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NEW JERSEY BOARD OF PUBLIC UTILITIES

Proposed Amendments to the Rules of Practice

N.J.A.C. 14:1-1.6A

BPU Docket Number: AX08100901

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

Rules of Practice

Proposed amendments: N.J.A.C. 14:1-1.6A

Authorized By: Board of Public Utilities, Jeanne M. Fox, President, and Frederick F. Butler, Joseph L. Fiordaliso, Nicholas V. Asselta and Elizabeth Randall, Commissioners.

Authority: N.J.S.A. 48:2-12.

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

BPU Docket Number: AX08100901

Proposal Number: PRN 2008-

Comments may be submitted through March 6, 2009 by e-mail to rule.comments@bpu.state.nj.us, or on paper to:

New Jersey Board of Public Utilities
Kristi Izzo, Secretary
ATTN: BPU Docket Number: AX08100901
Two Gateway Center
Newark, New Jersey 07102

The agency proposal follows:

Summary

The New Jersey Board of Public Utilities is proposing to amend one section of its rules of practice, found at N.J.A.C. 14:1-6A. These rules govern the Board's procedures for accepting comments on proposed rules through electronic means. The Board has been accepting e-mail rule comments as part of a pilot program authorized under

N.J.A.C. 14:1-6A. The Board has found the practice of accepting comments on proposed rules through e-mail to be very effective and efficient, and therefore this proposed amendment will make these procedures permanent.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments will have a positive social impact in that they will clarify the Board's procedures accepting e-mail comments on rule proposals, thus making it easier for the public to submit comments on Board rule proposals.

Economic Impact

The proposed amendments will have no economic impact, in that they merely permanently codify existing procedures for submittal of comments by e-mail.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. N.J.A.C. 14:1-6A is not promulgated 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 incorporate or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis for the proposed amendments.

Jobs Impact

The Board does not expect the proposed amendments to have any effect on jobs in New Jersey, including the generation or loss of jobs. The amendments do not change the current procedure at all, and therefore will have no effect on employment.

Agriculture Industry Impact

The Board does not expect the proposed amendments to have any effect on agriculture in New Jersey, as they relate solely to the means by which a member of the public submits comments on proposed BPU rules.

Regulatory Flexibility Analysis

A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A.

52:14B-16 et seq., is a business that has fewer than 100 employees. As these rules apply to any person who wishes to submit comments on Board rule proposals, the amendments will undoubtedly affect some small businesses. However, it is impossible to determine how many small businesses will be affected. Furthermore, the amendments do not impose any reporting, recordkeeping and compliance requirements. They merely make permanent a voluntary option by which members of the public can submit comments to the Board on proposed rules. Therefore, no special provisions for small businesses have been proposed. Furthermore, the amendments will not require commenters to utilize professional services.

Smart Growth Impact

The Board anticipates that the proposed amendments will have no impact on either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations." N.J.S.A. 52:18A-199a. Smart growth is based on the concepts of focusing new growth into redevelopment of older urban and suburban areas, protecting existing open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing." These rules apply uniformly Statewide and the Board does not expect that they will affect the location of future development. Therefore, the proposed amendments will not impact smart growth or the State Plan.

Housing Affordability Impact

The proposed amendments will have an insignificant impact on affordable housing in New Jersey because the scope of the proposal is limited solely to the means by which people can submit comments on BPU rule proposals. In addition, there is an extreme unlikelihood that the proposed rule amendments would evoke a change in the average costs associated with housing, because the means by which comments are submitted does not affect housing prices or the housing market.

Smart Growth Development Impact

The amendments proposed herein will have an insignificant impact on smart growth in New Jersey because the scope of the proposal is limited solely to the means by which people can submit comments on BPU rule proposals. In addition, there is an extreme unlikelihood that the proposed rule amendments would evoke a change in housing production within Planning areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the means by which comments are submitted are not expected to affect housing construction or the housing market.

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

CHAPTER 1. RULES OF PRACTICE

SUBCHAPTER 1. GENERAL PROVISIONS

14:1-1.6A Submittal of comments on rule proposals[, pilot study for electronic submittal]

(a) This section governs submittal of comments on all rule proposals published by the Board in the New Jersey Register. [~~This section also establishes an 18-month pilot study to test the efficacy of Board acceptance of rule proposal comments in electronic form.~~]

(b) [~~The pilot study authorized under this section shall begin upon the publication date of the first rule proposal published by the Board in the New Jersey Register after October 2, 2006. The pilot study shall continue until April 2, 2008.~~] (Reserved.)

(c) Comments on rule proposals shall be submitted by e-mail, hand delivery, or regular mail, on or before the date identified in the rule proposal published in the New Jersey Register. [~~If no e-mail address for comments is provided in the proposal, the Board shall not accept or make part of the rulemaking record a comment submitted by e-mail.~~]

(d) Comments submitted by e-mail shall be sent to the e-mail address specified in the rule proposal. E-mail comments shall be submitted in Microsoft Word format, or in PDF format with searchable text and cut and paste capability.

(e) Rule proposal comments shall not be subject to the requirements for number of copies at N.J.A.C. 14:1-4.2. If rule proposal comments are submitted by hand delivery or regular mail, the Board requests, but does not require, that the commenter submit an original and five copies of the comments.

(f) The date upon which a comment on a rule proposal shall be deemed received shall be as follows:

1. The date upon which the Board receives the comment at the e-mail address set forth in the published proposal.
2. The date upon which the comment is hand delivered to Board offices, to a Commissioner, or to the Secretary; or
3. The date upon which a comment sent by regular mail to Board offices is post-marked, in accordance with N.J.A.C. 1:30-5.4(d).

~~[(g) Within six months after the completion of the pilot study authorized by this section, the Board shall publish rule amendments. The rule amendments shall briefly summarize the results of the pilot study and shall continue, modify, or end the acceptance of rule proposal comments in electronic form.]~~