

MONDAY, JUNE 16, 2003

RULE ADOPTION
COMMUNITY AFFAIRS
DIVISION OF FIRE SAFETY
RESIDENTIAL DISABILITY IDENTIFICATION EMBLEMS

Adopted New Rules: N.J.A.C. 5:76

Adopted Amendment: N.J.A.C. 5:70-2.1

Proposed: November 18, 2002 at 34 N.J.R. 3888(a).

Adopted: May 8, 2003 by Susan Bass Levin, Commissioner, Department of Community Affairs.

Filed: May 13, 2003 as R.2003 d.230, with substantive changes not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:27D-25hh and 52:17B-139.12.

Effective Date: June 16, 2003.

Expiration Date: December 22, 2004, N.J.A.C. 5:70 and 5:76.

Summary of Public Comments and Agency Responses:

The Department received comments from Lane Solon, North Plainfield Fire Department Acting Chief; David Herbert, East Brunswick Fire District #1 Fire Marshal; Robert Davidson, North Brunswick Fire Marshal; Noreen D'Angelo, New Jersey Department of Health and Senior Services; and John Kubilewicz, Mercer County Fire Chiefs Association Legislative Committee Chair.

COMMENT: Criminals will target residences with disability emblems.

RESPONSE: The Department has an obligation to implement these rules and has developed an inconspicuous emblem.

COMMENT: Outdated emblems will endanger emergency service personnel.

RESPONSE: The Department has an obligation to implement these rules and has attempted to alleviate this situation by amending the original proposal to require biannual registration by owners. Furthermore, the Department is mandating removal of outdated emblems through enforcement by local Uniform Fire Code officials.

COMMENT: The Department should consider the use of a knox box or 9-1-1 dispatch system instead of displaying emblems on residences.

RESPONSE: The Department must implement this program in accordance with the enabling legislation. Counties and municipalities may enhance the program, however.

COMMENT: The Department should develop an emblem location database for local distribution.

RESPONSE: The Department will develop a database showing the location of emblems for distribution to local emergency service personnel and Uniform Fire Code officials.

COMMENT: The proposal has no language governing enforcement by Uniform Fire Code fire official.

RESPONSE: Although the Uniform Fire Safety Act, P.L. 1983, c.383, contains exclusion for one- and two-family owner-occupied dwellings, P.L. 2001, c.453 contains no such exclusion to its prohibition on keeping an emblem posted when it should not be. Since P.L. 2001, c.453 supplements the Uniform Fire Safety Act, the prohibition applies to all dwellings and is enforceable under the Uniform Fire Safety Act. The adopted rules have been amended to clearly indicate this. The Department notes that the applicable personnel would commit a disorderly person offense if they knowingly fail to notify fire departments of oxygen or oxygen delivery systems in residential settings.

COMMENT: The rules should require the Division of Fire Safety to track and annually re-register owners with emblems.

RESPONSE: The Department will have a database to track registrants. The adoption amends the proposal to require biannual re-registration.

COMMENT: In multi-family dwellings, would the emblem be placed near the common area entrance or near the entrance to the individual unit?

RESPONSE: The emblem would be placed near the entrance to the individual dwelling unit. If placed near the common area entrance, the problem regarding inapplicable emblems would be aggravated further.

COMMENT: Doesn't "State mandate, State pay" apply to this program?

RESPONSE: The rules place an enforcement burden on Uniform Fire Code agencies that already receive funding from the Department.

COMMENT: The Department should give Uniform Fire Code agencies a copy of all approved applications for dissemination to emergency services personnel.

RESPONSE: The Department will not forward applications because of the nature of some of the information in them. The Department will, however, periodically provide fire departments and Uniform Fire Code agencies with lists of addresses with emblems.

Federal Standards Statement

No Federal standards analysis is required because these rules and amendment are not being adopted under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or under a State statute that incorporates or refers to Federal law, standards or requirements.

Full text of the adoption follows:

5:70-2.1 Enforcement authority

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

(d) Local enforcing agency personnel shall use this Code to enforce N.J.A.C. 5:76-1.4.

CHAPTER 76

RESIDENTIAL DISABILITY IDENTIFICATION EMBLEMS

5:76-1.1 Purpose and scope

- (a) The purpose of this chapter is to assist emergency service responders in locating persons with disabilities in residential emergencies.
- (b) This chapter shall apply to all disabled persons who apply to the Division of Fire Safety for residential disability identification emblems. Additionally, this chapter shall apply to all owners or occupants of residential dwellings with disability identification emblems for which the emblem is not applicable.

5:76-1.2 Definition of “person with a disability”

(a) “Person with a disability” means a person who:

- 1. Is severely and permanently disabled and cannot ambulate without the use of assistive devices, such as a cane, crutch, wheelchair, prosthetic device or other person; or
- 2. Suffers from lung disease or uses portable oxygen; or
- 3. Has a cardiac condition to the extent that the person’s functional limitations are classified in severity as a class III or class IV, according to the American Heart Association; or
- 4. Is deaf or hard of hearing; or
- 5. Has permanent sight impairment in both eyes as certified by the New Jersey Commission for the Blind; or
- 6. Is someone whose ability to walk is severely and permanently limited due to an arthritic, neurological, or orthopedic condition.

5:76-1.3 Residential Disability Identification Emblem; application; certification<<+; renewal+>>

- (a) Upon approval of an application and supporting documentation, the Division of Fire Safety shall issue to a person with a disability a residential disability identification emblem. <<+An application and supporting documentation shall be re-submitted once every two years.+>>
- (b) A residential disability identification emblem application shall not be accepted if it is not on a Division of Fire Safety approved form.
- (c) A residential disability identification emblem application shall include a certification by a licensed medical doctor, podiatrist or physician licensed to practice in New Jersey or a bordering state that the applicant is a person with a disability as defined in this chapter.
 - 1. A person who has a current Division of Motor Vehicle Services-issued Handicapped Parking Placard may submit with his or her residential disability identification emblem application the

handicapped parking placard permit number and expiration date instead of a doctor's, podiatrist's or physician's certificate.

5:76-1.4 Locations on residential dwellings; removal

- (a) On one- and two-family dwellings, the residential disability identification emblem shall be placed on or near the main entrance and shall be visible from the outside of the dwelling.
 - 1. Additional residential disability identification emblems on one- and two- family dwellings may be placed on the window or windows where the person needing assistance is stationed or where that person sleeps.
- (b) On multifamily dwellings, the residential disability identification emblem shall be placed on or near the main entrance to the individual dwelling unit and be visible from the outside of the unit.
 - 1. Additional residential disability identification emblems on a multifamily dwelling may be placed on the window or windows where the person needing assistance is stationed or where that person sleeps.
- (c) A residential disability identification emblem shall be nontransferable and shall be removed by the owner or current occupant of a dwelling when a qualified person with a disability no longer resides in that dwelling.

(d) Uniform Fire Code local enforcing agencies shall enforce this section by using the applicable provisions of the Uniform Fire Code, N.J.A.C. 5:70.