

(b) The Agency may, after compliance with the notice requirements of (a) above, and finding of fact that a violation for which revocation could be ordered has occurred, issue a cease and desist order in lieu of an order of revocation.

(c) A developer to whom a notice of revocation or a cease and desist order is issued shall have the right to contest the notice or order in an administrative hearing, in accordance with N.J.A.C. 5:26-11.3.

Amended by R.1990 d.452, effective September 4, 1990.  
See: 22 N.J.R. 1702(a), 22 N.J.R. 2682(b).

References to the APA and UAPR added at (a).  
Amended by R.1996 d.94, effective February 20, 1996.  
See: 27 N.J.R. 4478(a), 28 N.J.R. 1226(a).

In (a) 5 added color, religious principles, ancestry, affectional or sexual orientation, or any other basis prohibited, and added (c).

**5:26-2.12 Cease and desist orders; injunctions**

(a) The Agency may issue an order requiring a person to cease and desist from an unlawful practice or an order requiring him to take such other affirmative action as in the judgment of the Agency will carry out the purposes of the Act or these regulations upon the Agency's determination, after notice and hearing, that a developer has:

1. Violated any provision of the Act;
2. Directly or through an agent or employee knowingly engaged in any false, deceptive or misleading advertising, promotional or sales methods to offer or dispose of a unit;
3. Made any material change in the plan of disposition or development of the subdivision subsequent to the order of registration without obtaining prior approval from the Agency;
4. Disposed of any lot, parcel, unit or interest in a planned real estate development or retirement community which has not been registered with the Agency; or
5. Violated any lawful order, rule or regulation of the Agency.

(b) Upon the determination of the Agency in writing, based on a finding of fact that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order including therein a provision that, upon request, a hearing will be held within 10 days of such request to determine whether or not the temporary cease and desist order shall become permanent. A copy of any temporary cease and desist order shall be sent to the developer by certified mail.

(c) The Agency may, if it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of the Act or a rule, order or regulation of the Agency, bring an action in Superior Court to enjoin the acts or practices and to enforce compliance with the Act or regulations herein.

**5:26-2.13 Annual report**

Within 30 days after the anniversary date of the latest Order of Registration and while the developer retains any interest in the development or retirement community, the developer shall file on a form designated by the Agency an annual report reflecting any material changes in information contained in the original application for registration. This shall not diminish the obligation of the developer to notify the Agency of material changes as they occur. The annual report shall contain a yearly audit of association funds.

**5:26-2.14 Order terminating responsibility**

Upon a determination by the Agency that an annual report is no longer necessary for the protection of the public interest or that the developer no longer retains any interest and no longer has any contractual, bond or other obligations in the development or retirement community, the Agency shall issue an order terminating the responsibilities of the developer under the Act.

**5:26-2.15 Registration in this State, other states or with the Federal Government**

Any developer who desires to register a planned real estate development or retirement community which has been registered in this State, in other states or with the Federal Government and the requirements of that registration are substantially similar to those imposed by this chapter, may submit a certified copy of the approved application for registration filed in such other jurisdiction or with such other state agency or with the Federal Government and a certified copy of the letter of approval or other written approval thereof. In the event the Agency finds, upon review, that the approval substantially conforms to the standards and requirements imposed by the Act and by this chapter, the Agency may register such planned real estate development or retirement community; provided however, prior to such registration the Agency may require submission of such supplemental documents and information as it may deem necessary.

**5:26-2.16 Consolidated filing**

A developer may register additional property pursuant to the same common promotional plan as those previously registered by the Agency by submitting another application providing such additional information as may be necessary to register the additional lots, parcels, units or interests.

**5:26-2.17 P.U.D. and P.U.R.D.**

(a) The developer of a planned unit development or planned unit residential development shall register the development pursuant to N.J.A.C. 5:26-3 hereof regardless of whether the developer intends to offer the lots, parcels, units or interests to the public or to a builder or builders or to another developer.

(b) In the event the developer offers or intends to offer a number of lots, parcels, units or interests in a P.U.D. or P.U.R.D. to a builder or builders who will construct dwelling units thereon with the intention of offering them to the public, the developer and the builder may submit a joint application for registration or the developer may submit an application for registration and file an amendment pursuant to N.J.A.C. 5:26-3 hereof when the lots, parcels, units or interests are conveyed to the builder.

(c) The items requested in N.J.A.C. 5:26-3.1(a)1, 3, 4, 16, 17, 19 and 20 shall be submitted for both the developer and the builder.

(d) The warranty provisions of N.J.A.C. 5:26-7 shall be provided by the person who constructs the particular improvements so warranted.

R.1979 d.439, eff. November 1, 1979.  
See: 11 N.J.R. 497(a), 11 N.J.R. 610(b).  
Amended by R.1996 d.94, effective February 20, 1996.  
See: 27 N.J.R. 4478(a), 28 N.J.R. 1226(a).  
Administrative change.  
See: 29 N.J.R. 550(b).  
In (c), amended N.J.A.C. references.

### SUBCHAPTER 3. APPLICATION FOR REGISTRATION

#### 5:26-3.1 Contents of application for registration

(a) The application for registration shall contain the following documents and information:

1. An irrevocable appointment of the Agency to receive service of any lawful process in any noncriminal proceeding arising under the Act against the developer or agents of the developer;
2. The states or other jurisdiction, including the Federal Government, in which an application for registration or similar documents have been or will be filed and any order, judgment or decree entered in connection therewith by the regulatory authorities in each of the jurisdictions or by any court or administrative body thereof;
3. The name, address and principal occupation for the past five years of every officer of the applicant or person occupying a similar status and of any person performing similar management functions; the extent and nature of any such person's interest in the applicant or the development as of a specified date within 30 days prior to the filing of the application for registration;

4. Copies of the articles of incorporation, with all amendments thereto, if the developer is a corporation; copies of all instruments by which the trust is created or declared, if the developer is a trust; copies of the articles of partnership or association and all other organization papers if the developer is organized under another form. In the event the developer is not the legal title holder to the property upon which the development is or is to be constructed the above documents shall be submitted for both the developer and the legal title holder;

5. A legal description by metes and bounds or other acceptable means of the lands to be registered, together with a map showing the proposed or actual subdivision and showing the dimensions of the lots, parcels, units or interests, as available, and the relation of such lands to existing streets, roads and other improvements. The aforesaid map shall be drawn to scale, signed and sealed by a licensed professional engineer or land surveyor;

6. Copies of the deed or other instrument establishing title in the developer and title search, title report or title certificate or binder issued by a licensed title insurance company;

7. A statement concerning any litigation, orders, judgments or decrees which might affect this offering;

8. In the event that the application for registration is for the conversion of a vacant building, an affidavit to that effect shall be submitted by the developer;

9. In the event that the application for registration is for the conversion of a building occupied by residential tenants, an affidavit of service of the proposed Public Offering Statement as required by N.J.A.C. 5:26-9.3 shall be submitted;

10. In the event that the application for registration is for a newly-constructed property, evidence of registration under the New Home Warranty and Builders Registration Act (N.J.S.A. 46:3B-1 et seq.) shall be submitted;

11. A statement that the lots, parcels, units or interests in the development will be offered to the public and sold or alienated without regard to marital status, sex, race, color, creed, religious principles, national origin, ancestry, affectional or sexual orientation, or any other basis prohibited by the Law Against Discrimination (N.J.S.A. 10:5-1 et seq.);

12. A statement of the present condition of access to the development and the existence of any adverse conditions that affect the development that are known, should be known or are readily ascertainable;

13. Copies of all contracts and agreements which the purchaser may be required to execute in connection with this offering;