

10:16-2.3 Provision of staff and information to the Board
 (a)-(c) (No change.)
 (d) Upon request, the Department of Health [and Senior Services] shall notify the Board of any child fatality.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF STATE POLICE

Firearms and Weapons

Proposed Readoption with Amendments: N.J.A.C. 13:54

Proposed New Rules: N.J.A.C. 13:54-1.16, 1.17, and 3.21

Authorized By: Colonel Joseph Fuentes, Superintendent, Division of State Police, with the approval of John J. Hoffman, Acting Attorney General.

Authority: N.J.S.A. 2C:39-1 et seq. and 2C:58-1 et seq.; as to N.J.A.C. 13:54-1.15, N.J.S.A. 47:1A-2 and Executive Order No. 9 (Gov. Richard J. Hughes 1963).

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

Proposal Number: PRN 2014-220.

Submit comments by February 13, 2015, to:

Colonel Joseph R. Fuentes, Superintendent
 Attn: Firearms Investigation Unit
 New Jersey State Police
 PO Box 7068
 West Trenton, New Jersey 08638
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The agency proposal follows:

Summary

N.J.A.C. 13:54 became effective on October 5, 1986. It was readopted with amendments and became effective on November 18, 1991. It was readopted and became effective on November 18, 1996. It was readopted with amendments and became effective on May 17, 2002. It was readopted and became effective on November 13, 2007. Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 13:54, expires on November 13, 2014. As the Division of State Police has filed this notice of readoption prior to that expiration date, pursuant to N.J.S.A. 52:14B-5.1.c(2), the expiration date of N.J.A.C. 13:54 is extended 180 days to May 12, 2015. As required by the foregoing Executive Order, the Division of State Police (Division), Department of Law and Public Safety, and the Attorney General have reviewed the rules and, with the exceptions noted below, have determined them to be necessary, reasonable, and proper for the purpose for which they were originally adopted. Accordingly, the Superintendent of the Division proposes to readopt N.J.A.C. 13:54 with amendments and new rules. The Attorney General proposes to readopt N.J.A.C. 13:54-1.15, concerning confidentiality of records, without amendment.

Pursuant to N.J.S.A. 2C:58-1 et seq., the Superintendent is authorized to prescribe rules governing firearms. More particularly, the Superintendent's functions in this area are to prescribe rules in accordance with law governing: (1) the procedures and conditions for the licensing and registering of retail and wholesale dealers and manufacturers, (2) the procedures and conditions for the sale, purchase, acquisition, and transfer of firearms by dealers to eligible persons, and (3) the application of uniform Statewide standards for the issuance of permits, licenses, registrations, and firearms purchaser identification cards.

The proposed amendments to N.J.A.C. 13:54 are intended to incorporate and more clearly integrate the regulatory provisions of Chapters 39 and 58 of the Code of Criminal Justice. Additional amendments are proposed to update and clarify the responsibilities

applicable to the Superintendent, law enforcement agencies, and dealers in the administration of the statutory and regulatory provisions governing the acquisition and sale of firearms. The following is a summary of the rules proposed for readoption and proposed amendments and new rules to N.J.A.C. 13:54.

Subchapter 1 prescribes the requirements and procedures for the issuance of firearms purchaser identification cards, permits to purchase handguns, and the general rules for holders of such permits and identification cards. It also addresses the confidentiality of firearms records and investigations.

N.J.A.C. 13:54-1.2 contains definitions of terms employed throughout the chapter. The Division proposes to add new definitions and revise existing ones to more accurately reflect relevant statutory definitions. The Division proposes an amendment to the definition of "assault firearms" by revising the definition of a "semi-automatic shotgun." This amendment reduces criteria for a semi-automatic shotgun to have one or more of the listed features, rather than two or more. In addition, the Division proposes to include new definitions of "full-time police department" and "part-time police department." Finally, the Division proposes to add "tasers" to the definition of "weapon."

The Division proposes a technical amendment to N.J.A.C. 13:54-1.3 to change the reference to "permit to purchase a handgun" to "permit to purchase a handgun and form of register." This change has been made throughout the chapter to accurately reflect the name of the form that is necessary to purchase a handgun. In addition, the Division proposes an amendment to subsection (a) to include the restriction of possessing a sawed-off shotgun.

An amendment to N.J.A.C. 13:54-1.4(a) is proposed to update the designated form number for the application for a firearms purchaser identification card and permit to purchase a handgun from STS-33 to S.T.S. 033. The proposed amendment to N.J.A.C. 13:54-1.4(g), provides the applicant the ability to complete the New Jersey State Police, State Bureau of Identification (SBI) "Request For Criminal History Record Information For Non Criminal Justice Purpose" form electronically, via the State of New Jersey web site.

N.J.A.C. 13:54-1.5(a)9, is proposed to be added to prohibit any person named on a consolidated Terror Watch List from being issued a permit to purchase a handgun or firearms identification card. This change is necessary to conform to an amendment to N.J.S.A. 2C:58-3.c.

The proposed amendment to N.J.A.C. 13:54-1.7(a) would invalidate the purchaser identification card 30 days after any information about the issued person changes, such as the current address, name change, or sex change. The proposed amendment to N.J.A.C. 13:54-1.7(b) modifies the criteria to extend the validity of permits to purchase 90 days to require the request for extension to be completed within the original 90 days.

The Division proposes to add "a change of sex" in the requirement to obtain a duplicate firearms purchaser identification card at N.J.A.C. 13:54-1.11(a), and the name of the application for a duplicate firearms purchaser identification card has been changed in N.J.A.C. 13:54-1.11(b), as discussed above.

The Division proposes new N.J.A.C. 13:54-1.16 to comply with new legislation, N.J.S.A. 2C:58-3.4, which allows for multiple handgun purchase exemptions. As delineated in N.J.S.A. 2C:58-3, only one handgun may be purchased or delivered on each permit and only one handgun may be purchased in a 30-day period. This new rule is proposed to allow for multiple handgun purchases in instances of inheritance, collectors, and competition shooters with approval from the Superintendent. It outlines the required forms, application procedure, and the appeal process in instances of denial for an exemption. In addition, the Division proposes new N.J.A.C. 13:54-1.17 to clarify the promulgation of all firearms forms and applications shall be done by the Superintendent, with the exception that if additional information is necessary to facilitate a complete and thorough investigation of an applicant. In these situations, the issuing agency may request such information. This rule is necessary to allow other law enforcement agencies to create forms in order to ensure that the applicant is not subjected to any of the disabilities established in N.J.S.A. 2C:58-3.c and N.J.A.C. 13:54-1.

Subchapter 2 sets forth the requirements and procedures for the issuance, renewal, and revocation of permits to carry handguns.

A proposed amendment to N.J.A.C. 13:54-2.4(b)2 changes “and” to “or” to correct an inadvertent error in the existing text. An applicant for a permit to carry a handgun can comply with the requirements of subsection (b) by any one of the three methods described. A proposed technical amendment to N.J.A.C. 13:54-2.4(e)1 changes the reference from “full-time police department” to “chief police officer” for submitting applications to the Superintendent.

A proposed amendment to N.J.A.C. 13:54-2.7 requires the issuing Superior Court judge to return the original approved permit to the jurisdiction of origin.

Subchapter 3 prescribes requirements for issuance of licenses to retail dealers for the retail sale of firearms, retail sale of ammunition, gunsmithing, and the requirements for issuance of licenses to employees of such dealers.

A proposed amendment to N.J.A.C. 13:54-3.2 adds language to require a person to possess a retail license in order to be permitted access to any firearms records of acquisition or disposition. This requirement is proposed to increase the security and integrity of recordkeeping for firearms dealers.

A proposed amendment to N.J.A.C. 13:54-3.3(d) requires employees of retail dealers to be licensed by the Superintendent to access any firearms records of acquisition or disposition. This requirement is proposed to increase the security and integrity of recordkeeping for firearms dealers. In addition, the reference to the application form for such license has been changed from “NJSP 641” to “S.P. 641.”

Proposed amendments to N.J.A.C. 13:54-3.4(c) require employees to possess a license for each individual location in which they work and to apply for a new license, rather than transfer it to a different location. Lastly, the employee will be required to immediately surrender the original license to the Superintendent, if he or she is transferred. These amendments are proposed to provide for increased security and integrity of recordkeeping.

A minor, technical amendment to N.J.A.C. 13:54-3.9(a)4 is proposed to change the “Certificate of Eligibility” for transfers of shotguns and rifles from form “NJSP 634” to “S.P. 634.”

The Division is proposing a minor amendment to N.J.A.C. 13:54-3.10(d) to require an employee to renew his or her license in order to be permitted access and/or control of firearms acquisition and disposition records.

A minor proposed amendment to the heading of N.J.A.C. 13:54-3.13 removes the reference to the “frame” of a handgun and replaces it with “receiver.” This change is necessary to make the heading consistent with the content of the rule. Furthermore, as defined under Title 18, U.S.C. Chapter 44, a receiver is considered the actual firearm.

