

**INSURANCE**

**DEPARTMENT OF BANKING AND INSURANCE**

**DIVISION OF INSURANCE**

**Petitions for Rules; Rulemaking Notice**

**Sufficient Public Interest for the Purposes of Granting a Public Hearing**

**Proposed Amendment: N.J.A.C. 11:1-15.5**

Authorized By: Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 52:14B-1 et seq.

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

Proposal Number: PRN 2013-151.

Submit comments by January 3, 2014 to:

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The agency proposal follows:

**Summary**

The Department of Banking and Insurance (Department) is proposing an amendment to N.J.A.C. 11:1-15.5(b) to make the rule consistent with the Administrative Procedure Act (APA), N.J.S.A. 52:14B-1 et seq. The APA and the rules promulgated by the Office of Administrative Law (OAL) to implement its provisions govern the rulemaking activities of the Department and specify the minimum standards with which State agencies must comply when engaging in the rulemaking process. In 2003, the Department adopted new rule N.J.A.C. 11:1-15.5. The rule requires that an application from an interested party requesting a hearing on a rulemaking proposal be submitted within 60 days following the publication of the notice of proposal in the New Jersey Register.

The Department is proposing to amend this rule to provide that such an application shall be submitted within 30 days of the publication of the notice of proposal, consistent with the time period specified in N.J.S.A. 52:14B-4(a)(3) and N.J.A.C. 1:30-5.5(a). Having the rule specify the 30-day timeframe referenced in the APA and the corresponding OAL rule will eliminate confusion and promote efficiency in the Department's handling of requests for public hearings on rulemaking proposals. The proposed amendment will also make this rule consistent with N.J.A.C. 3:3-4.5, the Department's rule on sufficient public interest in holding a hearing on a rulemaking proposal related to rules administered by the Division of Banking in the Department.

A 60-day comment period is provided for in this proposal and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

## **Social Impact**

The specific population affected by the proposed amendment will vary according to the subject(s) of the rulemaking proposals published by the Department. Although the amendment decreases the timeframe for an interested party to request a hearing, which may be considered a negative, this timeframe is explicitly specified in the controlling statutory authority, N.J.S.A. 52:14B-4(a)(3). Moreover, the decrease in the timeframe will allow for the scheduling of hearings at earlier dates and the more expeditious conclusion of the rulemaking process in cases where the Department grants a request to hold a public hearing on a proposal.

### **Economic Impact**

The proposed amendment will have a negligible, if any, economic impact on interested parties requesting a hearing on a rulemaking proposal. The costs such parties incur to prepare for an earlier hearing may vary due to the complexity of the rulemaking proposal in issue, but there should not be any significant economic impact due to the change in the time provided for requesting a hearing. There should be no economic impact on the Department due to the change in the time limit.

### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed amendment is not subject to any Federal requirements or standards.

### **Jobs Impact**

The Department does not anticipate that any jobs will be generated or lost as a result of the proposed amendment. The Department invites commenters to submit any data or studies on the

potential job impact of the proposed amendment together with their comments on any other aspects of the proposal.

### **Agriculture Industry Impact**

The proposed amendment will not have any impact on the agriculture industry in New Jersey.

### **Regulatory Flexibility Analysis**

Some interested parties who might wish to request a hearing may be “small businesses” as defined in Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment would require an interested person, including a small business, to submit a request to hold a public hearing on a rulemaking proposal within 30 days of the proposal’s publication, instead of within 60 days as under the current rule. The economic impact of the amendment is discussed above, and no professional services would be needed to comply. As the purpose of the amendment is to make the time frame consistent with that set forth in the APA and the rules of the OAL, no differentiation in the requirement is made based upon business size.

### **Housing Affordability Impact Analysis**

The proposed amendment will not have an impact on housing affordability in this State in that the proposed amendment relates to the time limit for requests for holding a public hearing on a rule proposal.

### **Smart Growth Development Impact Analysis**

The proposed amendment will not have an impact on smart growth in this State and it is extremely unlikely that the proposed amendment would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey in that the proposed amendment relates to the time limit for requests for holding a public hearing on a rule proposal.

**Full text** of the proposed amendments follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

11:1-15.5 Sufficient public interest for the purposes of extending the comment period or granting a public hearing

(a) (No change.)

(b) In determining whether sufficient public interest has been demonstrated for purposes of conducting a public hearing pursuant to N.J.A.C. 1:30-5.5, the Commissioner shall consider the application of an interested person that has been submitted on a form prescribed by the Commissioner. Such application shall be submitted within [60] **30** days following the publication of the notice of proposal in the New Jersey Register.

1. (No change.)

(c) – (e) (No change.)