

CHAPTER 3A ADMINISTRATION

Authority

N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i),
and N.J.A.C. 19:4-6.27.

Source and Effective Date

R.2003 d.9, effective December 9, 2002.
See: 34 N.J.R. 2539(a), 35 N.J.R. 258(a)

Chapter Expiration Date

Chapter 3A, Administration, expires on December 9, 2007, except Subchapter 3, Disability Discrimination Grievance Procedure, which is exempt under 28 C.F.R. Part 35.

Chapter Historical Note

Chapter 3A, Administration, was adopted as R.1974 d.83, effective March 29, 1974. See: 6 N.J.R. 209(b).

Subchapter 3, Disability Discrimination Grievance Procedure, was adopted as R.1994 d.15, effective January 3, 1994. See: 25 N.J.R. 3946(b), 26 N.J.R. 251(a).

Pursuant to Executive Order No. 66(1978), Chapter 3A, Administration, was readopted as R.1996 d.491, effective September 26, 1996. See: 28 N.J.R. 3235(a), 28 N.J.R. 4593(a).

Subchapter 4, Professional Services Contracts, was adopted as R.2000 d.4, effective January 3, 2000. See: 31 N.J.R. 2520(a), 32 N.J.R. 69(a).

Pursuant to Executive Order No. 66(1978), Chapter 3A, Administration, was readopted as R.2001 d.241, effective June 21, 2001. See: 33 N.J.R. 385(a), 33 N.J.R. 2495(a).

Chapter 3A, Administration, was readopted as R.2003 d.9, effective December 9, 2002. See: Source and effective date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

19:3A-1.1 through 19:3A-1.2 (Reserved)
19:3A-1.3 Petitions for rulemaking

SUBCHAPTER 2. FLOOD INSURANCE

19:3A-2.1 Required land use and control measures
19:3A-2.2 Securing coverage under the National Flood Insurance Program

SUBCHAPTER 3. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

19:3A-3.1 Definitions
19:3A-3.2 Purpose
19:3A-3.3 Required ADA notice
19:3A-3.4 Designated ADA coordinator
19:3A-3.5 Complaint procedure
19:3A-3.6 Complaint contents
19:3A-3.7 Complaint form
19:3A-3.8 Investigation

SUBCHAPTER 4. PROFESSIONAL SERVICES CONTRACTS

19:3A-4.1 Applicability
19:3A-4.2 Definitions

19:3A-4.3 Filing of current statements of qualification and supporting data
19:3A-4.4 Solicitation of additional statements of qualification
19:3A-4.5 Criteria for the selection of the most highly qualified professional firms
19:3A-4.6 (Reserved)
19:3A-4.7 Negotiations and fee agreements

SUBCHAPTER 1. GENERAL PROVISIONS

19:3A-1.1 (Reserved)

Repealed by R.1996 d.491, effective October 21, 1996.
See: 28 N.J.R. 3235(a), 28 N.J.R. 4593(a).
Section was "Indemnification".

19:3A-1.2 (Reserved)

R.1974 d.133, effective June 3, 1974.
See: 6 N.J.R. 281(a).
Amended by R.1994 d.543, effective November 7, 1994.
See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).
Repealed by R.1996 d.491, effective October 21, 1996.
See: 28 N.J.R. 3235(a), 28 N.J.R. 4593(a).
Section was "Annual meeting".

19:3A-1.3 Petitions for rulemaking

(a) Unless otherwise provided in the rules of the New Jersey Meadowlands Commission, this section shall constitute the Commission's requirements for the disposition of all requests for rulemaking pursuant to N.J.S.A. 52:14B-4(f).

1. For additional requirements relating to petitions for a zoning amendment to the Official Zoning Map, also known as a rezoning, see N.J.A.C. 19:4-6.29.
2. For additional requirements relating to petitions for an amendment to the District Zoning Regulations, N.J.A.C. 19:4, see N.J.A.C. 19:4-6.30.