Minor, technical amendments to N.J.A.C. 13:54-3.14(a) are proposed to require that records of purchases or other acquisitions of firearms be recorded in the ledger by the dealer no later than the close of the business day of the transfer. In addition, proposed new N.J.A.C. 13:54-3.14(e) allows dealers to create and maintain electronic records of acquisition and disposition of firearms with prior, written approval from the Superintendent. This new subsection outlines the conditions that dealers must meet in order to be authorized to maintain electronic records. This subsection is proposed to move the industry standards and practices into modern technology and mirrors the regulations of the Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.

Proposed amendments to N.J.A.C. 13:54-3.16 requires that all firearms acquired by a licensed dealer must be maintained at the licensed premises unless expressly permitted by statute to be temporarily removed for a lawful purpose. This is proposed to ensure that firearms are present and available for inspection in addition to records of transactions. The Division also proposes an amendment to require retail dealers who are no longer licensed to permanently retain all Certificate of Eligibility forms for transfers of rifle and shotgun ownership. The amendment is necessary because rifles and shotguns are not required to be registered in the State. Additionally, the Division of State Police, Firearms Investigation Unit does not store these records and there is no State statute that requires record retention when a retail business is no longer licensed and closes.

A proposed amendment to N.J.A.C. 13:54-3.18 will allow an applicant who has been denied a retail dealer employee license to appeal to the Superintendent within 30 days from the date of denial. This change is

necessary because employee licenses are issued by the Superintendent. In addition, the new subsection provides an applicant the ability to appeal to the Appellate Division of the Superior Court if his or her appeal is denied by the Superintendent.

Minor, technical amendments to N.J.A.C. 13:54-3.19 update the accessibility of the National Instant Criminal Background Check System (NICS) to include electronic access via the web-based system “New Jersey State Police NICS Online.” In addition, it eliminates the option of facsimile transmissions, as this service has been replaced by the electronic system and is no longer available.

Proposed new N.J.A.C. 13:54-3.21 provides the requirement for all retail and gunsmithing firearms to be tagged or labeled to coincide with the records of the manual and/or electronic acquisition and disposition ledgers. This rule is proposed to maintain the integrity and accountability of dealers’ inventory, as well as aid in the inspection process.

Subchapter 4 prescribes standards and qualifications for registration of wholesale dealers and manufacturers of firearms and the rules for holders of registration certificates to conduct business. It also deals with the licensing of wholesale dealers’ agents and employees.

A proposed amendment to N.J.A.C. 13:54-4.3(a) is proposed for amendment to add the New Jersey State Police web site as a source for obtaining required forms for organizations when applying for a certificate of registration. In addition, the proposed amendment requires that all officers of the partnership, corporation, or other legal entity be identified in the documentation. Proposed amendments to N.J.A.C. 13:54-4.3(b) and (c) allow for exemptions for applicants to be fingerprinted. The amendment to N.J.A.C. 13:54-4.3(b) specifies that any person who has a controlling interest in a firearms dealership shall be fingerprinted when applying for a certificate of registration unless they fall under exemptions listed in N.J.A.C. 13:54-4.6. The proposed amendment to N.J.A.C. 13:54-4.3(c) specifies that actual fingerprints do not have to be included in the completed application if the applicant provides a receipt from the authorized State fingerprinting vendor indicating that fingerprints were submitted. In addition, the proposed amendment requires fingerprints to be submitted if the applicant resides in a state where there is no access to the authorized vendor.

The Division is proposing the same amendment to N.J.A.C. 13:54-4.4(b) (as proposed to N.J.A.C. 13:54-4.3(b)) to permit employees of wholesale dealers and manufacturers to submit a receipt from the fingerprinting vendor in lieu of two sets of fingerprints. In addition, a minor, technical amendment is proposed to N.J.A.C. 13:54-4.4(d), which requires a transferred employee to surrender his or her current license upon completion of the transfer.

The Division is proposing a minor amendment to N.J.A.C. 13:54-4.6(a) to change the name of the form that excludes any person who possesses an actual or equitable controlling interest in the corporation seeking registration from the requirement to furnish personal information from “STS-280” to “S.P. 280.” N.J.A.C. 13:54-4.6(b) is proposed for amendment to remove ammunition from the list of items about which corporations are required to educate their employees. This change is necessary because a license is not required for wholesale sales of ammunition. In addition, Subchapter 4 deals specifically with wholesale sales and manufacturers of ammunition.

A minor, technical amendment is proposed at N.J.A.C. 13:54-4.7(a), changing the word “pistol” to “handgun.”

A proposed amendment to N.J.A.C. 13:54-4.11 clarifies that anyone who has been refused registration as a manufacturer or wholesale dealer, or denied an employee’s license may appeal to the Superintendent within 30 days “from the date of the denial.”

A minor, technical amendment to N.J.A.C. 13:54-4.12(b) requires that records of purchases or other acquisitions of firearms by wholesale dealers be recorded in the ledger by the dealer no later than the close of the business day of the transfer, rather than by the end of the next business day. Proposed new N.J.A.C. 13:54-4.12(d) allows manufacturers and wholesale dealers to create and maintain electronic records of acquisition and disposition of firearms with prior, written approval from the Superintendent. This new subsection outlines the conditions that manufacturers and dealers must meet in order to be authorized to maintain electronic records. This subsection has been added to move the industry standards and practices into modern technology and mirrors the

regulations of the Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.

The Division proposes new N.J.A.C. 13:54-4.13(b) to require dealers and manufacturers to make records available for inspection by the Division of State Police. In addition, wording has been added to require all firearms purchased by the licensed dealer and/or manufacturer to be maintained at the licensed premises unless expressly permitted to be temporarily removed.

Subchapter 5 contains rules concerning the purchase, sale, transfer, and disposition of assault firearms, machine guns, and large capacity magazines.

Subchapter 6 describes the required security systems for retail and wholesale dealers and manufacturers of firearms.

The proposed amendments to N.J.A.C. 13:54-6.2(f) require that dealers must immediately notify the Division of State Police, Firearms Investigation Unit and the local police department, of a defective alarm system. If the alarm system cannot be repaired within 24 hours, the dealer may make arrangements to store firearms at another licensed location approved by the Superintendent.

Proposed new N.J.A.C. 13:54-6.5(e) is proposed to require that no firearms and/or ammunition shall be stored at any location other than the licensed premises without the written authorization of the Superintendent.

The proposed amendment to N.J.A.C. 13:54-6.6(a) reduces the reporting time for loss of firearm(s) and/or ammunition from 48 to 24 hours.

A minor amendment is proposed at N.J.A.C. 13:54-6.7(c)1, changing the "chief of police" to "chief police officer" as the required personnel to arrange security of firearms and ammunition during a civil disturbance or declared emergency.

These proposed amendments in Subchapter 6 are necessary to hold firearms dealers more accountable for their employees and inventory of firearms. In the past 10 years, there have been numerous incidents of thefts, some resulting in catastrophic consequences. In 2003, in Warren County, a Washington Township officer was shot with a firearm built out of stolen parts the shooter unlawfully obtained as an employee of a retail firearms dealer. In a 2007 inspection of the same dealership, approximately 40 firearms were unaccounted for in the inventory. In that same year, in a two-month period, another large firearms dealership had 62 firearms stolen. In 2004, a separate dealership was burglarized resulting in the theft of eight handguns and a large quantity of ammunition. As a result, an accidental shooting occurred, killing one of the three juveniles who were responsible for the burglary and theft. From 2012 to the present time, there have been six reported incidents of thefts and/or lost firearms from retail dealers. It is critical and in the best interest of public safety, health, and welfare that retail and wholesale dealers and manufacturers of firearms be held to the highest standards of security to prohibit the possibility of a firearm being used in the commission of a violent crime.

Subchapter 7 contains rules concerning retired law enforcement officer's identification card to permit carrying a handgun.

The Division proposes minor, technical changes to N.J.A.C. 13:54-7.1(a) to change the "form" that retired law enforcement officers are required to complete to "forms" and to reduce the number of required passport photos from three to two when submitting an application. A proposed amendment to N.J.A.C. 13:54-7.1(b) requires the retired officer to contact the State Police Firearms Investigation Unit for instructions on how to obtain a State Bureau of Identification number, if he or she does not have one in the firearms applicant file.

The Division proposes new N.J.A.C. 13:54-7.1(d), (e), and (f). Proposed new N.J.A.C. 13:54-7.1(d) and (e) require retired officers on the initial and renewal applications to submit a Consent for Medical Health Records Search form (S.P. 66), and renewal applications to include two new passport-type photographs every three years, respectively. These subsections are necessary to make the requirements for retired police officers to carry a handgun the same as the requirements for other citizens. Proposed new N.J.A.C. 13:54-7.1(f) sets the requirements for firearms instructors who wish to be registered with the NJSP Firearms Investigation Unit, RPO Program. This new subsection is necessary to increase accountability within the retired police officers firearms training program.

