

Increased fees in (a).
Amended by R.1996 d.79, effective February 20, 1996.
See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a).

1:30-1.10 Forms

From time to time the Office of Administrative Law may adopt as interagency statements the forms and formats which shall be used in rule activities.

1:30-1.11 (Reserved)

Repealed by R.1996 d.79, effective February 20, 1996.
See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a).
Section was "Computation of time".

1:30-1.12 Compliance

(a) Upon an initial determination by the OAL that any proposed or adopted rule, pre-proposal for a rule or any notice is not in compliance with the technical or procedural requirements concerning rulemaking, the OAL may temporarily suspend the processing of that document. In such situations, the OAL shall contact the agency to indicate the basis for the initial determination of non-compliance. The OAL and the agency shall mutually review the initial determination. The OAL shall assist the agency in a cooperative effort to obtain compliance.

(b) Upon a determination by the Director that a proposed or adopted rule, a pre-proposal for a rule, or a notice does not satisfactorily comply with these rules for agency rulemaking, the OAL shall not process for publication the proposed or adopted rule, pre-proposal for a rule or any notice.

(c) If the OAL determines that there is an issue of non-compliance which concerns statutory authority, related legal issues, or contested case jurisdiction, it may refer the matter to the Office of the Attorney General for advice.

Administrative Correction: "Pre-proposal for a rule" and "mutually review the initial determination. The OAL shall" was omitted in (a).
See: 19 N.J.R. 777(a).
Amended by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).
See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

In (a), deleted fourth sentence; added a new (b); recodified former (b) as (c); in (c), substituted "may" for "shall" and "advice" for "final determination".

1:30-1.13 Invalidation of rule

In the event that a proposed or adopted rule is suspended or otherwise rendered inoperative or ineffective by Court rule or ruling, by legislative action or by Executive Order, the Office of Administrative Law shall, upon receipt of notice of the event, prepare and publish a notice in the Register and the Code, as appropriate.

Amended by R.1991 d.85, effective February 19, 1991.
See: 22 N.J.R. 3281(a), 23 N.J.R. 399(a).
Clarified that OAL shall prepare notice of invalidation.
Amended by R.1996 d.79, effective February 20, 1996.
See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a).

1:30-1.14 Publication filing deadlines

(a) Pursuant to N.J.S.A. 52:14B-7(c), the Director will issue annually a schedule for the filing of documents for

publication in the New Jersey Register. The schedule will set forth, for each Register to be published in the following year, the issue publication date, the deadline dates for the filing of proposal and adoption notices, and the minimum 30-day comment deadline for proposals. Notices of proposal and pre-proposal, of proposal comment period extensions and of proposal public hearings shall be filed on or before the proposal filing deadline. Other notices shall be filed on or before the adoption deadline.

(b) The filing deadline for the inclusion of a document in a particular issue of the Register is on or before 12:00 P.M. (noon) on the proposal or adoption date, as appropriate, specified in the publication schedule. Documents filed after the deadline will be included in the filed-for Register issue at the discretion of OAL. OAL's decision to include a late-filed document will be based upon the length and anticipated complexity of the document, the volume and anticipated complexity of documents timely filed, and availability of staff. Once a determination is made as to the Register issue in which a late-filed document will be published, OAL shall so advise the agency.

New Rule, R.1996 d.79, effective February 20, 1996.
See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a).
Amended by R.2001 d.52, effective February 5, 2001.
See: 32 N.J.R. 3885(a), 33 N.J.R. 549(a).

1:30-1.15 Filing of a document

(a) Upon receipt of a document for filing, there shall be stamped on its face the following:

1. The hour and date of receipt; and
2. The word "received".

(b) Upon acceptance for publication, the document shall be stamped filed and is deemed filed as of the date of receipt.

(c) All proposals shall be assigned a proposed rule number (PRN) by the Division of Administrative Rules. All adoptions shall be assigned a rule document number (R.d.) by the Division of Administrative Rules.