(b) Any interested person may petition the New Jersey Meadowlands Commission to promulgate new rules, or to amend or repeal any of its existing rules. Such petition shall be filed with the Office of the Chief Engineer, in writing, and signed by the petitioner. The petition shall state clearly and concisely:

1. The substance or nature of the rulemaking which is requested;
2. The reasons for the request and the petitioner's interest in the request;
3. The statutory authority under which the New Jersey Meadowlands Commission may take the requested action; and
4. Existing Federal or State statutes and rules which the petitioner believes may be pertinent to the request.

(c) Petitions for the promulgation, amendment or repeal of a rule by the New Jersey Meadowlands Commission shall be sent by certified mail and shall be addressed to:

New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071
Attention: Office of the Chief Engineer

(d) Any document submitted to the New Jersey Meadowlands Commission that is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further agency action. The document shall be returned to sender with a deficiency explanation.

(e) Upon receipt of a petition for rulemaking, the following shall occur:

1. The petition shall be dated, stamped and logged;
2. A notice of petition shall be prepared and filed within 15 days of receipt with the Office of Administrative Law in compliance with N.J.A.C. 1:30-3.6(a).

(f) Prior to any action taken by the New Jersey Meadowlands Commission pursuant to this section, the Office of the Chief Engineer shall review the petition and prepare a preliminary analysis with recommendations thereon which shall be submitted to the Executive Director and the Commissioners.

(g) Within 30 days following receipt of a petition, the Office of the Chief Engineer shall mail to the petitioner and file with the Office of Administrative Law for publication in the New Jersey Register a notice of action on the petition which shall contain the information prescribed by N.J.A.C. 1:30-3.6(b).

(h) In accordance with N.J.A.C. 1:30-3.6(c), the Commission's action on a petition may include:

1. Denial of the petition;
2. Filing a notice of proposed rule or a notice of pre-proposal for a rule with the Office of Administrative Law; or
3. Referral of the matter for further deliberations, the nature of which shall be specified and which shall conclude upon a specified date. The results of these further deliberations shall be mailed to the petitioner and shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

New Rule, R.1991 d.553, effective November 4, 1991.
See: 23 N.J.R. 1917(a), 23 N.J.R. 3346(a).
Administrative change.
See: 33 N.J.R. 3454(a).

SUBCHAPTER 2. FLOOD INSURANCE

19:3A-2.1 Required land use and control measures

(a) The Office of the Chief Engineer shall review all permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must:

1. Be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure;
2. Use construction materials and utility equipment that are resistant to flood damage; and
3. Use construction methods and practices that will minimize flood damage.

(b) The Office of the Chief Engineer shall review all subdivision proposals and other proposed new developments to assure that:

1. All such proposals are consistent with the need to minimize flood damage;
2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated, and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided so as to reduce exposure to flood hazards.

(c) New or replacement water supply systems and/or sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. On-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them during flooding.

R.1974 d.213, effective August 2, 1974.

See: 6 N.J.R. 369(b).

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

19:3A-2.2 Securing coverage under the National Flood Insurance Program

(a) The New Jersey Meadowlands Commission hereby evidences a positive interest in securing flood insurance coverage under the National Flood Insurance Program because of a clear danger of flooding and the resultant damage to property in the Hackensack Meadowlands District.

(b) The Executive Director of the New Jersey Meadowlands Commission shall be the person responsible for the implementation and coordination of the Federal Flood Insurance Program within the Hackensack Meadowlands District.

(c) The Executive Director of the New Jersey Meadowlands Commission shall be the person responsible to furnish on request, by an appropriate Federal or State official or by a designated representative of the National Insurers Association, information for each structure constructed within the area of special flood hazards after flood insurance is made available in the community concerning its first floor elevation, and if there is a basement the distance from the first floor to the bottom of the lowest opening where water flowing over the ground would enter said basement.

(d) The Executive Director of the New Jersey Meadowlands Commission shall be the person responsible for the preparation and submission to the Federal Flood Insurance Administrator an annual report concerning the activities of the District related to the National Flood Insurance Program.