This notice of proposal is excepted from the rulemaking calendar requirement because the Division is providing a 60-day comment period pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The readoption of these rules with amendments and new rules will permit the Division of State Police to continue to regulate the licensing and registration of retail and wholesale dealers and manufacturers, as well as the sale, purchase, acquisition, and transfer of firearms by dealers to eligible persons. The Superintendent will also continue to administer uniform Statewide standards for the investigation of applications and the issuance of permits, licenses, firearms purchaser identification cards, and permits to carry firearms. The proposed amendments and new rules will also benefit consumers and dealers in firearms by clarifying the course of conduct that such persons must follow in order to comply with existing law and regulation. The public at large will benefit from the adoption of amendments and new rules to this chapter through the continued regulation by the Superintendent of those persons and entities licensed to sell or acquire firearms. The public will also benefit from the confidentiality provisions, which serve to reduce the possibility of theft of firearms and their resultant use in illegal activities.

Economic Impact

The readoption of these rules with amendments and new rules will have an economic impact on persons wishing to purchase firearms, as well as firearms dealers and their employees, who will have to pay application and registration fees, and pay for criminal history record checks. The Division anticipates that the amendments and new rules will have a minimal economic impact on the general public. The Division recognizes and anticipates that the proposed fees contained within this chapter may have an economic impact on firearms dealers and their employees, and ultimately on businesses or persons trying to sell, transfer, or purchase firearms. However, the Division believes that any negative economic impact on the firearms industry resulting from implementation of the proposed amendments and new rules is more than offset by greater accountability and integrity within the industry and an overall positive impact on public welfare and safety.

The proposed amendments for the allowance of electronic records of acquisitions and dispositions of firearms by licensed dealers could impose additional costs upon the dealers. The additional costs would only be incurred if licensed dealers choose to upgrade their systems to include computerized records.

The proposed amendments otherwise impose no new costs for either consumers or dealers in firearms. In large measure, the economic impact of this chapter is dictated by fixed statutory fees. Indeed, all of the fees established by the chapter for the issuance of permits, licenses, registrations, and firearms identification cards are provided for by law.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments and new rules do not exceed Federal standards, except as required by New Jersey law and are not proposed under the authority of or in order to implement, comply with, or participate in any program established under Federal law or under State statutes that incorporates or refers to Federal law, Federal standards or Federal requirements.

Jobs Impact

The rules proposed for readoption with amendments and new rules will not result in the generation or loss of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption with amendments and new rules will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments and new rules regulate the commercial dealings of retail and wholesale dealers of firearms and manufacturers of firearms. These persons or entities may qualify as small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules impose reporting, recordkeeping, and other compliance requirements on the aforementioned persons or entities. The rules minimize compliance requirements by

primarily incorporating those regulatory provisions that are statutorily required. Moreover, all retail dealers, wholesale dealers, and manufacturers are subject to identical reporting, recordkeeping, and other compliance requirements, regardless of the size of the business, as the rules pertain to public safety.

As of the date of publication, there are approximately 377 licensed retail and registered wholesale dealers and manufacturers in the State. These persons or entities will all be subject to the following reporting, recordkeeping, and other compliance requirements:

N.J.A.C. 13:54-1.15 does not impose reporting, recordkeeping, or other compliance requirements on small businesses and has no adverse impact on small businesses or private industry in general.

N.J.A.C. 13:54-3.2, 3.3, 4.2, and 4.3 provide that retail dealers must be licensed and wholesale dealers and manufacturers must be registered. The procedure for licensing and registration is also provided. These provisions also provide for the licensing of employees and agents of dealers. The fees associated with such licensing and registration are statutorily mandated. See N.J.S.A. 2C:58-1 and 2C:58-2. Likewise, license and registration provisions, N.J.A.C. 13:54-3.8, 3.10, 4.8, and 4.9(a), require that dealers and wholesale dealers must renew their licenses and registrations every three years. These provisions are also statutorily mandated.

The renewal provisions for employees of retail and wholesale dealers are also governed by statute. See N.J.A.C. 13:54-3.10(d) and 4.9(b).

Retail dealers, wholesale dealers, and manufacturers must maintain permanent records of the receipt and/or disposition of firearms and ammunition. See N.J.A.C. 13:54-3.14(a) and (b) and 4.11(a) and (b). By statute, retail dealers are required to maintain records of the sales or dispositions of rifles, shotguns, and handguns. See N.J.S.A. 2C:58-2.a4, 5, and 6 and .b. The statute does not require that the retail dealers maintain records of firearms acquired. The same is true with respect to wholesale dealers and manufacturers. See N.J.S.A. 2C:58-1.e. All dealers and manufacturers, regardless of the size of their business, must maintain these records. They are deemed necessary for purposes of the proper enforcement of the rules. In particular, they facilitate the ability of regulators and law enforcement personnel to effectively monitor and track the commerce in firearms. This information is invaluable in the handling of criminal and/or regulatory violations. However, in order to minimize these compliance requirements, both N.J.A.C. 13:54-3.14(c) and 4.11(c) permit retail and wholesale dealers to forego compliance with the recordkeeping requirements of those sections if the retail or wholesale dealer maintains an updated Federal firearms record listing firearms purchased, acquired, manufactured, or sold in the manner prescribed by Title 26, Internal Revenue, Chapter 1, "Commerce in Firearms and Ammunition." These Federal firearms laws require dealers that are Federally licensed to maintain the same records provided for by this chapter. Therefore, duplication is avoided. While the precise number is not available, the agency believes that well over 90 percent of New Jersey's retail and wholesale dealers are Federally licensed.

N.J.A.C. 13:54-3.14(d) requires that retail dealers must submit records of all sales of body armor ammunition to the Superintendent. This provision is statutorily required. See N.J.S.A. 2C:39-3.g(3).

N.J.A.C. 13:54-3.16 and 4.12 require retail dealers, wholesale dealers and manufacturers to make their records available to law enforcement officers at reasonable hours. These compliance requirements are consistent with statute. See N.J.S.A. 2C:58-1 and 2C:58-2.

N.J.A.C. 13:54-3.4(c) and 4.4(d) provide that when employees are terminated, the retail dealer, wholesale dealer, or manufacturer shall surrender their licenses to the Superintendent. While these provisions are not contained in the statutes, they are deemed necessary in order to insure that licenses are not possessed by individuals who are no longer engaged in the business for which they were licensed. These requirements apply to businesses of all sizes.

N.J.A.C. 13:54-3.17 and 4.13 provide that upon termination, revocation, or expiration of a retail dealer's license or wholesale dealer's or manufacturer's certification of registration, all licenses or registrations shall be forwarded to the Superintendent within five days. This is consistent with insuring that individuals who are no longer licensed to engage in the firearm business do not possess licenses. These provisions apply to businesses of all sizes.

N.J.A.C. 13:54-3.4(e) provides that no retail dealer shall be licensed unless he or she demonstrates to the Superintendent that the business is in conformity with the zoning laws of the applicable municipality. While not statutorily required, this compliance provision applies to all businesses regardless of size, and is required to insure that the Superintendent does not license businesses in conflict with the zoning regulations of the various municipalities.

N.J.A.C. 13:54-3.12 requires that retail dealers maintain records of certifications of eligibility for those who purchase rifles or shotguns by use of a firearms identification card. This provision is consistent with the applicable statute. See N.J.S.A. 2C:58-3.

N.J.A.C. 13:54-3.13 and 1.8(b) require sellers of handguns to forward copies of permits to purchase handguns to the Superintendent and chief of police within five days of the sale. The dealer is also required to retain a copy. These provisions are consistent with statute. See N.J.S.A. 2C:58-3.

N.J.A.C. 13:54-3.15 provides that dealers shall maintain records of sale or disposition of firearms to the United States Armed Forces, the National Guard, and to law enforcement agencies. These records are to be maintained separately from the records ordinarily maintained for the sale of firearms to civilian consumers. This rule also provides that sales of assault firearms and machine guns to the military and law enforcement agencies shall be reported to the Superintendent within 48 hours of their sale. These provisions are necessary in order to effectively monitor the commerce of firearms in this State. They also insure that military and law enforcement agencies follow uniform procedures for procuring firearms in this State. These rules apply to businesses of all sizes. The reporting requirement for assault firearms is consistent with the statutory reporting requirement for the sale of large capacity magazines to the military or law enforcement agencies. See N.J.S.A. 2C:39-3.g(3).

N.J.A.C. 13:54-5.1(d) requires dealers to maintain a separate ledger for recording sales of assault firearms and machine guns. This provision is consistent with the purpose of the Assault Firearms Act, N.J.S.A. 2C:58-12 et seq., which is to closely regulate and monitor the sale of assault firearms. This regulation is applicable to businesses of all sizes.