Amended by R.1991 d.85, effective February 19, 1991.
See: 22 N.J.R. 3281(a), 23 N.J.R. 399(a).
Technical revisions.
Recodified from 1:30-1.14 and amended by R.1996 d.79, effective February 20, 1996.
See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a).
Amended by R.2001 d.52, effective February 5, 2001.
See: 32 N.J.R. 3885(a), 33 N.J.R. 549(a).

SUBCHAPTER 2. RULEMAKING GENERALLY

1:30-2.1 Clarity of rules

(a) In order to be accepted for filing, a document shall be written in a reasonably simple and understandable manner which is easily readable.

1. The document shall be drafted to provide adequate notice to:

- i. Affected persons; and
- ii. Interested persons with some subject matter expertise.

2. The document shall conform to commonly accepted principles of grammar.

3. The document shall contain sentences that are as short as practical, and be organized in a sensible manner.

4. The document shall not contain double negatives, confusing cross references, convoluted phrasing or unreasonably complex language.

5. Terms of art and words with multiple meanings that may be misinterpreted shall be defined.

6. The document shall be sufficiently complete and informative as to permit the public to understand accurately and plainly the legal authority, purposes and expected consequences of the adoption, readoption or amendment of the rule or regulation.

(b) Any rule activity or notice which does not comply with the standard of clarity set forth in (a) above shall be subject to the provisions of N.J.A.C. 1:30-1.12.

(c) The provisions of (a) above shall not apply to any administrative rule that a State agency adopts to conform to a model code, Federal rule, interstate agreement or other similar regulatory measure not written by the State agency but incorporated into an administrative rule. The State agency shall include in the Summary of the notice of proposal for such rule a description of the rule which complies with (a) above.

(d) The Governor may, upon written request of a State agency, waive the requirements of this section with respect to the readoption, without amendment, of any rule or provision of a rule.

Amended by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Rewrote section.

1:30-2.2 Incorporation by reference

(a) Specifically designated sections of the following sources may be incorporated into a rule by reference:

1. New Jersey Statutes Annotated;
2. United States Code;
3. New Jersey Session Laws;
4. Code of Federal Regulations;
5. Federal Register;

6. Any uniform system of accounts published by the National Association of Regulatory Utility Commissioners;

7. Any generally available standard published by any of the standardizing organizations listed in the National Bureau of Standards Special Publication 417, Director of United States Standardization Activities or supplements thereto or reissues thereof; or

8. Any other generally available publication approved by the Director.

(b) Any section of a source incorporated by reference shall be made available for public inspection by the adopting agency and shall be available in printed form from the adopting agency or the original source for a reasonable fee.

(c) Any agency incorporating any section of a source by reference shall adopt and file as a rule appropriate language indicating:

1. What is incorporated including either:

- i. The specific date or issue of the section of the source incorporated; or
- ii. A statement indicating whether the section incorporated includes future supplements and amendments.

2. Where and how a copy of the section may be obtained.

(d) Where a State agency rule elaborates on, or summarizes or paraphrases a State or Federal statute or Federal regulation, the rule shall contain a citation of or reference to that statute or regulation.

Amended by R.2001 d.52, effective February 5, 2001.

See: 32 N.J.R. 3885(a), 33 N.J.R. 549(a).

Deleted former (d) and recodified former (e) as (d).

1:30-2.3 Single subject for each section

Each proposed or adopted section shall embrace but one subject, and that shall be expressed in the section heading.

Amended by R.1996 d.79, effective February 20, 1996.

See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a).

1:30-2.4 Authorization for rule activity

(a) A notice of adoption shall be signed by the adopting agency head, or any other person authorized by statute.

(b) A notice of proposed rule or any other rule activity shall be signed either by:

1. The adopting agency head; or
2. By an agency employee who has been duly authorized by the agency head to propose rules, and for whom a written authorization signed by the agency head has been submitted to the Office of Administrative Law.