(e) The New Jersey Meadowlands Commission office located at One DeKorte Park Plaza, Lyndhurst, New Jersey, shall be the local repository where flood insurance and flood hazard maps will be available for public inspection.

(f) The New Jersey Meadowlands Commission hereby agrees to maintain in force land use and control measures that meet the requirements set forth in the regulations promulgated by the Federal Insurance Administration. A copy of these land use and control measures are attached hereto and made a part of this document.

(g) The New Jersey Meadowlands Commission will comply with the regulations of the National Flood Insurance Program to:

1. Recognize and duly evaluate flood hazards in all official actions relative to land use in the areas having special flood hazards and to take such other official action as may be necessary to carry out the objectives of the program;
2. Assist the administrator and/or the State of New Jersey if requested in delineating the limits of the areas having special flood hazards on available local maps of sufficient scale to identify the location of building sites;
3. Provide such information as the administrator and/or the State of New Jersey may request concerning present uses and occupancy of the flood plain;
4. Cooperate with neighboring jurisdictions with respect to adjoining drainage areas and flood plains in order to prevent the aggravation of the flooding problem;
5. Cooperate with Federal, State, and local agencies and private firms which undertake to study survey maps and identify flood-prone areas.

(h) In addition to the above, the New Jersey Meadowlands Commission hereby provides the following additional information as part of our application requesting eligibility under the Federal Flood Insurance Program:

1. A clean map of the Hackensack Meadowlands District delineating its limits which can be reproduced for publication;
2. A map of the Hackensack Meadowlands District identifying local flood plains and showing the names of rivers, brooks, streams, creeks and other similar bodies of water that cause floods;
3. A summary of the history of flooding;
4. Estimates relating to the flood-prone areas concerning:
 - i. Population;
 - ii. Number of one to four-family residences;
 - iii. Number of small businesses; and
 - iv. Number of other structures.

R.1974 d.212, effective August 2, 1974.

See: 6 N.J.R. 361(d).

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

Administrative change.

See: 33 N.J.R. 3454(a).

SUBCHAPTER 3. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

19:3A-3.1 Definitions

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

“ADA” means the Americans with Disabilities Act, 42 U.S.C.A. § 12101 et seq.

“Agency” means the New Jersey Meadowlands Commission.

“Designated decision maker” means the Executive Director of the New Jersey Meadowlands Commission or his or her designee.

Administrative change.

See: 33 N.J.R. 3454(a).

19:3A-3.2 Purpose

(a) These rules are adopted by the agency in satisfaction of the requirements of the ADA and regulations promulgated pursuant thereto, 28 C.F.R. 35.107.

(b) The purpose of these rules is to establish a designated coordinator whose duties shall include assuring that the agency complies with and carries out its responsibilities under the ADA. Those duties shall also include the investi-

gation of any complaint filed with the agency pursuant to N.J.A.C. 19:3A-3.5 through 3.8.

19:3A-3.3 Required ADA notice

In addition to any other advice, assistance or accommodation provided, a copy of the following notice shall be given to anyone who inquires regarding the agency's compliance with the ADA or the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency.

AGENCY NOTICE OF ADA PROCEDURE

The agency has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination" in programs or activities sponsored by a public entity.

Rules describing and governing the internal grievance procedure can be found in the New Jersey Administrative Code, N.J.A.C. 19:3A-3.1 et seq. As those rules indicate, complaints should be addressed to the agency's designated ADA Coordinator, who has been designated to coordinate ADA compliance efforts, at the following address.

ADA Coordinator
New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

1. A complaint may be filed in writing or orally, but should contain the name and address of the person filing it, and briefly describe the alleged violation. A form for this purpose is available from the designated ADA coordinator. In cases of employment related complaints, the procedures established by the Department of Personnel, N.J.A.C. 4A:7-1.1 et seq. will be followed where applicable.

2. A complaint should be filed promptly within 20 days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis).

3. An investigation, as may be appropriate, will follow the filing of a complaint. The investigation will be conducted by the agency's designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

4. In most cases a written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the designated decision maker and a copy forwarded to the complainant no later than 45 days after its filing.

