

(a)

OFFICE OF ADMINISTRATIVE LAW
Organization of the Office of Administrative Law
Proposed Readoption with Amendments: N.J.A.C.
1:31

Authorized By: Laura Sanders, Acting Director, Office of Administrative Law.

Authority: N.J.S.A. 52:14F-5(e), (f), and (g).

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

Proposal Number: PRN 2014-213.

Submit comments by January 30, 2015, to:

Sandra DeSarno Hlatky, Assistant Director
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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1.c(2), the rules for organization of the Office of Administrative Law (OAL), N.J.A.C. 1:31, will expire on May 19, 2015. The OAL has reviewed these rules and has found them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The last amendments to the rules were effective in 2007. The OAL proposes to readopt these rules with amendments. The proposed amendments are discussed below.

The OAL proposes amendments to comply with recent legislative changes which: 1) require agencies to implement an electronic mailing list to disseminate information to the public; 2) allow members of the public to make rule comments and petitions orally; and 3) provide an additional publicity method for rule proposals. Additionally, the OAL proposes some technical amendments to update the name of the law school and website address that makes initial decisions publicly available and to update a regulatory reference.

The summary of the subchapters proposed for readoption follows:

Subchapter 1 describes the functions of the OAL. The Office conducts contested case hearings, promulgates rules, coordinates rulemaking proceedings within the Executive Branch, publishes the New Jersey Register and Administrative Code, and makes copies of initial decisions available to the public. In recent years, the responsibility of publishing initial decisions for the OAL has changed from Rutgers Camden Law School to Rutgers Newark School of Law and the website address where decisions can be found has also been updated. The proposed amendments reflect this change in location and website address. Additionally, this subchapter sets forth the process for public information requests and submissions. In recent years, the cost for copies has changed and the OAL proposes to amend N.J.A.C. 1:31-1.3(c) to delete specified costs and replace these with a citation to N.J.S.A. 47:1A-5.b., the legal reference to the statutorily mandated costs associated with satisfying public information requests.

Subchapter 2 outlines the process regarding OAL rulemaking. Specifically, it describes the procedure to petition for a rule, when a comment period will be extended, when a public hearing will be held on a proposed rule, and the manner in which the OAL will provide additional notice of its rulemaking activity. The proposed amendments to this subchapter comply with amendments to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., enacted under P.L. 2013, c. 259. More particularly, an amendment is proposed to N.J.A.C. 1:31-2.1(a) to remove the requirement that a petition for rulemaking shall be in writing, and instead indicates that interested persons may petition for rulemaking by mail, e-mail, or by any other means. N.J.A.C. 1:31-2.1(d) is proposed for amendment to add that a notice of action on a petition will be made available on the OAL's website. N.J.A.C. 1:31-2.2(a) regarding requests for extension of the public comment period is proposed for amendment to replace the requirement that the request be in writing with

options to submit the request orally, via hand delivery, mail, or e-mail. N.J.A.C. 1:31-2.3(a)3 is proposed to be amended to permit requests for public hearings to be submitted orally. An amendment is proposed to N.J.A.C. 1:31-2.4(a)4, regarding the manner of providing notice of proposed rulemaking, to add that it may be by e-mail. In addition, a subscription-based electronic mailing list will be established by the OAL, and new N.J.A.C. 1:31-2.4(a)4iii is proposed to add persons on OAL's electronic mailing list as individuals who shall receive notice of rulemaking activity. Finally, new N.J.A.C. 1:31-2.4(a)5 is proposed to add an additional method of publicity in the form of a press release to select major local media to notify the public of rulemaking activity.

Subchapter 3 sets forth the disciplinary process for Administrative Law Judges. The OAL proposes a technical amendment to correct a regulatory reference.

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

Social Impact

The rules proposed for readoption with amendments provide information about the functions and responsibilities of the OAL. They also inform the public about the process of rulemaking at the OAL and the disciplinary process for Administrative Law Judges. The proposed changes provide additional public access to the OAL and its decisions.

Economic Impact

The rules proposed for readoption with amendments are not anticipated to have any substantial economic impact. The rules govern processes at the OAL, the administrative costs of which are borne by the OAL.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments are proposed in implementation of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1 et seq., and are not subject to any Federal standards or requirements.

Jobs Impact

The rules proposed for readoption with amendments will not generate or cause the loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments impose no reporting or recordkeeping requirements. The rules provide public contact information for the OAL, and set forth the content requirements for a petition for rulemaking, which requirements are in accordance with N.J.S.A. 52:14B-4(f). Small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., may obtain information from the OAL and submit petitions for rulemaking. No professional services are required to obtain information from or submit a petition for rulemaking to the OAL. Any costs involved in the requesting information or submitting a petition would be minimal and administrative in nature. As only contact is required to obtain information, and the petition content requirements are statutory, the rules' requirements do not vary based on business size.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on housing affordability. The rules set forth the functions of the OAL, provide contact information, establish OAL rulemaking procedures, and govern the discipline of administrative law judges.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules set forth the functions of the OAL, provide contact information, establish OAL rulemaking procedures, and govern the discipline of administrative law judges.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 1:31.