(c) Any rule activity not properly authorized shall be returned to the agency.

Case Notes

Secret rules adopted without compliance with rule making requirements of Administrative Procedure Act denied due process. *State v. Klemmer*, 237 N.J.Super. 32, 566 A.2d 836 (L.1989).

1:30-2.5 Effect of statement for proposed rule

The statements for a proposed rule (N.J.A.C. 1:30-5.1(c)) and for any change upon adoption of a rule (N.J.A.C. 1:30-6.1(b)12 through 15) are not part of the rule, but are intrinsic parts of the proposal and adoption as published in the Register. As such, these statements may be used in interpreting the rule.

Amended by R.2001 d.52, effective February 5, 2001.

See: 32 N.J.R. 3885(a), 33 N.J.R. 549(a).

Amended the N.J.A.C. references.

Amended by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Amended N.J.A.C. references throughout section.

1:30-2.6 Official copy of proposed, adopted and promulgated rule

(a) The Register constitutes the authoritative text of any notice printed therein.

(b) The full text printed in the Register of any proposed rule, adopted rule or any change made upon adoption of a proposed rule, constitutes the authoritative text of that proposed rule, adopted rule or change. An official copy of the text printed in the Register shall be kept on file by the OAL.

(c) Where the full text of an adopted rule is not printed in the Register, the full text of the proposed rule printed in the Register, plus the full text of any change printed in the Register upon adoption, constitutes the authoritative text of the adopted and promulgated rule. An official copy of the text printed in the Register shall be kept on file by the OAL.

(d) Where the full text of any proposed rule, adopted rule, or change is not printed in the Register, the authoritative text is the copy submitted by the adopting agency and kept on file by the Office of Administrative Law.

1:30-2.7 Administrative corrections and changes

(a) Upon being advised in writing by an agency or upon its own initiative, with notice to the appropriate agency, the OAL may make an administrative correction or change to any rule published in the New Jersey Register or New Jersey Administrative Code. An administrative correction or change shall be effective upon filing with the OAL.

(b) An administrative correction may be made to correct an error which is obvious, easily recognizable, or apparent to the promulgating agency and the regulated public. An

administrative correction may be made to conform a proposed or adopted rule to the intent of the agency as expressed in the proposal or adoption statements. Administrative corrections may be made to correct any part of a rule including, but not limited to, its text, spelling, grammar, punctuation, codification, and cross-references.

(c) An administrative change may be made to recodify a rule. Administrative changes may also be made to amend a rule to provide the public with notice of nonregulatory changes that have occurred since the rule was adopted. Administrative changes may include, but are not limited to, changes in:

1. Names of departments, agencies, divisions and bureaus;
2. Titles of specific individuals; and
3. Addresses, phone numbers and business hours.

(d) An administrative correction or change shall not be used to adjust the text of a rule to subsequent changes in circumstance or policy decisions.

(e) Notice of administrative correction or change shall be published in the New Jersey Register. The administrative correction or change with appropriate annotation shall be included in a subsequent supplement to the New Jersey Administrative Code.

Repeal and New Rule, R.1991 d.85, effective February 19, 1991.

See: 22 N.J.R. 3281(a), 23 N.J.R. 399(a).

Section was "Administrative correction".

Amended by R.1996 d.79, effective February 20, 1996.

See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a).

1:30-2.8 Appendices

(a) Appendices shall include only material which clarifies, illustrates or explains a rule. An appendix may include, but is not limited to, the following:

1. Technical requirements or specifications;
2. Instructions;
3. Formulae;
4. Forms;
5. Examples of hypothetical cases;
6. Reprints of regulations, statutes, forms, etc., which originate elsewhere;
7. Lists of offices, their addresses and hours of business; and
8. Analyses or explanatory material regarding a rule, which may contain a rationale or derivation of the rule.