5. The ADA coordinator will maintain the files and records of the agency relating to the complaints filed.

6. The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible Federal department or agency or the New Jersey Division on Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

7. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the agency complies with the ADA and implementing Federal rules.

Administrative change.
See: 33 N.J.R. 3454(a).

19:3A-3.4 Designated ADA coordinator

(a) The designated coordinator of ADA compliance and complaint investigation for the agency is:

ADA Coordinator
New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

(b) All inquiries regarding the agency's compliance with the ADA and the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency should be directed to the designated coordinator identified in (a) above.

(c) All complaints alleging that the agency has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the designated ADA coordinator identified in this section, in accordance with the procedures set forth in N.J.A.C. 19:3A-3.5 through 3.8.

Administrative change.
See: 33 N.J.R. 3454(a).

19:3A-3.5 Complaint procedure

A complaint alleging that the agency has failed to comply with the ADA or has acted in a way that is prohibited by the ADA shall be submitted either in writing or orally to the designated ADA coordinator identified in N.J.A.C. 19:3A-3.4. A complaint alleging employment discrimination will be processed pursuant to the rules of the Department of Personnel, N.J.A.C. 4A:7-1.1 through 3.4, if those rules are applicable.

19:3A-3.6 Complaint contents

(a) A complaint submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 19:3A-3.7.

(b) A complaint submitted pursuant to this subchapter shall include the following information:

1. The name of the complainant, and/or any alternate contact person designated by the complainant to receive communication or provide information for the complainant;
2. The address and telephone number of the complainant or alternate contact person; and
3. A description of manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses if appropriate.

19:3A-3.7 Complaint form

The following form may be utilized for the submission of a complaint pursuant to this subchapter:

Americans with Disabilities Act Grievance Form

Date: _____

Name of grievant: _____

Address of grievant: _____

Telephone number of grievant: _____

Disability of grievant: _____

Name, address and telephone number of alternate contact person:

Agency alleged to have denied access:

Department: _____

Division: _____

Bureau or office: _____

Location: _____

Incident or barrier:

Please describe the particular way in which you believe you have been denied the benefits of any service, program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any,

as well as names, addresses and telephone numbers of any witnesses to any such incident. Attach additional pages if necessary.

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

A copy of the above form may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 19:3A-3.4.

19:3A-3.8 Investigation

(a) Upon receipt of a complaint submitted pursuant to this subchapter, the designated ADA coordinator will notify the complainant of the receipt of the complaint and the initiation of an investigation into the matter. The designated ADA coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 45 days from the date of receipt of the complaint, unless a later date is agreed to by the complainant.

(b) Upon completion of the investigation, the designated ADA coordinator shall prepare a report for review by the designated decision maker for the agency. The designated decision maker shall render a written decision within 45 days of receipt of the complaint, unless a later date is agreed to by the complainant, which decision shall be transmitted to the complainant and/or the alternate contact person if so designated by the complainant.

SUBCHAPTER 4. PROFESSIONAL SERVICES CONTRACTS

19:3A-4.1 Applicability

The provisions of this subchapter shall apply only to contracts for architectural, engineering and land surveying

services which are in excess of \$25,000 and subject to the procurement provision requirements of N.J.S.A. 52:34-9.1 et seq. Nothing in this subchapter shall preclude the Commission from using procurement processes other than those prescribed herein if those processes have been approved by the Federal government or other State statute or if an emergency has been declared by the Executive Director of the New Jersey Meadowlands Commission.

Administrative change.
See: 33 N.J.R. 3454(a).

19:3A-4.2 Definitions

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

“Commission” means the New Jersey Meadowlands Commission.

“Executive Director” means the Executive Director of the New Jersey Meadowlands Commission.

“Professional architectural, engineering and land surveying services” means those services, including planning, environmental, and construction inspection services required for the development and construction of projects, within the scope of the practice of architecture, professional engineering or professional land surveying as defined by the laws of this State or those performed by an architect, professional engineer or professional land surveyor in connection with his or her professional employment practice.

