

# RULE PROPOSALS

## INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

## COMMUNITY AFFAIRS

### (a)

#### DIVISION OF LOCAL GOVERNMENT SERVICES LOCAL FINANCE BOARD Bond Refundings Meeting Certain Conditions Proposed New Rule: N.J.A.C. 5:31-8.1

Authorized By: Local Finance Board, Timothy J. Cunningham,  
Chair.

Authority: N.J.S.A. 40A:5A-6.

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

Proposal Number: PRN 2016-090.

Please submit written comments on the notice of proposal by August  
5, 2016, via e-mail to [dllgs@dca.nj.gov](mailto:dllgs@dca.nj.gov) or by regular mail to:

Patricia Parkin McNamara, Executive Secretary  
Local Finance Board  
Department of Community Affairs  
PO Box 803  
Trenton, NJ 08625-0803

For comments submitted via e-mail, please name the subject heading  
"NJAC 5:31-8.1: Refunding of Bonds Meeting Certain Conditions."

The agency proposal follows:

#### Summary

The proposed new rule would allow any local unit subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) to issue refunding bonds where the issuance of said bonds realizes debt service savings on outstanding obligations, without prior approval of the Local Finance Board, when the following conditions are present: 1) the present value savings is at least three percent; 2) the new debt service shall be structured such that no annual payment is more than it was under the original debt service schedule; 3) the final maturity of the refunding bond does not extend the maturity date of the refunded debt; 4) the debt savings are substantially level across the life of the refunding; and 5) the resolution allowing for the refunding is adopted by at least a two-thirds vote of the full membership of the governing body. Such issuers would be required to file with the Local Finance Board a comparison of the initial and refunding debt service schedule showing annual present value savings; a summary of the refunding; an itemized accounting of all costs of issuance; a certification from the chief financial officer or equivalent for the local unit that all of the conditions of this section have been met; and a resolution that has been passed by at least two-thirds of the full membership of the governing body allowing for the refunding.

Examples of entities subject to the Local Authorities Fiscal Control Law include, but are not limited to, municipal utilities authorities, parking

authorities, housing authorities, county improvement authorities, and fire districts. This rule would be similar to N.J.A.C. 5:30-2.5, adopted by the Local Finance Board in 2012, which applies to refundings by municipalities, counties, and boards of education.

As the Board has provided a 60-day comment period on 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 proposed new rule would permit local units subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) meeting certain criteria to refund bonds without prior approval of the Local Finance Board. Permitting such refundings without having to file a Board application will allow entities such as, but not limited to, municipal utilities authorities, parking authorities, housing authorities, and fire districts to move forward on a more timely basis with bond refundings that save money for taxpayers and/or ratepayers.

#### Economic Impact

The Board anticipates that the proposed new rule for refunding bonds would permit local units subject to the Local Authorities Fiscal Control Law to move forward more efficiently and effectively, achieving significant savings in interest costs on refunding and avoiding professional fees associated with unnecessary applications. Eliminating the Board's approval role over authority debt refundings that have a history of routine Board approval will enable these local units to move more quickly to take advantage of favorable interest rates and market conditions.

#### Federal Standards Statement

No Federal standards analysis is required because the new rule is not proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

#### Jobs Impact

The Board does not anticipate that any jobs will be created or lost as a result of the proposed new rule, as it would pertain to any local unit subject to the Local Authorities Fiscal Control Law issuing refunding bonds that meet conditions set by the Local Finance Board.

#### Agriculture Industry Impact

The Board does not anticipate that the proposed new rule would have an impact on the agriculture industry, as it would pertain to any local unit subject to the Local Authorities Fiscal Control Law issuing refunding bonds that meet conditions set by the Local Finance Board.

#### Regulatory Flexibility Statement

The proposed new rule would affect any local unit subject to the Local Authorities Fiscal Control Law issuing refunding bonds that meet conditions set by the Local Finance Board. The proposed new rule would not impose any reporting, recordkeeping, or compliance requirements on

“small businesses,” as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

#### Housing Affordability Impact Analysis

There is an extreme unlikelihood that the proposed new rule would evoke a change in the average costs associated with housing, nor would it have an impact on the affordability of housing. The proposed new rule would allow any local unit subject to the Local Authorities Fiscal Control Law to issue refunding bonds where the issuance of refunding those bonds realizes debt service savings on outstanding obligations, without prior approval of the Local Finance Board, when certain conditions are present.

#### Smart Growth Development Impact Analysis

There is an extreme unlikelihood that the proposed new rule would evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed new rule would allow any local unit subject to the Local Authorities Fiscal Control Law to issue refunding bonds where the issuance of refunding those bonds realizes debt service savings on outstanding obligations, without prior approval of the Local Finance Board, when certain conditions are present.

