

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.

ADMINISTRATIVE LAW

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OFFICE OF ADMINISTRATIVE LAW

Special Hearing Rules

Division of Consumer Affairs Lemon Law Hearings

Proposed Readoption: N.J.A.C. 1:13A

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 2016-111.

Submit comments by September 16, 2016, to:

Sandra DeSarno Hlatky, Assistant Director
Office of Administrative Law
Quakerbridge Plaza, Bldg. 9
PO Box 049
Quakerbridge Road
Trenton, New Jersey 08625
E-mail address: Sandra.Hlatky@oal.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the special rules for the conduct of Lemon Law hearings from the Division of Consumer Affairs were scheduled to expire on June 10, 2016. As this notice was filed on that date, the expiration date is extended 180 days to December 7, 2016, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Office of Administrative Law has reviewed these rules and found them to be reasonable and efficient procedures for the conduct of contested case hearings. Therefore, the Office of Administrative Law (OAL) proposes to readopt these rules without amendment.

These rules track the provisions of the Lemon Law, N.J.S.A. 56:12-29 et seq., and implement the goal of that act to provide consumers with a prompt and summary hearing. The case must be transmitted to the OAL immediately upon acceptance by the Division without any settlement attempts by the agency. Upon acceptance, a summary hearing date will be scheduled within 20 days, unless the consumer agrees to a later date.

Procedures have been tailored to the statutory requirement for a prompt hearing date. Discovery is limited to the consumer's application, the required attachments, and the manufacturer's response, which should provide adequate information about the allegations of each party. Prehearing conferences will not be scheduled. Other than adjournment motions with the consumer's consent, motions are not permitted prior to hearing. Post-hearing submissions are not permitted except for good cause, and do not extend the deadline for issuing an initial decision.

Pursuant to the statute, a prevailing consumer may be awarded attorney's fees and costs; therefore, the consumer must be prepared to present proofs of these costs at the hearing.

The initial decision must be issued no later than 20 days from the conclusion of the hearing. Exceptions must be filed no later than eight days after the mailing date of the initial decision and may not exceed three pages. Replies and cross-exceptions are not permitted. The final decision must be issued no later than 15 days from receipt of the initial decision. These time frames may not be extended.

If a case is settled, the settlement must indicate whether attorney's fees and costs will be paid by the manufacturer or whether the consumer has waived such costs.

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

Social Impact

These rules are based upon the process created by the Lemon Law, N.J.S.A. 56:12-29 et seq., and have provided consumers with an avenue for rapid resolution of their complaints by creating a fair and efficient hearing process. Readoption of these rules will ensure continuation of that process.

Economic Impact

The rules provide a straightforward process for the resolution of disputes between consumers and manufacturers and will continue to provide the parties with a low-cost alternative to more lengthy and expensive hearings.

Federal Standards Statement

A Federal standards analysis is not required because the contested case hearing procedures, of which these rules are a part, are promulgated 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 will not cause the generation or loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption will not impact on the agriculture industry.

Regulatory Flexibility Analysis

Although consumers, as parties to Lemon Law hearings, may be small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., these rules essentially require only that a consumer prove his or her case. If they prevail, consumers may seek recoupment of their hearing preparation costs, and any party may file exceptions to an initial decision. While a party may retain legal representation, such is not required. As the Lemon Law dispute resolution

process is designed to benefit consumers and their burden of proof is a fundamental element of fairness in that process, no lesser requirements or exceptions can be provided based upon a consumer's status as a small business.

Housing Affordability Impact Analysis

The rules proposed for readoption will have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to procedures for contested case hearings related to Lemon Law hearings.

Smart Growth Development Impact Analysis

The rules proposed for readoption will have no impact on the number of housing units or the availability of affordable housing in the State, and will have no effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules set forth procedures for contested case hearings related to Lemon Law hearings.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 1:13A.

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OFFICE OF ADMINISTRATIVE LAW

Notice of Extension of Comment Periods for Certain Notices of Proposal Published in the June 20, 2016, New Jersey Register

Take notice that, with the permission and on behalf of the State agencies affected, the Office of Administrative Law announces that the comment periods for the notices of proposal from the Department of Community Affairs; the Department of Environmental Protection; the Department of Human Services; the Department of Insurance; the Department of Law and Public Safety; and the Motor Vehicle Commission; and the notice of pre-proposal from the Department of Community Affairs, published in the June 20, 2016, New Jersey Register are hereby extended an additional 7 days. The extension of these comment periods is necessitated by a disruption in the mail delivery of that issue of the New Jersey Register, in order to provide the public with the amount of time to comment set forth in the notices of proposal and notice of pre-proposal.

The affected notices of proposal and pre-proposal, in Code title order, are as follows, with the new comment deadlines and comment addresses included:

Department of Community Affairs; Division of Local Government Services; Local Finance Board, Pre-Proposed Amendments: N.J.A.C. 5:30-5.3 through 5:30-5.5, 48 N.J.R. 991(a). Please submit written comments on the notice of pre-proposal by July 27, 2016, in writing or via e-mail to: Patricia Parkin McNamara, Executive Secretary, Local Finance Board, Department of Community Affairs, PO Box 803, Trenton, New Jersey 08625-0803, dlgs@dca.nj.gov (for comments submitted via e-mail, please place in the subject heading "N.J.A.C. 5:30 Certification of Available Funds Pre-Proposal").

Department of Community Affairs; Division of Housing and Community Resources; Proposed Amendments: N.J.A.C. 5:51-1.2, 1.3, 1.4, and 1.5 and Proposed Repeals: N.J.A.C. 5:51-1.1 and 1.6, 48 N.J.R. 994(a). Submit written comments by August 26, 2016, to: Gabrielle N. Gallagher, Department of Community Affairs, PO Box 800, Trenton, New Jersey 08625-0800, Fax No. (609) 984-6696, E-mail: Gabrielle.Gallagher@dca.nj.gov.