N.J.A.C. 13:54-5.5 requires that records of sale of large capacity magazines be reported to the Superintendent. This is consistent with the statutory requirement of N.J.S.A. 2C:39-3.g3.

Subchapter 6 requires dealers to install and maintain security systems as a condition of procuring inventory and doing business. While this subchapter is not statutorily required, it is applicable to business sales of all sizes. The statute does require the Superintendent to establish standards to protect the public health, safety, and welfare. The readoption of Subchapter 6 will have little impact on those dealers who are already in operation since the initial expense of installation of security systems will have already been borne. Thus, the readoption applies only to those new dealers licensed subsequent to the effective date or to those dealers who move their places of business.

Subchapter 6 provides a list of approved security systems that vary in cost, depending upon the intricacy of the system and the size and design of the areas required to be protected. See N.J.A.C. 13:54-6.2 and 6.3. This flexibility allows each dealer to individually address his or her security needs in relation to his or her compliance costs.

It is impossible to estimate the initial or annual compliance costs with respect to the maintenance of the records required by this chapter. These costs will vary depending upon the size of the business' inventory and the volume of business. The same is true with respect to the installation and maintenance of security systems. The compliance costs with regard to the fees for renewal of licenses are statutorily mandated and have not been altered by the readoption of this chapter. It is not expected that any of the aforementioned reporting, recordkeeping, and compliance requirements will require professional services other than for the installation and maintenance of security systems.

Subchapter 7 outlines the requirements for retired law enforcement officers to obtain an identification card to permit carrying of a weapon. The proposed amendments and new rules are necessary to ensure retired members of law enforcement are monitored for possible disqualifications for initial or renewed permits to carry a weapon, as well as changes in their appearance for identification purposes. See N.J.A.C. 13:54-7.1(d) and (e). Proposed new N.J.A.C. 13:54-7.1(f) is necessary to maintain the

integrity of the training and qualification process for retired law enforcement officers' permit to carry a weapon.

The chapter is designed to minimize, to the extent possible, any adverse economic impact on small businesses by relying principally upon incorporation of the requirements of N.J.S.A. 2C:58-1 et seq. and 2C:39-1 et seq. Where additional requirements are added, they are deemed necessary in order to promote the general public health, safety, and welfare. Moreover, they apply equally to businesses of all sizes.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and new rules will not have any impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern the regulation of firearms retail and wholesale dealers and licensing of firearms purchases.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and new rules will have an insignificant impact upon smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules concern the regulation of firearms retail and wholesale dealers and licensing of firearms purchases.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:54.

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

SUBCHAPTER 1. FIREARMS PURCHASER IDENTIFICATION CARD AND PERMIT TO PURCHASE A HANDGUN

13:54-1.2 Definitions

The words and terms used in this chapter shall have the following meanings:

...
 "Assault firearms" means:

1. (No change.)
2. Any firearm manufactured under any designation, which is substantially identical to any of the firearms listed in paragraph 1 above. As used in this definition, the term "substantial" means pertaining to the substance, matter, material, or essence of a thing and the term "identical" means exactly the same. Hence, a firearm is substantially identical to another only if it is identical in all material, essential respects. A firearm is not substantially identical to a listed assault firearm unless it is identical except for differences that do not alter the essential nature of the firearm.

The following are examples of manufacturer changes that do not alter the essential nature of the firearm: the name or designation of the firearm; the color of the firearm; the material used to make the barrel or stock of the firearm; the material used to make a pistol grip; and a modification of a pistol grip. This is not an exclusive list. A semi-automatic firearm should be considered to be "substantially identical," that is, identical in all material respects, to a named assault weapon if it meets the below listed criteria:

- i.-ii. (No change.)
- iii. A semi-automatic shotgun that has [at least two] **one or more** of the following:
 - (1)-(4) (No change.)
 - [3. A semi-automatic shotgun with either a magazine capacity exceeding six rounds, a folding stock or a pistol grip;]

Recodify existing 4. and 5. as **3. and 4.** (No change in text.)

The following are not considered assault firearms within the meaning of this definition:

- 1.-2. (No change.)
- ...

"Full-time police department" means a police department having at least one department member employed full-time (minimum 40 hours per week) and the department is responsible for providing police services in that jurisdiction 24 hours a day, seven days a week, 365 days a year.

If another jurisdiction's law enforcement agency regularly and consistently (for example, on a daily basis), assumes responsibility for a recurring, regular interval of time for the safety of the residents of the subject jurisdiction by providing police services or law enforcement response, then said police department does not meet this definition of a full-time police department and is, therefore, a "part-time police department."

...
"Part-time police department" means a police department having no full-time police officer (40 hours per week) and/or said police department is not committed or able to provide police services in that jurisdiction 24 hours a day, seven days a week, 365 days a year.

...
"Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all:

- 1.-3. (No change.)
 4. Stun guns, tasers; and
 5. (No change.)
- ...

13:54-1.3 **State of New Jersey** Firearms identification card or permit to purchase a **handgun and form of register** required

(a) No person, other than a licensed or registered retail or wholesale dealer, shall receive, purchase, or otherwise acquire a rifle, shotgun, or antique cannon, other than an antique rifle or shotgun, unless that person possesses and exhibits a valid firearms purchaser identification card. No person shall sell, give, transfer, assign, or otherwise dispose of a rifle, shotgun, or antique cannon, other than an antique rifle or shotgun, to a person other than a licensed or registered retail or wholesale dealer, unless the buyer or receiver possesses and exhibits a valid firearms purchaser identification card. No person shall sell, [or] acquire, **or possess** a sawed-off shotgun.

(b) No person, other than a licensed or registered retail or wholesale dealer shall receive, purchase, or otherwise acquire a handgun, unless that person possesses and exhibits a permit to purchase a handgun. No person shall sell, give, transfer, or assign or otherwise dispose of a handgun to a person other than a licensed or registered retail or wholesale dealer unless the buyer or receiver possesses and exhibits a valid permit to purchase a **handgun and form of register.**

(c)-(d) (No change.)

13:54-1.4 Applications for a **State of New Jersey** firearms purchaser identification card and for a permit to purchase a handgun **and form of register**

(a) Every person applying for a **State of New Jersey** firearms purchaser identification card or for a permit to purchase a handgun **form of register** shall furnish such information and particulars as are set forth in the application form designated [STS-33] **S.T.S. 033**. Forms can be obtained from municipal police departments, State Police stations, and licensed retail firearms dealers.

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

(d) The application shall be signed by the applicant and the completed application, together with two sets of the applicant's fingerprints and fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq., a consent for mental health records search form designated [SP] **S.P. 66**, and a nonrefundable application fee of \$5.00 for a **State of New Jersey** firearms **purchaser** identification card and \$2.00 for a permit to purchase a handgun **and form of register**, shall be submitted to the chief of police of an organized full-time police department in the municipality in which the applicant resides. If the municipality does not have an organized full-time police department, application shall be made to the State Police station servicing the municipality in which the applicant resides, or to any State Police station in the case of a non-resident.

(e) The chief of police of an organized [full time] **full-time** police department of the municipality where the applicant resides, or the Superintendent, when the applicant is a non-resident of this State or when

the municipality does not have a [full time] **full-time** department, shall accept and investigate applications for **State of New Jersey** firearms purchaser identification cards and permits to purchase handguns **and form of register**.

(f) The fingerprints of any applicant shall be compared with any fingerprints maintained by the State Bureau of Identification and the Federal Bureau of [Identification] **Investigation** for the purpose of ascertaining the existence of any criminal record. The fingerprints shall be obtained and submitted for such comparison by the chief of police or the State Police, as the case may be.

(g) An applicant for a handgun purchase permit who possesses a valid firearms purchaser identification card, or who has previously obtained a handgun purchase permit from the same licensing authority for which he or she was previously fingerprinted, and who provides an additional valid identification document of his or her identity, need not be fingerprinted again. In such cases, the chief of police or Superintendent shall otherwise fully investigate the applicant in accordance with this subchapter. The chief of police or Superintendent shall require the applicant to complete the New Jersey State Police, State Bureau of Identification (SBI) "Request For Criminal History Record Information For Non Criminal Justice Purpose" form, **via the State of New Jersey website**, and pay the appropriate fee established by N.J.A.C. 13:59. Applicants unable to provide an additional valid identification document shall submit to fingerprinting.

(h)-(i) (No change.)

13:54-1.5 Prerequisites for a permit to purchase handgun **and form of register** or a **State of New Jersey** firearms purchaser identification card

(a) A permit to purchase a handgun **and form of register**, or a **State of New Jersey** firearms purchaser identification card, shall not be issued [to any person]:

1.-3. (No change.)

4. To any person under the age of 18 years for a **State of New Jersey** firearms purchaser identification card and to any person under the age of 21 years for a permit to purchase a handgun **and form of register**;

5.-6. (No change.)

