engaged in professional or occupational misconduct;

6. Has been adjudged liable in an administrative or civil action involving any finding or admission which would provide a basis for discipline pursuant to (a)1 through 5 above, regardless of whether that finding was made in the context of an injunction; a proceeding resulting in the denial, suspension, or revocation of a license, certification, or registration; consented to in an assurance of voluntary compliance; or any similar order or legal agreement with any state or Federal agency;

7. Has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home elevations or home improvements. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere, or any other such disposition of alleged criminal activity shall be deemed a conviction;

8. Has had his or her authority to engage in the activity regulated by the Director revoked or suspended by any other state or Federal agency or authority for reasons consistent with this section;

9. Has failed to comply with the badge requirements set forth in N.J.A.C. 13:45A-17A.14. It shall be an affirmative defense to a charge of failing to return a badge to the State authorized vendor that the entity used its best efforts to collect and surrender the badge;

10. Has failed to update information as required by N.J.A.C. 13:45A-17A.6;

11. Has violated or failed to comply with the Act (N.J.S.A. 56:8-136 et seq.) or any provision of this subchapter or the provisions of any act, regulation, or order administered or issued by the Director;

12. No longer has at least one named person with the experience required in N.J.A.C. 13:45A-17A.4(g) in an ownership or staff position; or

13. Is unable to meet the requirements of the Act (N.J.S.A. 56:8-136 et seq.) or any rule in this subchapter for medical or any other good cause to the detriment of the public's health, safety, and welfare.

(b) Information contained in the application required pursuant to N.J.A.C. 13:45A-17A.4 and information contained in the disclosure statement required to be filed pursuant to N.J.A.C. 13:45A-17A.5 may be used by the Di-

rector as grounds for denying, suspending, or revoking a registration. An applicant whose registration is denied or a home elevation contractor whose registration is suspended or revoked based upon information contained in the application or disclosure statement or any amendments thereto shall be afforded an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, upon written request to the Director within 30 days of the notice of denial, suspension, or revocation, which shall contain the basis for such action. In any matter in which the provisions of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., apply, the Director shall comply with the requirements of that act.

(c) Except as provided in (b) above, prior to refusing to issue or renew or suspending or revoking a home elevation contractor registration, assessing a penalty, or other sanction, the Director shall notify the applicant or registrant and provide an opportunity to be heard.

(d) In addition to assessing a monetary penalty for any violation of this subchapter, the Director may revoke a registration or suspend the registration for a period of time dependent upon the seriousness of the violation.

(e) Nothing contained in this subchapter shall limit the Director from imposing any additional fees, fines, penalties, restitution, or any other sanctions as permitted under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

#### **13:45A-17A.9 Reinstatement of suspended registration**

A registration that is suspended by the Director may be reinstated upon the home elevation contractor satisfying the conditions for reinstatement as determined by the Director and paying all outstanding fees, fines, penalties, and restitution, including the payment of the reinstatement fee specified in N.J.A.C. 13:45A-17A.13. If a suspended registration is reinstated, all individuals associated with the reinstated entity required to wear badges pursuant to N.J.A.C. 13:45A-17A.14 shall obtain new badges.

#### **13:45A-17A.10 Ownership and use of registration number; replacement and duplicate certificates**

(a) Each registration number and certificate containing such registration number issued by the Director to a home elevation contractor shall remain the property of the State of New Jersey. If the Director suspends, refuses to renew, or revokes a registration, the home elevation contractor shall immediately return all registration certificates to the Director and shall remove the registration number from all vehicles, advertising, and anything else on which the registration number is displayed or otherwise communicated.

(b) The Director shall issue a replacement certificate upon payment of the replacement certificate fee as set forth in

N.J.A.C. 13:45A-17A.13 and receipt by the Director of an affidavit or certified statement attesting that the original was either lost, destroyed, mutilated, or is otherwise no longer in the custody of and cannot be recovered by the certificate holder.