Department of Environmental Protection; Division of Forestry; New Jersey Board of Tree Experts; Proposed New Rules: N.J.A.C. 7:3A, 48 N.J.R. 995(a). Submit comments by August 26, 2016, electronically at njtreeexperts@gmail.com. The Board of Tree Experts (Board) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to: Board of Tree Experts, 101 West Veterans Highway Jackson, NJ 08527.

Department of Environmental Protection; Land Use Management; Proposed Amendments: N.J.A.C. 7:7-6.4, 15.2 and 25.1; 7:7A-11.1; and 7:13-1.2, 6.7, 7.8 through 7.12, 7.29, 7.56, 7.58, 7.61, 8.5, 8.6, 8.8, 8.13, 9.5, 9.6, 9.8 through 9.10, 11.2, 12.5, 12.14, 13.1, 13.2, 13.6, 13.7, 13.8, 13.14 through 13.20, and 20.1; and Proposed New Rule: N.J.A.C. 7:13-13.4; 48 N.J.R. 1014(a). Submit comments by August 26, 2016, electronically at <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: Gary J. Brower, Esq., Attn: DEP Docket Number 05-16-05, New Jersey Department of Environmental Protection, Office of Legal Affairs, Mail Code 401-04L, 401 East State Street, 7th Floor, PO Box 402, Trenton, NJ 08625-0402; This rule proposal may be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

Higher Education; Secretary of Higher Education; Proposed Readoption with Amendments: N.J.A.C. 9A:11; 48 N.J.R. 1037(b). Submit comments by August 26, 2016, to: Audrey Bennerson, Administrative Practice Officer, Office of the Secretary of Higher Education, 20 West State Street, 4th floor, PO Box 542, Trenton, New Jersey 08625-0542, E-mail: Audrey.bennerson@oshe.nj.gov.

Department of Human Services; Office of Administration; Proposed Readoption N.J.A.C. 10:3; 48 N.J.R. 1043(a). Submit comments by August 26, 2016, to: Amy Keys Shaw, Office of Contract Policy and Management, Department of Human Services, 222 South Warren Street, PO Box 700, Trenton, New Jersey 08625-0700, e-mail: amy.shaw@dhs.state.nj.us.

Department of Human Services; Division of Family Development; Proposed Amendments: N.J.A.C. 10:87-5.9 and 10:90-1.2, 2.1, and 5.9, and Proposed Repeals: N.J.A.C. 10:90-17; 48 N.J.R. 1044(a). Submit comments by August 26, 2016, to: Miguel Mendez, Administrative Practice Officer, Division of Family Development, PO Box 716, Trenton, New Jersey 08625-0716, E-mail: Miguel.Mendez@dhs.state.nj.us.

Department of Banking and Insurance; Division of Property and Casualty; Proposed Amendments: N.J.A.C. 11:3-6.1; Proposed Repeals: N.J.A.C. 11:3-6.2, 6.3, and 6.4; and Proposed New Rules: N.J.A.C. 11:3-6.2, 6.3, 6.4, and 6.5; 48 N.J.R. 1046(a). Submit comments by August 26, 2016, to: Denise M. Illes, Chief, Department of Banking and Insurance, Legislation and Regulation, 20 West State Street, PO Box 325, Trenton, NJ 08625-0325, Fax: (609) 292-0896, E-mail: Legsregs@dobi.nj.gov.

Department of Banking and Insurance; Division of Insurance; Proposed Readoption with Amendments: N.J.A.C. 11:6; Proposed Repeal and New Rule: N.J.A.C. 11:6-2.9; 48 N.J.R. 1049(a). Submit comments by August 26, 2016, to: Denise M. Illes, Chief, Department of Banking and Insurance, Legislation and Regulatory Affairs, 20 West State Street, PO Box 325, Trenton, NJ 08625-0325, Fax: (609) 292-0896, E-mail: Legsregs@dobi.nj.gov.

Department of Law and Public Safety; Division of Consumer Affairs; New Jersey Board of Nursing; Proposed Amendment; N.J.A.C. 13:37-7.10; 48 N.J.R. 1059(a). Submit written comments by August 26, 2016, to: Joanne Leone, Acting Executive Director, State Board of Nursing, PO Box 45010, Newark, New Jersey 07101, or electronically at: <http://www.njconsumeraffairs.gov/Proposals/Pages/default.aspx>.

Department of Law and Public Safety; Division of Consumer Affairs; Audiology and Speech-Language Pathology Advisory Committee; Proposed Amendment; N.J.A.C. 13:44C-6.2; 48 N.J.R. 1059(b). Submit written comments by August 26, 2016, to: Renee Clark, Executive Director, Audiology and Speech-Language Pathology Advisory Committee, Division of Consumer Affairs, 124 Halsey Street PO Box 45010, Newark, New Jersey 07101, or electronically at: <http://www.njconsumeraffairs.gov/Proposals/Pages/default.aspx>.

Motor Vehicle Commission; Licensing Service; Proposed Amendments: N.J.A.C. 13:21-15; 48 N.J.R. 1052(a). Submit comments by August 26, 2016, to: Kate Tasch, Administrative Practice Officer, Regulatory and Legislative Affairs, Motor Vehicle Commission, 225 East State Street, PO Box 160, Trenton, NJ 08666-0160, or via e-mail to: rulecomments@mvc.nj.gov.

Motor Vehicle Commission, Regulatory Affairs (Commercial Passenger Transportation); Proposed Amendment; N.J.A.C. 16:53D-1.1; 48 N.J.R. 1061(a). Submit comments by August 26, 2016, to: Kate Tasch,