7. To any person who as a juvenile was an adjudicated delinquent for an offense which, if committed by an adult, would constitute a crime and the offense involved the unlawful use or possession of a weapon, explosive or destructive device or is enumerated in subsection d. of section 2 of P.L. 1997, c. 117 (N.J.S.A. 2C:43-7.2); [or]

8. To any person whose firearm is seized pursuant to the Prevention of Domestic Violence Act of 1991, P.L. 1991, c. 261 (N.J.S.A. 2C:25-17 et seq.) and whose firearm has not been returned[.]; or

9. To any person named in a consolidated Terrorist Watch List maintained by the Terrorist Screening Center administered by the Federal Bureau of Investigation.

13:54-1.7 Validity of a **State of New Jersey** firearms identification card and permit to purchase a handgun **and form of register**

(a) A **State of New Jersey** firearms purchaser identification card shall be valid until such time as the holder becomes subject to any of the disabilities set forth by law and this subchapter pertaining to an applicant's eligibility. Upon becoming subject to any of the disabilities set forth in this subchapter, the card shall be void and shall be returned to the Superintendent within five days. **A State of New Jersey firearms purchaser identification card shall not be valid for more than 30 days after the information contained therein is no longer reflective of the issued person, that is, current address, name change, and/or sex change.**

(b) A permit to purchase a handgun **and form of register** shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days **provided the extension is completed within the original 90 days of the date of issuance.** In no event shall a permit to purchase a handgun be valid for more than 180 days from the date the permit was originally issued.

13:54-1.8 Written certification; delivery of permit to purchase

(a) Any person receiving, purchasing, or otherwise acquiring a firearm by exhibiting a firearms purchaser identification card shall sign a written certification on a **State of New Jersey Certificate of Eligibility designated as form [NJSP] S.P. 634**, which shall indicate that he or she presently complies with all of the requirements for obtaining an identification card and does not suffer from any of the disabilities set forth in this subchapter. The certification shall contain his or her name, address, and **State of New Jersey** firearms purchaser identification number or dealer's license, and any other information deemed necessary by the Superintendent. If the seller is not a licensed dealer, the certification may be retained by the seller or it may be filed with the chief of police of the municipality in which he or she resides or, in all other cases, with the Superintendent. The seller shall retain the certification if he or she is a licensed dealer.

(b) A permit to purchase a handgun **and form of register** shall be issued to the applicant in quadruplicate. Prior to receiving a handgun from the seller, the purchaser must deliver all copies of the permit to the seller, who shall complete all of the information on the required form. Within five days of the [sale] **transfer**, the [seller] **transferor** shall forward the original copy to the Superintendent and the second copy to the chief of police of the municipality where the [purchaser] **transferee** resides; provided that in a municipality having no chief of police, the second copy shall be forwarded to the Superintendent. The third copy shall be returned to the [purchaser] **transferee**, and the fourth shall be kept by the [seller] **transferor** as a permanent record.

13:54-1.10 Revocation of a **State of New Jersey** firearms purchaser identification card

(a) A **State of New Jersey** firearms purchaser identification card may be revoked by the Superior Court of the county wherein the card was issued, after a hearing, and upon a finding that the holder no longer qualifies for the issuance of such a card.

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

13:54-1.11 Duplicate **State of New Jersey** firearms purchaser identification card

(a) Persons shall apply for a duplicate **State of New Jersey** firearms purchaser identification card to replace a lost, stolen, or mutilated card, [or in the case of] a change of residence, **or change of sex** by the holder, within 30 days of such loss, theft, mutilation, [or] change of residence, **or change of sex**.

(b) The applicant shall complete an application for a duplicate **State of New Jersey** firearms purchaser identification card designated as form [STS-3] **S.T.S. 033** and a consent for mental health records search designated as form [SP] **S.P. 66** and present same to the chief of police in the municipality where the applicant resides or to the Superintendent in all other cases.

(c) (No change.)

13:54-1.12 Appeal

(a) Any person denied a **State of New Jersey** firearms purchaser identification card, a permit to purchase a handgun, or a duplicate firearms purchaser identification card may request a hearing in the Superior Court of the county in which he or she resides or in the Superior Court of the county in which his or her application for a firearms purchaser identification card was denied if he or she is a nonresident. The request for a hearing shall be made in writing within 30 days of the denial of the application for a permit, identification card, or duplicate identification card. The applicant shall serve a copy of his or her request for a hearing upon the chief of police of the municipality in which he or she resides, if he or she is a resident of New Jersey, and upon the Superintendent in all cases.

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

13:54-1.16 **State of New Jersey Application for Multiple Handgun Purchase Exemption form and State of New Jersey Application for Multiple Handgun Purchase Seller/Transferor Certification**

(a) **Any person seeking to acquire more than one handgun within any 30 calendar-day period must apply for a Multiple Handgun Purchase Exemption. The applicant shall complete form S.P. 015,**

including checking the appropriate box that corresponds to the exemption being sought, and submit the form to the investigating/issuing authority where the Handgun Purchaser Permit and Form of Register was applied for. The applicant shall further submit form S.P. 016, which shall also be completed by the seller/transferor. The S.P. 016 shall also be submitted to the investigating/issuing authority.

(b) The investigating/issuing authority shall review both forms for legibility and accuracy. Upon completion, the investigating authority shall submit both original forms to the New Jersey State Police, Firearms Investigation Unit for review and approval or denial.

(c) Upon approval by the Superintendent, both original forms will be returned to the investigating authority for issuance to the applicant.

(d) If the Application for Multiple Handgun Purchase Exemption is denied, a letter will be mailed to the applicant explaining the reason(s) for denial. The applicant may appeal the denial of the Superintendent within 30 days from the date of denial. The appeal shall be filed in the county Superior Court where the applicant resides.

13:54-1.17 Applications and forms

All applications and/or forms regarding the application of any firearm permit or license shall be promulgated by the Superintendent. If, during the course of the issuing agencies investigation, it becomes necessary to acquire additional information on the applicant, the issuing agency may request the additional information necessary to facilitate a complete and thorough investigation to determine if the applicant is subjected to any disabilities established in N.J.S.A. 2C:58-3.c and this subchapter.

SUBCHAPTER 2. HANDGUNS

13:54-2.4 Application for a permit to carry a handgun

(a) (No change.)

(b) Each applicant shall demonstrate a thorough familiarity with the safe handling and use of handguns by indicating in the space provided therefor on the application form, and on any sworn attachments thereto, any relevant information. Thorough familiarity with the safe handling and use of handguns shall be evidenced by:

1. (No change.)

2. Submission of an applicant's most recent handgun qualification scores utilizing the handgun(s) he or she intends to carry as evidenced by test firings administered by a certified firearms instructor of a police academy, a certified firearms instructor of the National Rifle Association, or any other recognized certified firearms instructor; [and] or

3. (No change.)

(c)-(d) (No change.)

(e) The completed application together with two sets of the applicant's fingerprints and fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq., four photographs (1½ x 1½ square), a consent for mental health records search form designated [SP] S.P. 66, and a permit fee of \$20.00 payable to the County Clerk where the permit is to be issued shall be submitted to the chief police officer of the municipality in which the applicant resides, or the Superintendent:

1. If there is no [full-time police department] **chief police officer** in the municipality where the applicant resides; or

2. (No change.)

13:54-2.7 Issuance of a permit to carry a handgun

(a) Upon being satisfied of the sufficiency of the application and the fulfillment of the provisions of [Chapter 58, Laws of 1979] P.L. 1979, c. 58, the judge shall issue a permit. **The issuing Superior Court judge shall return the original permit to carry a handgun along with the application endorsed by the issuing Superior Court judge, to the jurisdiction of origin.**

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

SUBCHAPTER 3. RETAIL DEALERS

13:54-3.2 Retail license required

No retail dealer of firearms nor any employee of a retail dealer shall sell or expose for sale or possess with intent to sell, any firearm, parts of firearms, or ammunition, or engage in gunsmithing, **nor have access or be permitted to have access to any firearms or records of the acquisition or disposition of firearms**, unless such person has first obtained a retail dealers license issued pursuant to this chapter.

13:54-3.3 Application for license

(a)-(c) (No change.)

(d) No retail dealer shall permit any employee or other person to engage in the purchase, sale, or offering for sale of any firearms[,] or ammunition or engage in gunsmithing, **nor have access or be permitted to have access to any firearms or records of the acquisition or disposition of firearms**, unless such employee or person has been licensed by the Superintendent. Every employee applying for such a license must submit a completed application form designated [NJSP] S.P. 641, accompanied with two sets of fingerprints and a consent for mental health records search form [SP] S.P. 66. An employee who possesses a firearms purchaser identification card need not be fingerprinted, provided that the number of the firearms purchaser identification card is included in the space provided on the application, and provided that the employee continues to be eligible to retain such card in accordance with the provisions of this chapter. The retail dealer shall complete the New Jersey State Police, State Bureau of Identification (SBI) "Request For Criminal History Record Information For Non Criminal Justice Purpose" form for such employee and submit the required fee for processing such form. A nonrefundable fee of \$5.00 shall be paid by the retail dealer to the Superintendent for each employee in addition to the fingerprint fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq.