(b) Any material, such as but not limited to, that in (a)1 through 8 above which is non-regulatory may be included in an appendix and cross-referenced in the text of a rule.

(c) Any material, such as, but not limited to, that listed in (a)1 through 8 above which is regulatory may be included in an appendix as long as the appendix is incorporated by reference in the text of a rule. Any amendment to the appendix shall therefore be through rulemaking.

(d) The Office of Administrative Law shall, pursuant to N.J.S.A. 52:14F-5 and N.J.S.A. 52:14B-7(c) and (f), determine:

1. Whether any regulatory provisions found in an Appendix shall be integrated and/or codified into the text of a rule; and
2. The location of an Appendix to a rule in the New Jersey Register and the New Jersey Administrative Code; and
3. Whether an Appendix should be published in the New Jersey Register and the New Jersey Administrative Code.

(e) This section shall be applied prospectively; however, if existing appendices or rules to which they refer are subsequently amended after August 15, 1988, those appendices and rules shall then be conformed to comply with this section.

New Rule, R.1988 d.383, effective August 15, 1988.
See: 19 N.J.R. 675(a), 20 N.J.R. 1021(a), 20 N.J.R. 2052(a).

1:30-2.9 Organizational rule; rules of practice

- (a) Each agency shall:
1. Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests; and
 2. Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency, and, if not otherwise set forth in an agency's rules, a table of all permits and their fees, violations and penalties, deadlines, processing times and appeals procedures.

New Rule, R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).
See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

SUBCHAPTER 3. RULEMAKING CALENDARS

Authority

N.J.S.A. 52:14B-1 et seq., as amended by P.L. 2001, c.5; 52:14B-4 and 7; and 52:14F-5(f), (h) and (i).

Source and Effective Date

R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).
See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a)

1:30-3.1 Publication of rulemaking calendars

(a) Each agency shall publish in the New Jersey Register a quarterly calendar setting forth a schedule of the agency's anticipated rulemaking notice of proposal activities for the next six months. The calendars shall be published in the first New Jersey Register for the months of January, April, July and October and shall be filed with OAL in accordance with the OAL publication schedule (see N.J.A.C. 1:30-1.14) on or before the filing deadline for notices of proposal.

(b) The calendar shall include:

1. The name of the agency;
2. The name of the agency head;
3. Specific citation to the rules to be affected;
4. Citation to the legal authority authorizing the rulemaking action;
5. A synopsis of the rulemaking and its objective or purpose; and
6. The month and year in which publication of the notice of proposal in the New Jersey Register is anticipated.

New Rule, R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).
See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Former N.J.A.C. 1:30-3.1, Notice of proposed rule, recodified to N.J.A.C. 1:30-5.1 and 1:30-5.2.

1:30-3.2 Calendar amendment

(a) An agency shall notify the Director of the Office of Administrative Law when it wishes to amend its calendar of rulemaking activities. Such notice shall be in the form of a revised version of the rulemaking calendar published most recently prior to the amendment, and shall highlight the amendment, both in an explanatory statement and the appearance of the amendment text (additions in boldface, deletions in brackets) within the calendar. Notices of calendar amendment shall be filed with the OAL in accordance with the deadlines for filing notices of proposal set forth in the OAL publication schedule. An agency shall take no action on an amended rulemaking activity until at least 45 days following the first publication of the amended calendar in which the announcement of that amended rulemaking activity appears, if an amendment:

1. Involves the addition of any rulemaking activity to an agency's calendar;
2. Changes the anticipated month of proposal publication to an earlier month; or
3. Alters the objective, purpose or subject matter synopsis of the rulemaking so as to change who or what shall be affected by the rulemaking and/or how they shall be affected.

New Rule, R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).
See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Former N.J.A.C. 1:30-3.2, Informal public input; notice of pre-proposal for a rule, recodified to N.J.A.C. 1:30-5.3.