Full text of the proposed new rule follows:

### SUBCHAPTER 8. FINANCING

#### 5:31-8.1 Refunding of bonds meeting certain conditions

(a) Any local unit subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) meeting all of the conditions set forth below, may authorize and issue refunding bonds to refund long-term debt without prior approval of the Local Finance Board, where the issuance of said bonds realizes debt service savings on the outstanding obligations, provided all of the following conditions are present:

1. The present value savings is at least three percent;
2. The new debt service schedule shall be structured such that no annual debt payment is more than it was under the original debt service schedule;
3. The final maturity of the refunding bond does not extend past the maturity date of the refunded debt;
4. The debt savings are substantially level across the life of the refunding; and
5. The resolution allowing for the refunding is adopted by at least a two-thirds vote of the full membership of the governing body.

(b) The local unit shall, within 10 days of the closing on the refunding bond sale, file with the Local Finance Board a comparison of the initial and refunding debt service schedule showing annual present value savings; a summary of the refunding; an itemized accounting of all costs of issuance; a certification from the chief financial officer or equivalent for the local unit that all of the conditions of this section have been met; and a resolution that has been passed by at least two-thirds of the full membership of the governing body allowing for the refunding.

## ENVIRONMENTAL PROTECTION

### (a)

#### DIVISION OF FISH AND WILDLIFE

#### Marine Fisheries

#### Proposed Amendment: N.J.A.C. 7:25-18.5

Authorized By: Bob Martin, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1B-30 et seq., 13:1D-9, 23:1-1 et seq., and 50:1-5 et seq.

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

DEP Docket Number: 06-15-05.

Proposal Number: PRN 2016-088.

Submit comments by August 5, 2016, electronically at [www.nj.gov/dep/rules/comments](http://www.nj.gov/dep/rules/comments).

The Department of Environmental Protection (Department) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Ryan H. Knapick, Esq.  
Attn: DEP Docket Number: 06-15-05  
Office of Legal Affairs  
Department of Environmental Protection  
401 East State Street, Floor 7  
Mail Code 401-04L  
P.O. Box 402  
Trenton, NJ 08625-0402

The agency proposal follows:

#### Summary

As the Department has provided a 60-day comment period on 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.

The Division of Fish and Wildlife Rules (rules), N.J.A.C. 7:25, govern the management and harvest of fish and wildlife within the State. On July 20, 2015, the Department proposed amendments to N.J.A.C. 7:25-14, Crab and Lobster Management and N.J.A.C. 7:25-18, Marine Fisheries (see 47 N.J.R. 1815(a)). The adoption of the majority of those proposed amendments appears elsewhere in this issue of the New Jersey Register with the exception of the amendments proposed at N.J.A.C. 7:25-18.5(g)5iii and 6iii, relating to gill nets. The Department determined that the proposed amendments that would limit the use of one drifting or staked/anchored gill net, with a mesh size that is four inches or greater when stretched, in the Atlantic Ocean from September 1 through December 15 provided the net was tended at all times, which were intended to minimize the capture and discard of striped bass in the fall when striped bass discard mortality tends to be higher, were too restrictive. The Department has determined that fishermen can tend two nets at the same time without causing a significant increase in the number of striped bass taken as by-catch.

#### N.J.A.C. 7:25-18.5 General Net Regulations

The proposed amendments to N.J.A.C. 7:25-18.5(g)5iii and 6iii will allow a licensee to utilize only two drifting gill nets or two staked/anchored gill nets, respectively, when using a gill net with a mesh size that is four inches or greater when stretched, in the Atlantic Ocean from September 1 through December 15 provided the nets are tended at all times. Tended means that the licensee must be within one-half nautical mile (3,040 feet) of the nearest portion of the gill nets, and the gill nets must be fully brought into the boat within five hours of the initial set. These measures will minimize mortality of the by-catch by limiting the time striped bass are ensnared.

The proposed amendments will also minimize the mortality of by-catch of Atlantic sturgeon. In 2012, the Atlantic sturgeon was listed by the National Marine Fisheries Service as an endangered species. Data collected coastwide by at-sea observers on commercial fishing vessels have shown that gill nets, particularly those left unattended for extended periods of time, are one of the types of commercial fishing gear that most frequently ensnares Atlantic sturgeon. As with striped bass, the requirement that nets be tended at all times will enable fishermen to quickly release Atlantic sturgeon caught in the net, which will minimize the amount of time Atlantic sturgeon are ensnared.

#### Social Impact

The proposed amendments to N.J.A.C. 7:25-18.5(g)5iii and 6iii allowing the use of only two drifting gill nets or two anchored/staked gill nets in the Atlantic Ocean from September 1 through December 15 when utilizing a mesh size of greater than four inches will result in positive social impacts. The proposed amendments will allow commercial gill net fishermen to continue to target and land the species of interest, while minimizing the incidental catch and discarding of striped bass and Atlantic sturgeon. These measures will have a positive social impact by promoting the sustainability of the striped bass fishery and encouraging the population recovery of the Atlantic sturgeon.