13:54-3.4 Standards and qualifications

(a)-(b) (No change.)

(c) **Employees must be licensed for each individual location where they shall work.** Should an employee be transferred from his or her licensed location to another location, by the same licensed employer, that employee shall apply for a [transfer of his or her employee] **new** license by submitting application form [NJSP] S.P. 641, consent for mental health records search form [SP] S.P. 66 and shall **immediately** surrender his or her current employee license to the Superintendent.

(d)-(f) (No change.)

13:54-3.9 Conditions of issuance of license; revocation

(a) All licenses issued pursuant to this subchapter shall be subject to the following conditions, the breach of any of which may result in license revocation after notice and hearing by the issuing court, upon the application of the Superintendent or any law enforcement officer.

1.-3. (No change.)

4. No rifle or shotgun, except antique rifles or shotguns, shall be delivered to any person, other than a licensed or registered retail or wholesale dealer or manufacturer, or a law enforcement agency as provided in this chapter, unless such person possesses and exhibits a valid firearms purchaser identification card and furnishes to the seller, on form [NJSP] S.P. 634, a certification signed by him **or her** setting forth his **or her** name, permanent address, firearms purchaser identification card number, and such other information as the Superintendent may require. The certification shall be retained by the dealer and shall be made available for inspection by any law enforcement officer at any reasonable time.

5.-9. (No change.)

(b) (No change.)

13:54-3.10 Renewal of retail dealers and employees licenses

(a)-(c) (No change.)

(d) The employee's license is valid, only so long as the employer's retail dealer license is valid, and therefore employees' licenses must be renewed simultaneously with the employer's license. To this end, all licensed employees who engage in the purchase or sale of firearms[,] or ammunition or engage in gunsmithing, **or have access and/or control of**

firearms or the firearms acquisition and disposition records, must also submit renewal applications to continue transacting business on behalf of the licensee, including completion of form [SP] S.P. 649 and submission of a consent for mental health records form [SP] S.P. 66. Such applications shall be accompanied by a nonrefundable fee of \$5.00 payable to the Superintendent and the fee established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq. The applicant shall also complete a request to the New Jersey State Police, State Bureau of Identification (SBI) "Request For Criminal History Record Information For Non Criminal Justice Purpose" form, and submit the required fee for processing such form established by N.J.A.C. 13:59.

(e) (No change.)

13:54-3.13 Requirements for sale of a handgun or [frame] **receiver**

(a) Every purchaser, other than a licensed or registered retail or wholesale dealer or manufacturer, or law enforcement agency as provided in this chapter, shall present a valid permit to purchase a handgun to the dealer, who shall confirm the identity of the purchaser. A permit is valid for the purchase of one handgun or receiver. The dealer shall adhere to the following procedures:

1.-6. (No change.)

13:54-3.14 Permanent record of receipt and disposition of firearms and ammunition

(a) Every retail dealer of firearms or gunsmith shall maintain a permanent record of each firearm acquisition and disposition, including firearm frames and receivers. The record shall be maintained in a bound form and shall be kept at the location where the business is being conducted. The record of purchase or acquisition shall consist of invoices or other commercial records, which shall be filed in an orderly manner separate from other commercial records maintained. The purchase or other acquisition of a firearm by the licensed dealer must be recorded no later than at the close of the [next] business day [following the date] **of the transfer** of such purchase or other acquisition. The record shall show the date each firearm was purchased or otherwise acquired, the type, manufacturer, importer, caliber or gauge, model, name and address of the person from whom received, and the serial number of the firearm. The sale or other disposition of a firearm must be recorded by the licensed dealer not later than the close of the [next] business day [following] of the date of such sale or disposition. The record shall show the date of sale or other disposition of each firearm, the name and address of the person to whom the firearm was transferred, and the type, manufacturer, importer, caliber or gauge, model, and the serial number of the firearm. The information prescribed for the record required by this subchapter shall be in addition to the maintenance of the form of register [SP] S.P. 671 and the certificate of eligibility [NJSP-634] S.P. 634. The dealer shall, in the case of a transfer of a handgun to an individual, note that the handgun was accompanied by a trigger lock or a locked case, gun box, container, or other secure facility, provided, however, this provision shall not apply to antique handguns.

(b)-(d) (No change.)

(e) **Electronic Records.** Licensees may seek approval from the Superintendent to use an electronic record of acquisition and disposition of firearms, in lieu of the bound book form. The Superintendent shall authorize an electronic record of acquisition and disposition upon proof by the licensee that the electronic record accurately and readily discloses all information required to be maintained in (a) above.

1. A retail firearms dealer shall request permission from the Superintendent in writing and receive written approval from the Superintendent before beginning any electronic format of the acquisition and disposition record. Approval of such an electronic method shall be granted if the Superintendent finds that good cause is shown for the use of the alternate method; the alternate electronic method is within the purpose of, and consistent with the bound book form; and the alternate electronic form will not be contrary to any provision of State or Federal law or hinder the effective administration of law.

2. The electronic form shall readily make available the date each firearm was purchased or otherwise acquired, the type, manufacturer, importer, caliber or gauge, model, name and address

of the person from whom received, and the serial number of the firearm. The date of acquisition and/or disposition shall be entered by the close of the business day of the transfer.

3. Any retail firearms dealer approved for the use of an electronic record of acquisition and disposition shall arrange for an electronic back-up system to safeguard all records against computer crashing, hacking, or being purged or lost through cyber space. The back-up system must be external, separate, and independent from any internal system to be utilized. Failure to institute an electronic back-up system shall result in the denial by the Superintendent for the request.

4. The Superintendent authorizes licensed retail dealers to maintain their firearms acquisition and disposition records electronically, provided all of the following conditions are met:

i. The licensee records in the computer system all acquisition and disposition information required by (a) above, as applicable. Required information includes a record of both the manufacturer and the importer of foreign-made firearms (if any). Additional columns can be utilized to capture certain additional information (for example, inventory number, new/used, etc.), so long as the additional information is separate from the required information and the required information is readily apparent.

ii. The system must retain any correction of errors as an entirely new entry, without deleting or modifying the original entry (for example, macro created to track changes). Alternatively, the system may allow for entries in a "notes" column to explain any correction and/or track changes (that is, what was changed, who made the change, why the change was needed). The NJSP Firearms Investigation Unit suggests that the recordkeeping system be capable of blocking fields from correction (for example, protect workbook function).

iii. The system cannot rely upon invoices or other paper/manual systems to provide any of the required information.

iv. The system must allow queries by serial number, acquisition date, name of the manufacturer or importer, name of the purchaser, and address of purchaser or other transferee.

v. The licensee must print or download all records from the system:

(1) Every quarter of the calendar year;

(2) Upon request of any law enforcement officer (must be provided within 24 hours);

(3) Prior to discontinuance of the database; and

(4) Prior to discontinuance of the licensee's firearms business.

vi. The printouts/downloads required under (e)4v above must include all firearms in inventory, as well as all firearms transferred during the period covered, sequentially by date of acquisition, and must be limited to display only the information required by the applicable rules. The printouts/downloads may contain additional columns capturing certain additional information, provided that the required information is readily apparent.

vii. The printouts must be retained until the next printout is prepared.

viii. Printouts may not include other merchandise.

ix. If a licensee downloads the records on a portable storage device (for example, Compact Disc (CD), Digital Versatile Disc (DVD), or Universal Serial Bus (USB) Flash Drive), the download must be retained on the portable storage device until the next download is prepared. Additionally, the licensee must be able to present the most current version of the requested records in a printed format at any law enforcement officer's request.

x. Electronic firearms acquisition and disposition records may be stored on a computer server owned and operated solely by the person holding the license, provided that the records are readily accessible through a computer device located at the licensed premises during regular business hours. The server must be located within the United States.

xi. The system must back-up the firearms acquisition and disposition records on a daily basis to protect the data from accidental deletion or system failure.

5. All laws, regulations, policies, and procedures applicable to the paper form of the firearms acquisition and disposition records also apply to electronic versions. Licensees are not required to use an electronic acquisition and disposition record, and may continue to use a paper record in the format prescribed by this chapter.

13:54-3.16 Records and firearms available to Division of State Police
 (a) Records are to be retained by the dealer and shall, for administrative and law enforcement purposes, be made available for inspection during reasonable hours to any member of the Division of State Police.

(b) **All firearms acquired by the licensee shall at all times be maintained at the licensee's licensed premises unless expressly permitted by any other New Jersey statutory law or Administrative Code regulation allowing the firearms to be temporarily removed for a lawful permitted purpose.**

(c) **All completed State of New Jersey Certificate of Eligibility forms, S.P. 634, shall be permanently retained by the former dealer upon any termination of a retail firearms dealer's license.**

13:54-3.18 Appeal

(a) Any person making application for a retail dealer license, who is denied approval by a Superior Court judge of the county wherein the application was made, may file an appeal in accordance with law.