1:30-3.3 Exceptions

(a) The provisions of N.J.A.C. 1:30-3.1 and 3.2 shall not apply to rulemaking:

1. Required or authorized by Federal law, when failure to adopt rules in a timely manner will prejudice the State;
2. Subject to a specific statutory authorization requiring promulgation in a lesser time period than addition to a calendar would permit;
3. Involving an imminent peril subject to provisions of N.J.S.A. 52:14B-4(c);
4. For which the agency has published a notice of pre-proposal of the rule in accordance with N.J.A.C. 1:30-5.3(b) and (c); or
5. For which a comment period of at least 60 days is provided.

(b) A proposed rule falling within any of the exceptions in (a) above shall so indicate in the Summary of notice of proposal. If the rule falls under the exception in (a)1 above, the Summary shall include the specific citation of the Federal law requiring or authorizing the rule, and an explanation as to how failure to adopt the rule in a timely manner will prejudice the State.

New Rule, R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).
See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Former N.J.A.C. 1:30-3.3, Opportunity to be heard, recodified to N.J.A.C. 1:30-5.4.

1:30-3.3A (Reserved)

Recodified as N.J.A.C. 1:30-5.5 by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Section was "Public hearings".

1:30-3.4 Calendar copies

(a) Each agency shall include, in that portion of its Internet web site concerned with rulemaking, either its rulemaking calendar or a notice of the availability of its rulemaking calendar for the fee established at (c) below. If an agency's web site does not feature a portion devoted to rulemaking, the calendar or notice of the availability of the rulemaking calendar shall be included in that portion of the web site otherwise used for public notices and/or information.

(b) In addition to the notice under (a) above, an agency shall provide notice of the availability of its rulemaking calendar for the fee established under (c) below in the same manner as it publicizes its proposed rulemakings under N.J.A.C. 1:30-5.2(a)6.

(c) Agencies shall charge a fee for copies of their rule-making calendars in accordance with the copying fee schedule at N.J.A.C. 1:30-1.9(a).

New Rule, R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).
See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Former N.J.A.C. 1:30-3.4, Rulemaking record, recodified to N.J.A.C. 1:30-5.6.

1:30-3.5 (Reserved)

Recodified as N.J.A.C. 1:30-5.7 by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Section was "Negotiating a rule".

1:30-3.6 (Reserved)

Recodified as N.J.A.C. 1:30-4.1 and 1:30-4.2 by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Section was "Notice of petition for a rule".

1:30-3.7 (Reserved)

Recodified as N.J.A.C. 1:30-5.8 by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Section was "Federally required rule".

SUBCHAPTER 4. PETITION FOR RULEMAKING

1:30-4.1 Notice of petition for rulemaking

(a) An interested person may petition an agency to adopt a new rule or amend or repeal an existing rule.

(b) Each agency shall adopt a rule prescribing the form and procedures for the submission, consideration and disposition of the petition. The petition shall state clearly and concisely: the substance or nature of the rulemaking which is requested; the reasons for the request and the petitioner's interest in the request; and references to the authority of the agency to take the requested action. The petitioner may provide the text of the proposed new rule, amended rule or repealed rule.

(c) When a person petitions an agency to begin a rule-making proceeding, the agency shall, within 15 days of receipt of the petition, file with the Office of Administrative Law for publication in the Register a notice of the petition's receipt. The notice of petition shall include:

1. The name of the petitioner;
2. The substance or nature of the rulemaking action which is requested;
3. The problem or purpose which is the subject of the request; and
4. The date the petition was received.

Administrative Correction: Text was omitted from (b)3.

See: 19 N.J.R. 777(a).

Amended by R.1991 d.85, effective February 19, 1991.

See: 22 N.J.R. 3281(a), 23 N.J.R. 399(a).