(c) The Director shall issue a duplicate certificate to a registered home elevation contractor upon payment of the duplicate certificate fee as set forth in N.J.A.C. 13:45A-17A.13 and receipt by the Director of an affidavit or certified statement that the registered contractor has multiple places of business in which the home elevation contractor must display a certificate. A registered home elevation contractor may not possess more registration certificates than the number of places of business utilized by the home elevation contractor.

(d) A registered home elevation contractor shall prominently display:

1. The original registration certificate or a duplicate registration certificate issued by the Division at each place of business; and
2. The home elevation contractor's registration number on all advertisements distributed within this State, on business documents and contracts, and on correspondence with consumers of home elevation services in this State.

(e) All commercial vehicles registered in this State and leased or owned by a registrant and used by the registrant for the purpose of providing home elevations, except for vehicles leased or rented by a registrant to a customer of that registrant, shall be marked on both sides with the following information:

1. The name of the registered home elevation contractor in lettering at least one inch in height; and
2. The home elevation contractor registration number of the registrant in lettering at least one inch in height.

(f) Any invoice, contract, or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to N.J.S.A. 56:8-149.b, which shall be displayed in all caps in at least 10-point boldface type as follows: FOR INFORMATION ABOUT CONTRACTORS AND THE CONTRACTORS' REGISTRATION ACT, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS AT 1-888-656-6225.

#### **13:45A-17A.11 Mandatory insurance and bonding**

(a) As of October 1, 2014, every registered home improvement contractor seeking to become registered as a home elevation contractor shall secure and maintain in full force and effect during the entire term of registration insurance in the amount of \$1 million per occurrence, over and above the \$500,000 required for registration as a home improvement contractor, of a type covering home elevation activities to

cover damages or other losses to the homeowner, lessee, tenant, or other party resulting from the home elevation.

(b) Within 30 days of the adoption of this concurrent proposal, every registered home elevation contractor or applicant seeking to become registered as a home elevation contractor shall secure and maintain in full force and effect during the entire term of registration:

1. Cargo, structural movers cargo, builders risk, riggers liability, care custody and control, or any other insurance policies that together are broad enough to cover the following risk of loss to the homeowner's dwelling, other structures, and personal property during the contracted elevation operations: perils typically insured under a "special form" homeowners policy, including damage caused by the negligence of the contractor and its subcontractors. Certificates of insurance for these policies shall be provided to the homeowner. Policies covering the risks identified below shall be maintained in the stated amounts per occurrence with the minimum aggregate amounts:

i. Cargo insurance, or other policy insuring the homeowner's, lessor's, or tenant's personal property located in the dwelling and other structures being lifted, shall provide minimum coverage in the amount of \$50,000 per occurrence, with a minimum aggregate amount of \$200,000;

ii. Riggers or care custody or control insurance, or other policy insuring the dwelling and other structures being lifted, shall provide minimum coverage in the amount of \$500,000 per occurrence, with a minimum aggregate amount of \$2,000,000;

iii. Policies insuring the dwelling and other structures being lifted, and the homeowner's, lessor's, or tenant's personal property located in them, for damage unrelated to the legal liability of the contractor shall provide minimum coverage in the amount of \$500,000 per occurrence, with a minimum aggregate in the amount of \$2,000,000;

iv. Commercial general liability insurance, having a minimum coverage amount of \$1,000,000 per occurrence (including the \$500,000 of coverage required for all home improvement contractors), with an aggregate limit of \$2,000,000; and

v. Commercial auto liability insurance having a minimum coverage amount of \$1,000,000 per occurrence;

2. Bonding capacity of at least \$500,000 and outstanding payment and performance bonds in an amount at least equal to the value of all active home elevation contracts. A performance and payment surety bond or bonds in favor of the homeowner in the minimum amount of the value of each home elevation contract for the

duration of the project, the signed original of the bond or bonds shall be provided to the homeowner; and

3. Any other insurance required by law or regulations, including, but not limited to, workers compensation insurance.

(c) Insurance and surety bonds shall be obtained from insurers and surety companies licensed to do business in the State of New Jersey with an A.M. Best's rating of not less than A-

(d) The Division shall be a certificate holder on all insurance policies, and as such, shall be issued a certificate(s) of insurance which shall contain the insured's name, business street address, policy number, term of the insurance, and coverage information. The certificate must state affirmatively the following: "This policy is applicable to the home elevation operations of the insured." A copy of the insurance policy or policies together with the declaration page indicating the limits of liability shall be attached to the certificate. The issuer shall provide the Division with written notice of cancellation or non-renewal within 10 days of the cancellation or non-renewal of any such insurance policies.