(b) **Any person who has been denied an employee's license, may appeal to the Superintendent within 30 days from the date of denial. If the appeal is denied by the Superintendent, such person may appeal to the Appellate Division of the Superior Court.**

13:54-3.19 Division of State Police NICS hours of operation

The **National Instant Criminal Background Check System (NICS)** [check] is available [telephonically] **electronically via a web-based system "New Jersey State Police NICS Online,"** weekdays from 9:00 A.M. to 8:00 P.M. and Saturday from 10:00 A.M. to 5:00 P.M. [(except State holidays)] **NICS will be closed on all State holidays.** The Division of State Police may expand hours of [telephone] **electronic** coverage based upon operational experience. [A facsimile service is available 24 hours a day, seven days a week.] **Telephonic service will be available as a back-up if the electronic service is inaccessible.** Only one transaction per [telephone call or facsimile] **electronic or telephonic message** is permitted.

13:54-3.20 Consignment firearms placed at licensed retail firearms dealers

Consignment firearms are firearms that are transferred by the legal owner (consignor) of the firearm to a licensed retail firearms dealer (consignee) for the purpose of resale. Licensed retail firearms dealers that receive firearms on consignment shall provide a receipt/invoice to the consigner with a full description of the firearms, including make, model, caliber, and serial number. The licensed retail firearms dealer shall also provide in writing on the same receipt/invoice a statement indicating that any consignor requesting the return of a firearm shall be required to comply with the regulatory provisions of N.J.S.A. 2C:58-3 for the transfer of handguns and rifles or shotguns. Consignment handguns, rifles, or shotguns shall not be returned to the consignor without the consigner first producing a valid permit to purchase a handgun, or in the case of a rifle or shotgun, a New Jersey firearms purchaser identification card and completing a State of New Jersey Certificate of Eligibility form ([SP] S.P. 634), which is used for eligibility verification and contains a list of disqualifications for the [cosigner] **consignor.**

13:54-3.21 Labeling of all firearms

All retail and gunsmithing firearms shall be affixed with a tag or label containing information that coincides with the records of the acquisition and disposition ledgers, both manual and/or electronic. Labels shall be clearly visible and facilitate reconciliation with ledgers for purposes of inspection by the Division of State Police.

SUBCHAPTER 4. WHOLESALE DEALERS, MANUFACTURERS, AND WHOLESALE DEALERS' AGENTS AND EMPLOYEES

13:54-4.3 Application for a certificate of registration

(a) Every person applying for a certificate of registration shall furnish such information and particulars required by the applications forms designated [STS] S.P. 280 and S.P. 280A. The forms may be obtained from the Firearms Investigation Unit, Division of State Police, Box 7068, West Trenton, New Jersey 08628, **or the New Jersey State Police web site: www.njsp.org.** All corporations, partnerships, and other business organizations applying for registration shall, in addition to the applications, submit a valid copy of the most recent certificate of incorporation, or such other documentation establishing the corporation, partnership, or other business organization as a legal entity. **In addition, the corporation, partnership, or other business organization shall supply documentation that identifies all officers of such legal entity.**

(b) Any person who possesses an actual or equitable controlling interest in the [applicant] **dealership** shall complete the necessary application form and shall be fingerprinted **(other than those exempted under N.J.A.C. 13:54-4.6).**

(c) The completed application together with **a receipt from the current State-authorized fingerprinting vendor indicating fingerprints were submitted (if the applicant resides in a state without access to the authorized vendor, then the applicant shall provide** two sets of [the applicant's] fingerprints), a consent for mental health records search form [SP] S.P. 66, and a nonrefundable fee of \$150.00 payable to the Superintendent, in addition to the fees as established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq., shall be submitted to the Superintendent.

13:54-4.4 Standards and qualifications

(a) (No change.)

(b) No wholesale dealer or firearms manufacturer registered as provided in this subchapter shall permit any wholesale dealer's agents, employees, or other persons to engage in the purchase or sale or offering for sale of firearms or parts of firearms, unless such agents, employees, or persons are over the age 18 and are licensed by the Superintendent. Such persons must submit to the Superintendent completed application form [NJSP] S.P. 641, **a receipt from the current State-authorized fingerprinting vendor indicating fingerprints were submitted (if the applicant resides in a state without access to the authorized vendor, then the applicant shall provide** two sets of fingerprints) and consent for mental health records search form[, SP] S.P. 66. An employee who possesses a firearms purchaser identification card need not be fingerprinted again, provided that the New Jersey State Police, State Bureau of Identification (SBI) "Request For Criminal History Record Information For Non Criminal Justice Purpose" form and the applicable fee is paid, the number of the firearms purchaser identification card (**S.B.I. #**) is included in the space provided on the application, and provided that the employee continues to be eligible to retain such card in accordance with the provisions of this chapter. The Superintendent shall issue licenses to such persons if they qualify to obtain a permit to purchase a handgun or to possess a firearms purchaser identification card as provided in this chapter, and would not pose a danger to the public health, safety, or welfare. A nonrefundable fee of \$5.00 shall be paid by the employer to the Superintendent for each agent, employee, or person in addition to the fees established by N.J.A.C. 13:59 in accordance with N.J.S.A. 53:1-20.5 et seq.

(c) (No change.)

(d) Should an employee be transferred from his or her licensed location to another location, by the same registered employer, that employee shall apply for a transfer of his or her employee license by submitting application form [SP] S.P. 649, consent for mental health records search form [SP] S.P. 66, and shall surrender his or her current employee license to the Superintendent **once this transfer takes place.**

(e)-(g) (No change.)

13:54-4.6 Exceptions for corporations

(a) A public corporation whose stock is listed on a major stock exchange at the time of the filing of an application for registration as a

wholesale dealer and/or manufacturer of firearms, shall not be required to furnish the personal data as set forth in the application form [STS-280] S.P. 280, for officers or directors of such corporation or for the stockholders of such corporation, unless such officers, directors, or stockholders directly engage in the sale or purchase of firearms for the corporation or such officers, directors, or stockholders hold or possess the actual or equitable controlling interest in such corporation.

(b) A certification shall be filed by the member or members holding an actual or equitable controlling interest in each corporation or partnership certifying that such member(s) shall take the appropriate action to inform all employees directly engaged in the sale, purchase, or manufacture of firearms [or ammunition] of the pertinent laws and regulations governing the sale, purchase, and manufacture of such firearms [or ammunition].

13:54-4.7 Certification; security required

(a) The Superintendent of State Police shall cause the applicant for registration to be investigated and either approve or deny the application. The application shall be approved if the Superintendent is satisfied that the applicant can be permitted to engage in business as a wholesale dealer of firearms without any danger to the public safety, health, or welfare, and if the applicant would qualify for the issuance of a permit to purchase a [pistol] **handgun** or a firearms purchaser identification card. If the application is approved, the Superintendent shall issue a certificate of registration to wholesale and/or manufacture firearms or parts of firearms.

(b) (No change.)

13:54-4.11 Appeals

Any person who has been refused registration as a manufacturer or wholesale dealer or any person whose name has been removed from registration by the Superintendent or any person who has been denied an employee's license, may appeal to the Superintendent within 30 days **from the date of denial**. If the appeal is denied by the Superintendent, such person may appeal to the Appellate Division of the Superior Court.

13:54-4.12 Permanent record of receipt and disposition of firearms

(a) (No change.)

(b) A record of sale or other disposition of a firearm, frame, or receiver must be recorded no later than the close of the [next] business day [following the date] **of the transfer** of such sale or disposition. The record shall indicate the date of the sale or disposition of each firearm, frame, or receiver, the type, model, caliber, or gauge, and serial number of each firearm, and the name and address of the dealer to whom the firearm, frame, or receiver was transferred.

(c) (No change.)

(d) **Electronic Records.** Licensees may seek approval from the Superintendent to use an electronic record of acquisition and disposition of firearms, in lieu of the bound book form. The Superintendent shall authorize an electronic record of acquisition and disposition upon proof by the licensee that the electronic record accurately and readily discloses all information required to be maintained in (a) above.

1. A retail firearms dealer shall request permission from the Superintendent in writing and receive written approval from the Superintendent before beginning any electronic format of the acquisition and disposition record. Approval of such an electronic method shall be granted if the Superintendent finds that good cause is shown for the use of the alternate method; the alternate electronic method is within the purpose of, and consistent with the bound book form; and the alternate electronic form will not be contrary to any provision of State or Federal law or hinder the effective administration of law.

2. The electronic form shall readily make available the date each firearm was purchased or otherwise acquired, the type, manufacturer, importer, caliber or gauge, model, name and address of the person from whom received, and the serial number of the firearm. The date of acquisition and/or disposition shall be entered by the close of the business day of the transfer.