In (a), specified that agency shall file "a notice of the petitioner's receipt" for publication in Register; deleted (a)5. In (c)1, added requirements that petitioner be provided with a written statement of reasons for denial and that reasons be included in notice of action. In (c)3., clarified that the nature of further deliberations be specified "to the petitioner and in the notice of action". In (d), added requirement for "consideration and disposition" procedures.

Amended by R.1996 d.79, effective February 20, 1996.

See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a).

Recodified in part from N.J.A.C. 1:30-3.6 and amended by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Added new (a); rewrote (b); recodified former (a) as new (c) and deleted "pursuant to N.J.S.A. 52:14B-4(f)" in the introductory paragraph. Former N.J.A.C. 1:30-4.1, Notice of adopted rule, recodified as N.J.A.C. 1:30-6.1.

1:30-4.2 Agency response to petition

(a) Within 60 days of receipt of a rulemaking petition, the agency shall either:

1. Deny the petition, in which case the agency shall provide a written statement of its reasons to the petitioner, and include such reasons in its notice of action;
2. Grant the petition and initiate a rulemaking proceeding within 90 days of the granting of the petition; or
3. Refer the matter for further deliberations, the nature of which shall be specified to the petitioner and in the notice of action and which shall conclude within 90 days of such referral. Upon conclusion of such further deliberations, the agency shall either deny the petition or grant the petition and initiate a rulemaking proceeding within 90 days. The agency shall mail the results of these further deliberations to the petitioner and submit the results to the OAL for publication in the Register.

(b) Within 60 days of receiving the petition, the agency shall mail to the petitioner, and file with the Office of Administrative Law for publication in the Register, a notice of action on the petition which shall include:

1. The name of the petitioner;
2. The Register citation for the notice of petition;
3. The signature of the agency head, signifying that the petition was duly considered pursuant to law;
4. The nature or substance of the agency action upon the petition; and
5. A brief statement of reasons for the agency action.

Recodified in part from N.J.A.C. 1:30-3.6 and amended by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Rewrote section. Former N.J.A.C. 1:30-4.2, Time for filing adopted rule, recodified as N.J.A.C. 1:30-6.2.

1:30-4.3 Failure to respond to petition

(a) If an agency fails to act in accordance with the time frames set forth in N.J.A.C. 1:30-4.2(a), the petitioner may request, in writing, a public hearing on the petition by submitting a request to the Director of the Office of Administrative Law.

(b) Upon receipt of a request for a hearing, the Director shall order a public hearing on the rulemaking petition. The Director shall provide the agency with a notice of the Director's intent to hold the public hearing if the agency does not.

(c) If the agency does not provide notice of a public hearing within 15 days of issuance of the Director's notice, the Director shall schedule a public hearing to be conducted by the Office of Administrative Law. Notice of that hearing shall be provided to the petitioner and the public at least 15 days prior to the hearing.

(d) If the public hearing is held by the Office of Administrative Law, it shall be conducted by an administrative law judge, a person on assignment from another agency, a person from the Office of Administrative Law assigned pursuant to N.J.S.A. 52:14F-5, or an independent contractor assigned by the Director.

(e) The petitioner and the agency shall participate in the public hearing and shall present a summary of their positions on the petition and a summary of the factual information on which their positions on the petition are based and shall respond to questions posed by any interested party. The hearing procedure shall otherwise be consistent with the requirements for the conduct of a public hearing as prescribed in N.J.A.C. 1:30-5.5(d), except that the person assigned to conduct the hearing shall make a report summarizing the factual record presented and the arguments for and against proceeding with a rule proposal based upon the petition.

(f) The report shall be filed with the agency and delivered or mailed to the petitioner. A copy of the report shall be filed with the Legislature along with the petition for rulemaking.

New Rule, R.2001 d.193, effective June 4, 2001 (operative July 1, 2001). See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Former N.J.A.C. 1:30-4.3, Variance between the rule as proposed and as adopted, recodified to N.J.A.C. 1:30-6.3.