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

1:31-1.1 Functions of the Office

(a) The Office of Administrative Law (OAL) created by statute in 1978, is independent of any executive department, board, division, commission, agency, council, authority, office, or officer of the State of New Jersey. The OAL performs four major functions:

1.-3. (No change.)

4. Publishes the New Jersey Register[,] and the New Jersey Administrative Code and makes copies of initial decisions available through the Rutgers [Camden Law School] **Newark School of Law** website [www.lawlibrary.rutgers.edu] **www.njlaw.rutgers.edu**. The publication function of the OAL is multifaceted:

i.-iii. (No change.)

1:31-1.3 Public information requests and submissions

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

(c) The cost for copies of documents is **in accordance with N.J.S.A. 47:1A-5.b.**[:

1. First page to 10th page: \$ 0.75 per page;
2. Eleventh page to 20th page: \$ 0.50 per page;
3. All pages over 20: \$ 0.25 per page.]
- (d) (No change.)

SUBCHAPTER 2. PROCEDURES OF THE OFFICE OF ADMINISTRATIVE LAW

1:31-2.1 Procedure to petition for a rule

(a) An interested person may petition for the promulgation, amendment, or repeal of any rule of the Office of Administrative Law. A petition shall be [in writing, shall be] legible, [and] intelligible, and [shall be] signed by the petitioner, **and may be submitted via e-mail, mail, or any other means**. Each petition shall contain the following information:

1.- 4. (No change.)

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

(d) No later than 60 days after receiving a petition, the Office of Administrative Law shall mail to the petitioner, [and] file for publication in the New Jersey Register, **and make available on the Office of Administrative Law's website** a notice of action on the petition which shall contain the information prescribed by N.J.A.C. 1:30-4.2.

1:31-2.2 Extension of comment period on proposed rulemaking activity

(a) The designated public comment period for any rule proposed by the Office of Administrative Law shall be extended for a period of 30 additional days when sufficient public interest is demonstrated in an extension of the time for comment submission or whenever deemed appropriate by the Director.

1. Sufficient public interest for granting an extension of the public comment period exists whenever 10 or more individuals or entities have requested an extension of the comment period to the Office of Administrative Law. This communication [must] **may** be submitted **either orally or** in writing, **via hand delivery, mail, or e-mail**, to the individual designated to receive comments in the notice of rule proposal within 30 days of publication of the proposal.

1:31-2.3 Public hearing on proposed rulemaking activity

(a) The Office of Administrative Law shall conduct a public hearing on a proposed rule if, within 30 days following publication of the proposed rule in the New Jersey Register:

1.-2. (No change.)

3. Sufficient public interest in a public hearing is demonstrated. Sufficient public interest in a public hearing shall be demonstrated whenever 10 or more individuals or entities request, **either orally or** in writing, such hearing. Such notice shall include the basis for the request; or

4. (No change.)

1:31-2.4 Additional notice of rulemaking activity

(a) The Office of Administrative Law shall provide at least 30 days notice of all proposed rulemaking. Notice shall be provided in the following manner:

1.-2. (No change.)

3. Posting of the notice [or statement of the substance of the proposed rulemaking activity] on the official website of the New Jersey Office of Administrative Law at www.state.nj.us/oal; [and]

4. Mailing **or e-mailing** of the notice or a statement of the substance of the proposed rulemaking activity to:

i. [all] **All** persons who have made timely requests to the Office of Administrative Law for advance notice of its rulemaking proceedings;

ii. [and to persons] **Persons** or organizations likely to be affected by or interested in the intended action, including, but not limited to, the New Jersey State Bar Association and to any appropriate committees thereof; the New Jersey Office of Attorney General; New Jersey State administrative agencies; public interest groups[.]; New Jersey Legal Services; and labor and trade unions[.]; **and**

iii. **Persons on the Office of Administrative Law's electronic mailing list; and**

5. **Disseminating a press release to select major local media.**

(b) (No change.)

SUBCHAPTER 3. DISCIPLINE OF ADMINISTRATIVE LAW JUDGES

1:31-3.8 Issuance of order

Upon receipt and review of any opinions, recommendations, and reports from the Committee under N.J.A.C. 1:31-3.7[(e)](a), the Director may proceed in accordance with N.J.A.C. 1:31-3.3 or may issue a formal complaint and order the judge to show cause why a specific sanction should not be imposed or a recommendation for removal not be sent to the Governor. The order to show cause shall require the judge to answer the complaint within 30 days of service of the complaint and order upon the judge.

BANKING

(a)

BANKING AND INSURANCE

DIVISION OF BANKING

Bank Holding Companies

Proposed Re-adoption with Amendments: N.J.A.C. 3:13

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

Authority: N.J.S.A. 17:1-8, 8.1, and 15.e; 17:9A-8.1 et seq., 17:9A-382 et seq.; and 17:12B-292 et seq.

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

Proposal Number: PRN 2014-210.

Submit comments by January 30, 2015, to:

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Legislative and Regulatory Affairs
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20 West State Street
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Trenton, NJ 08625-0325
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E-mail: legsregs@dobi.state.nj.us

The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to re-adopt its rules governing bank holding companies and mutual savings bank holding companies. Pursuant to N.J.S.A. 52:14B-5.1.c(2), the rules