3. Any retail firearms dealer approved for the use of an electronic record of acquisition and disposition shall arrange for an electronic back-up system to safeguard all records against computer crashing,

hacking, or being purged or lost through cyber space. The back-up system must be external, separate, and independent from any internal system to be utilized. Failure to institute an electronic back-up system shall result in the denial by the Superintendent for the request.

4. The Superintendent authorizes licensed retail dealers to maintain their firearms acquisition and disposition records electronically, provided all of the following conditions are met:

i. The licensee records in the computer system all acquisition and disposition information required by N.J.A.C. 13:54-3.14(a), as applicable. Required information includes a record of both the manufacturer and the importer of foreign-made firearms (if any). Additional columns can be utilized to capture certain additional information (for example, inventory number, new/used, etc.), so long as the additional information is separate from the required information and the required information is readily apparent.

ii. The system must retain any correction of errors as an entirely new entry, without deleting or modifying the original entry (for example, macro created to track changes). Alternatively, the system may allow for entries in a "notes" column to explain any correction and/or track changes (that is, what was changed, who made the change, why the change was needed). The NJSP Firearms Investigation Unit suggests that the recordkeeping system be capable of blocking fields from correction (for example, protect workbook function).

iii. The system cannot rely upon invoices or other paper/manual systems to provide any of the required information.

iv. The system must allow queries by serial number, acquisition date, name of the manufacturer or importer, name of the purchaser, and address of purchaser or other transferee.

v. The licensee must print or download all records from the system:

(1) Every quarter of the calendar year;

(2) Upon request of any law enforcement officer (must be provided within 24 hours);

(3) Prior to discontinuance of the database; and

(4) Prior to discontinuance of the licensee's firearms business.

vi. The printouts/downloads required under (d)4v above must include all firearms in inventory, as well as all firearms transferred during the period covered, sequentially by date of acquisition, and must be limited to display only the information required by the applicable rules. The printouts/downloads may contain additional columns capturing certain additional information, provided that the required information is readily apparent.

vii. The printout must be retained until the next printout is prepared.

viii. Printouts may not include other merchandise.

ix. If a licensee downloads the records on a portable storage device (for example, Compact Disc (CD), Digital Versatile Disc (DVD), or Universal Serial Bus (USB) Flash Drive), the download must be retained on the portable storage device until the next download is prepared. Additionally, the licensee must be able to present the most current version of the requested records in a printed format at any law enforcement officer's request.

x. Electronic firearms acquisition and disposition records may be stored on a computer server owned and operated solely by the person holding the license, provided that the records are readily accessible through a computer device located at the licensed premises during regular business hours. The server must be located within the United States.

xi. The system must back-up the firearms acquisition and disposition records on a daily basis to protect the data from accidental deletion or system failure.

5. All laws, regulations, policies, and procedures applicable to the paper form of the firearms acquisition and disposition records also apply to electronic versions. Licensees are not required to use an electronic acquisition and disposition record, and may continue to use a paper record in the format prescribed by regulation.

13:54-4.13 Records **and firearms** available to [law enforcement agencies] **Division of State Police**

(a) Records are to be retained by wholesale dealers and/or manufacturers and shall, for administrative and law enforcement purposes, be made available for inspection during reasonable hours to any member of the Division of State Police.

(b) All firearms acquired by the licensee shall at all times be maintained at the licensee's licensed premises unless expressly permitted by any other New Jersey law or rule allowing the firearms to be temporarily removed for a lawful or permitted purpose.

SUBCHAPTER 6. SECURITY SYSTEMS FOR DEALERS

13:54-6.2 Approval of plans by Superintendent

(a)-(e) (No change.)

(f) If at any time the system is found to be defective, the dealer shall make the necessary repairs or adjustments to correct the defect within seven days[.] **and immediately notify the State Police, Firearms Investigation Unit and local police department. If the system cannot be repaired within 24 hours, the dealer may make arrangements to secure all firearms and ammunition at another State and Federally licensed retail dealer or provide adequate security approved by the Superintendent.**

(g) (No change.)

13:54-6.5 Internal security of firearms and ammunition

(a)-(d) (No change.)

(e) No firearms and/or ammunition shall be stored at any location other than the licensed premises without the written consent of the Superintendent, with the exception of authorized temporary storage locations.

13:54-6.6 Report concerning theft of firearms

(a) Dealers are required to complete form [SP] **S.P. 515** and such other forms as shall be required by the Superintendent, reporting the loss of firearm(s) and/or ammunition, as a result of a burglary, robbery, or any other cause, from the business premise. The dealer shall forward the completed form to the Superintendent within [48] **24** hours of the loss or theft of firearm(s) and/or ammunition. The police department where the business is located shall be notified by the dealer of the theft or loss of firearm(s) and/or ammunition as soon as such loss or theft is discovered.

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

13:54-6.7 Regulations during a civil disturbance or declared emergency period

(a)-(b) (No change.)

(c) All dealers located in the area affected by such disturbance or emergency shall be required to comply with one of the following:

1. Arrange with the chief [of] police officer of the municipality for appropriate security of firearms and ammunition; or
2. (No change.)

(d) (No change.)

SUBCHAPTER 7. RETIRED LAW ENFORCEMENT OFFICER'S IDENTIFICATION CARD TO PERMIT CARRYING A HANDGUN

13:54-7.1 Forms and fees for retired law enforcement officer's identification card

(a) A person who is a retired law-enforcement officer within the meaning of P.L. 1997, [c.67] **c. 67**, § 1(1) (N.J.S.A. 2C:39-[6(l)]**6.l**) and who, pursuant to this statute, applies for an initial identification card or for an annual renewal of a current or an expired identification card permitting the retired law-enforcement officer to carry a handgun shall complete the appropriate forms prescribed by the Superintendent and shall submit the forms to the Division of State Police. The forms shall

inquire as to the identity of the officer and the law-enforcement agency from which the officer retired, and as to matters that might disqualify the officer, including judgments or convictions for crimes or offenses that would render the officer's possession of a handgun illegal under State or Federal law. The **initial** forms shall be accompanied by [three] **two** passport-type photos appropriate for inclusion on the identification card, and by evidence that the officer has timely qualified in the use of the handgun he or she is permitted to carry in accordance with the requirements and procedures established by the Attorney General pursuant to N.J.S.A. 2C:39-[6(j)]**6.j**. The forms shall also be accompanied by a non-refundable application fee of \$50.00 and if the retired law-enforcement officer is applying for an initial identification card, rather than a renewal, the forms shall be accompanied by the forms and fees set forth in (b) and (c) below, if applicable.

(b) No retired law-enforcement officer shall be approved to obtain an initial identification card unless the retired officer's fingerprints have been submitted to the State Bureau of Identification of the Division of State Police, so as to allow the State Bureau of Identification to assign an identification number (hereinafter, the "SBI number") to the firearms applicant file for that retired officer. The retired officer shall submit the officer's SBI number on the application form, **if the retired officer's fingerprints are listed in the firearms applicant file.** If the retired officer does not have an SBI number **listed in the firearms applicant file**, then the [officer's application shall be accompanied by the officer's fingerprints, and by the fee prescribed by N.J.A.C. 13:59-1.3(a)] **officer must contact the Firearms Investigation Unit for instructions on how to apply and obtain an SBI number.**

(c) An application for an initial **retired law enforcement officer's** identification card shall also be accompanied by a fee of \$10.00 to be collected by the State Bureau of Identification. This \$10.00 fee will offset costs associated with "flagging" the retired officer's SBI number, so as to alert the Firearms Investigation Unit of any pending or subsequently lodged criminal charges against the officer that might afford grounds for revoking the officer's privilege to carry a handgun, and also costs associated with that Unit's investigation of such charges.

(d) All initial and renewal applications shall require the submission of a Consent for Mental Health Records Search Form, S.P. 66. The applicant shall waive any statutory or other right of confidentiality relating to institutional confinement.

(e) Following the issuance of an initial Retired Law Enforcement Officer Permit to Carry a Handgun, a renewal application will require the submission of two new photographs every three years and will be passport-type.

(f) A firearms instructor who seeks registration with the New Jersey State Police Firearms Investigation Unit, RPO Program to be eligible to qualify any retired law enforcement officer must submit an endorsed letter to the Superintendent requesting permission to qualify retired law enforcement officers. The letter of request shall contain the instructor's full name, home address, contact phone number, date of birth, and SBI number (if applicable) accompanied by a copy of any and all certificates proving their certification as a law enforcement certified firearms instructor.

1. The instructor must possess training equivalent to the Police Training Commission-approved firearms instructor course. Equivalent training includes successful completion of a firearms instructor training program, such as those offered by the Federal Bureau of Investigation, United States Secret Service, Federal Law Enforcement Training Center at Glynco, Georgia, New Jersey State Police, Smith and Wesson Academy, the National Rifle Association Police Firearms Instructor Program, or any other law enforcement firearms instructor training course satisfactorily completed as determined by the Superintendent.