1:30-4.4 (Reserved)

Recodified as N.J.A.C. 1:30-6.4 by R.2001 d. 193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Section was "Executive Order No. 66(1978); expiration".

1:30-4.5 (Reserved)

Recodified as N.J.A.C. 1:30-6.5 by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001).

See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

Case Notes

Any defect in using order to establish program which should have been established by rule making was cured by emergency regulation. Matter of Producer Assignment Program, 261 N.J.Super. 292, 618 A.2d 894 (A.D.1993), certification denied 133 N.J. 438, 627 A.2d 1144, certification denied 133 N.J. 439, 627 A.2d 1144.

Emergency regulation was permitted to establish producer assignment program applicable to automobile insurers. Matter of Producer Assignment Program, 261 N.J.Super. 292, 618 A.2d 894 (A.D.1993), certification denied 133 N.J. 438, 627 A.2d 1144, certification denied 133 N.J. 439, 627 A.2d 1144.

Emergency adoption must conform with emergency rule-making procedures of Administrative Procedure Act (APA). Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist., 258 N.J.Super. 290, 609 A.2d 501 (A.D.1992), certification granted 130 N.J. 398, 614 A.2d 620, affirmed in part, reversed in part 133 N.J. 206, 627 A.2d 614.

Emergency regulations adopted prior to effective date of enabling legislation upheld; remanded for public notice and hearing in interest of justice (citing former rulemaking regulations). New Jersey Assn. of Health Care Facilities v. Klein, 182 N.J.Super. 252, 440 A.2d 476 (App.Div.1981).

1:30-6.6 Effective date and promulgation of adopted rule

(a) The following rules are effective upon filing with the Office of Administrative Law:

1. Any rule adopted as an emergency rule pursuant to N.J.A.C. 1:30-6.5(b) and (d);
2. Any rule readopted pursuant to N.J.S.A. 52:14B-5.1 (see N.J.A.C. 1:30-6.4(f));
3. Any rule adopted as an organizational rule pursuant to N.J.S.A. 52:14B-4(b); or
4. Any concurrent rule the adoption of which is filed prior to the expiration of the emergency rule.

(b) Any other adopted rule is effective upon publication in the New Jersey Register.

Amended by R.1996 d.79, effective February 20, 1996. See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a). Recodified from N.J.A.C. 1:30-4.6 and amended by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001). See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).

In (a)1, amended N.J.A.C. references; in (a)2, amended N.J.A.C. references and deleted "Executive Order No. 66(1978)" and inserted N.J.S.A. reference; in (b), substituted "publication" for "promulgation".

Case Notes

Public health council could extend effective date of rules regulating smoking in public place as part of the state sanitary code which were invalid due to procedural defect of lack of a hearing, by filing an order with the division of administrative procedure amending its order of adoption and thereby allowing additional time for it to submit a new proposal in a procedurally correct manner. Atty.Gen.F.O.1978, No. 7.

1:30-6.7 Timely filing of notice of adoption

In order to avoid the expiration of a chapter or a proposed rulemaking, or to avoid a break in effectiveness between an emergency adoption and the adoption of a concurrent proposal, a notice of adoption shall be filed on or before the expiration date of the chapter, proposal or emergency adoption. If such date falls on a Saturday, Sunday or legal holiday, the filing shall occur no later than the next business day after the expiration date.

New Rule, R.1996 d.79, effective February 20, 1996. See: 27 N.J.R. 4039(b), 28 N.J.R. 1198(a). Amended by R.2001 d.52, effective February 5, 2001. See: 32 N.J.R. 3885(a), 33 N.J.R. 549(a). Substituted "next" for "last" preceding "business day" and "after" for "prior to" preceding "the expiration date.". Recodified from N.J.A.C. 1:30-4.7 and amended by R.2001 d.193, effective June 4, 2001 (operative July 1, 2001). See: 33 N.J.R. 915(a), 33 N.J.R. 1927(a).