(e) Every registered contractor engaged in home elevation whose insurance policies are canceled, not renewed, or changed shall submit to the Director copies of the certificates of insurance for new or replacement policies which meet the requirements of (b)1 and 2 above, before the former policies are no longer effective.

**13:45A-17A.12 Requirements of certain home elevation contracts**

In addition to the requirements of a home improvement contract pursuant to N.J.A.C. 13:45A-16.2, every home elevation contract in which a person required to be registered as a home elevation contractor is a party shall comply with the provisions of N.J.S.A. 56:8-151.

**13:45A-17A.13 Fees**

(a) The Division shall charge the following non-refundable home elevation contractor registration fees:

- 1. Initial registration fee \$110.00;
- 2. Renewal registration fee \$90.00;
- 3. Late fee \$25.00;
- 4. Reinstatement fee \$50.00;
- 5. Replacement or duplicate certificate fee \$20.00.

**13:45A-17A.14 Identification badges and notice statement**

(a) Each individual performing, engaging, or attempting to engage in the face-to face sale of home improvements, including home elevations, on behalf of an entity at a location or locations in this State other than the business location or locations disclosed pursuant to N.J.A.C. 13:45A-17A.4(c), shall wear an identification badge on the upper left corner of

the individual's torso in a plainly visible fashion. An individual shall not engage in the face-to-face sale of home improvements on behalf of the entity at a location or locations in this State other than the business location or locations disclosed pursuant to N.J.A.C. 13:45A-17A.4(c) until the individual has obtained and is wearing a valid identification badge.

1. This section shall not become effective until such time as a rule requiring all home improvement contractors to wear identification badges under N.J.A.C. 13:45A-17 becomes effective.

2. Any person required to wear an identification badge shall provide consumers with the following written statement:

**MY BADGE TELLS YOU**

that I am employed by \_\_\_\_\_ and that I am authorized to sell home elevations and home improvements on its behalf.

This Badge is for identification purposes only. The issuance of this Badge does not constitute or imply any endorsement or approval by the New Jersey Division of Consumer Affairs.

(b) For the purpose of identifying those individuals who are required to obtain and wear an identification badge, each entity shall, upon registration, complete a badge declaration setting forth the name and address of residence of each individual who will perform, engage, or attempt to engage in the face-to-face sales of home elevations or home improvements on behalf of the entity at a location or locations in this State other than the business location or locations disclosed by the entity pursuant to N.J.A.C. 13:45A-17A.4(c). Access to the electronic form shall be available by logging on to the Division website. The name, address, and contact information for the State authorized vendor or vendors issuing identification badges shall be posted on the Division website.

(c) An individual shall not be issued a badge unless:

1. The registration of the entity with which the individual is associated is in good standing;

2. The individual is listed on the entity's badge declaration, as supplemented and amended from time to time;

3. The badge fee has been paid by the entity to the vendor; and

4. The individual presents to the State authorized vendor a form of government-issued photo identification containing the individual's current address of residence, which shall match the address listed on the entity's badge declaration.

(d) The Division, through the State authorized vendor or vendors, shall issue an identification badge that shall be unalterable and shall include the following information:

1. The name, color photograph, and signature of the individual to whom the badge has been issued;

2. The business name and registration number of the entity;

3. The badge's expiration date; and

4. A clear and visible statement that the badge is not for an electrical contractor, plumbing contractor, or heating, ventilating, air conditioning, and refrigeration contractor.