“Professional firm” means any individual, firm, partnership, corporation, association or other legal entity permitted by law to provide professional architectural, engineering, or land surveying services in this State.

Administrative change.
See: 33 N.J.R. 3454(a).

19:3A-4.3 Filing of current statements of qualification and supporting data

(a) A professional firm which wishes to be considered pre-qualified to provide professional engineering, architectural, or land surveying services to the Commission may file a current statement of qualification and supporting data to the Commission.

(b) Such statements may be filed at any time during the calendar year and shall be sent to the Office of the Director of Planning and Management. Such statements must conform to the regulations of the State Treasurer, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., with respect thereto.

(c) No statement which shall have been filed more than two years prior to the publication of an advertisement pursuant to N.J.A.C. 19:3A-4.4 shall be deemed to be a current statement with respect to the qualifications of the firm which shall have filed such statement.

19:3A-4.4 Solicitation of additional statements of qualification

(a) Prior to the solicitation of proposals pertaining to the procurement of professional architectural, engineering, or land surveying services, the Commission shall publicly advertise its need for such services.

(b) The advertisement shall be by one or more of the following methods:

1. Newspapers;
2. Written notice to New Jersey professional societies covering the construction industry; or
3. Direct mailings to firms pre-qualified with the Commission requesting expressions of interest.

(c) The advertisement shall include either a statement of the criteria by which the Commission shall evaluate the technical qualifications of professional firms and determine the order of preference to be used in designating the firms most highly qualified to perform the services or identify such criteria by reference to the provisions of this subchapter. In addition, the advertisement shall include notice that professional firms wishing to be considered for selection as a potential provider of such services in connection with a proposed project must have submitted, or must promptly submit, to the Commission a current statement of qualifications and supporting data as prescribed in N.J.S.A. 52:34-9.3. The advertisement shall also include a brief statement of the nature and scope of the services proposed for procurement by the Commission.

19:3A-4.5 Criteria for the selection of the most highly qualified professional firms

(a) In selecting the most highly qualified professional firms with which to contract for architectural, engineering or land surveying services, the Commission, where applicable, shall consider the following criteria:

1. The experience and qualifications of the firm;
2. The availability of qualified and experienced personnel to complete the project;
3. The experience and capability of the firm and designated project team with respect to any special technologies, techniques, or expertise the project may require;
4. The experience of the firm and designated project team on projects of similar size and/or complexity;
5. The past performance of the firm;

6. Any potential conflicts of interest the firm may have in completing the project; and

7. Any other criteria specified in the Commission's public advertisement of the project.

(b) In selecting and ranking the most highly qualified professional firms, the Commission shall establish weights for the criteria applicable to each project. The Commission may disqualify any firm determined to be unacceptably deficient in one or more of the applicable criteria, regardless of the firm's ranking or score on the remainder of the criteria.

(c) Based upon the criteria set forth in (a) above, the Commission shall short-list the most highly qualified firms to the top three or more ranked firms. Each qualified firm on that list shall then, at the request of the Commission, submit a fee proposal.

(d) The Commission may select less than three firms if fewer firms respond to the solicitation or if fewer firms are deemed qualified.

19:3A-4.6 (Reserved)

19:3A-4.7 Negotiations and fee agreements

(a) The Executive Director, or the Executive Director's designee, shall:

1. Negotiate a contract with the top-ranked firm at a fee determined to be fair and reasonable to the Commission;

2. In determining a fee which is fair and reasonable, consider the estimated value of the services to be rendered and the scope, complexity and professional nature thereof;

3. If unable to negotiate a contract with the top-ranked firm at a fair and reasonable fee, terminate negotiations with that firm;

4. In the event of a termination of negotiations pursuant to (a)3 above, negotiate in accordance with the above procedures with the second ranked firm; and

5. In the event of a termination of negotiations pursuant to (a)4 above, negotiate in accordance with the above procedures with the third ranked firm.

(b) If unable to negotiate a satisfactory contract with any of the firms on the short list, additional firms in order of qualifications and competence from the list of the most highly qualified firms may be called in to negotiate in accordance with this section until a contract has been awarded.