(e) The badge shall be valid for two years. Each entity on whose behalf a badge has been issued shall apply for renewal of the badge at least 45 days prior to its expiration date, at which time the entity shall pay the badge renewal fee and shall obtain from the State authorized vendor a new badge showing an updated photo and expiration date. An entity that permits an individual required to have a badge to work without a valid badge shall be deemed to be in violation of this subchapter within the meaning of N.J.A.C. 13:45A-17A.8 and shall also be subject to the penalty provisions of N.J.S.A. 56:8-143.

(f) Identification badges are not transferable. Failure of an entity to collect and surrender an identification badge shall be deemed to be a violation within the meaning of N.J.A.C. 13:45A-17.9. The address for surrender shall be set forth on the Division's website. Upon termination of an association between an entity and an individual to whom an identification badge was issued, the entity shall:

1. Inform the Division within three business days of the date of termination by logging on to the Division's website and amending the badge declaration; and

2. Collect the individual's identification badge and surrender it to the State authorized vendor for destruction within three business days of the date of termination.

(g) In the case of a lost or stolen badge, the individual shall not perform, engage or attempt to engage in the face-to-face sales of home improvements on behalf of the entity at a location or locations in this State other than the business location or locations disclosed pursuant to N.J.A.C. 13:45A-17.5(a)1 until the individual obtains and is wearing a new badge. If an individual's badge is lost or stolen, or a badge holder has legally changed his or her name through marriage or court order, the entity with which the individual is associated shall, within three business days of the event, report the event to the Division by logging on to the Division's website and:

1. In the case of a name change, amend the badge declaration; and

2. In the case of a lost or stolen badge, report the loss or theft.

(h) An entity whose registration has been suspended or revoked, or has not been renewed, shall, within three business days of that suspension, revocation, or nonrenewal, surrender all identification badges issued under the registration number of the entity to the State authorized vendor. The address for surrender shall be set forth on the Division's website. All badges so surrendered shall be destroyed. Any subsequent reinstatement of registration shall require the issuance of a new badge.

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SUBCHAPTER 18. PLAIN LANGUAGE REVIEW

**13:45A-18.1 Fee for contract review**

Any creditor, seller, insurer, lessor, or any person in the business of preparing and selling forms of consumer contracts, requesting a review of a consumer contract, or writing required to complete the consumer transaction, to determine its compliance with the Plain Language Act, N.J.S.A. 56:12-1 et seq., shall pay to the Director of the Division of Consumer Affairs a fee in the amount of \$50.00.

R.1982 d.221, effective July 19, 1982.  
See: 14 N.J.R. 464(a), 14 N.J.R. 767(b).

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SUBCHAPTER 19. PETITION FOR RULEMAKING

**13:45A-19.1 Petition for promulgating, amending or repealing rules**

(a) Any interested person may file a petition with the Director of the Division of Consumer Affairs or with any

board, bureau, committee or other agency located within the Division to promulgate, amend or repeal a rule.

(b) With respect to a petition for a new rule or an amended rule, the petitioner shall include his or her name and address, the substance or nature of the request, the problem or purpose which is the subject of the request, the petitioner's interest in the request, the proposed text of the new rule or amended rule and the statutory authority under which the requested action may be taken.

(c) With respect to a petition for an amended rule, the petitioner shall indicate any existing text to be deleted and include any new text to be added.

(d) Within 15 days of receiving the petition, the Director shall file with the Office of Administrative Law for publication in the New Jersey Register a notice of petition pursuant to N.J.A.C. 1:30-3.6(a).

(e) Within 60 days of receiving the petition, the Director or the board, bureau or other agency located within the Division shall, pursuant to N.J.S.A. 52:14B-4(f):

1. Deny the petition and provide a written statement of its reasons to the petitioner;
2. Grant the petition and initiate a rulemaking proceeding within 90 days of the granting of the petition; or
3. Refer the matter for further deliberations, which shall conclude within 90 days of referral, and either grant or deny the petition under (e)1 or 2 above.

(f) A specific period of more than 90 days for further deliberations under (e)3 above and/or to initiate a rulemaking proceeding under (e)2 above may be agreed upon, in writing, by the petitioner and the Director or the board, bureau or