

12. A copy of the New Jersey Letter of Limited Exemption, or of a Public Offering Statement approved by the Commission, shall be provided to each New Jersey purchaser prior to their signing any contract for the purchase of an interest in property included within the limited exemption issued by the Commission, and a receipt obtained for the same shall be kept on file for seven years by the recipient of the limited exemption.

13. Any material change in the information reflected on the application for a limited exemption or on any documentation submitted in support of such application, shall immediately void any exemption issued based upon such application.

Amended by R.1998 d.497, effective October 5, 1998.
See: 30 N.J.R. 2333(a), 30 N.J.R. 3646(a).

In (b), rewrote 5, deleted "The Commission shall determine what constitutes a material change" from the end of 13, and changed N.J.A.C. references throughout.

11:5-9.19 Imposition of regulatory sanctions; cease and desist orders; hearings

(a) Prior to issuing an Order revoking or suspending a registration and/or imposing any penalty authorized by the Act, and/or directing that a registrant permanently cease and desist from taking any action or continuing any course of conduct, the Commission shall provide written notice of the charges which allegedly support the entry of such an Order and afford the registrant to whom such notice is directed the opportunity for a hearing on the charges. All such hearings shall be conducted in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, promulgated thereunder by the Office of Administrative Law, and any rules of the Commission applicable to such hearings.

1. If the Commission makes a finding of fact in writing that the public interest will be irreparably harmed by a delay in issuing an order, it may issue a temporary cease and desist order. Every temporary cease and desist order shall include in its terms a provision that upon written request of the party to whom the order was directed, a hearing will be held within 15 days of the Commission's receipt of the request.

New Rule, R.2003 d.440, effective November 3, 2003.
See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).

SUBCHAPTER 10. RULEMAKING AND PETITIONS FOR RULEMAKING

11:5-10.1 Rulemaking—scope

Unless otherwise specified in this subchapter, the procedures governing the promulgation of administrative rules by the New Jersey Real Estate Commission pursuant to the

authority granted in N.J.S.A. 45:15-6, 45:15-10.14, 45:15-16.49, 45:15-17(t), 45:15-17.4 and 45:15-42 shall be those established in the Administrative Procedure Act, P.L. 1968, c.410 (N.J.S.A. 52:14B-1 et seq.) and the Rules for Agency Rulemaking, N.J.A.C. 1:30.

New Rule, R.2003 d.440, effective November 3, 2003.
See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).

Section was "Petitions for rulemaking—scope", was recodified to N.J.A.C. 11:5-10.5.

11:5-10.2 Notice of proposed adoption of new rule, or proposed amendment or repeal of existing rule

(a) The Commission shall provide primary notice of any proposal to adopt a new rule, or amend or repeal any existing rule, by filing such notice with the Office of Administrative Law for publication in the New Jersey Register through the procedures established in N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:30.

(b) With the exception of rules which, pursuant to N.J.S.A. 52:14B-4, may be adopted without prior notice, in addition to the primary notice described in (a) above in all circumstances the Commission shall provide secondary notice of proposals to adopt a new rule, or amend or repeal an existing rule, through the following methods:

1. Notice to the news media maintaining a press office to cover the New Jersey State House complex;
2. Notice posted on the bulletin board of the office of the New Jersey Real Estate Commission;
3. Notice posted on the website of the New Jersey Real Estate Commission at <http://www.naic.org/nj/real-com.htm>; and
4. Notice mailed to all persons who have submitted written or e-mail requests to the Commission for advance notice of its rulemaking proposals.

(c) In addition to the methods for providing secondary notice of proposed rulemaking specified in (b) above, the Commission may provide such notice in the text of a newsletter or similar publication mailed to all licensed offices of New Jersey real estate brokers and/or a written communication from the New Jersey Real Estate Commission mailed to all licensed offices of New Jersey real estate brokers.

(d) The Commission shall provide secondary notice under (b) above at least 30 days prior to its intended action of adopting a new rule, or amending or repealing any existing rule.

Repeal and New Rule, R.2003 d.440, effective November 3, 2003.
See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).

Section was "Procedure for the submission of petitions for rulemaking".

11:5-10.3 Comments concerning proposed adoption of new rule, or proposed amendment or repeal of existing rule; extensions of time for comments

(a) For a period of no less than 30 days following the publication of any proposal to adopt a new rule, or amend or repeal an existing rule, the Commission shall afford all interested persons reasonable opportunity to submit written comments on the proposal in accordance with the procedures established in N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:30. Said period shall be deemed the "comment period."

(b) A written comment may be submitted via mail, delivery service, facsimile transmission, e-mail or any other means which results in the Commission's receipt of a writing containing the text of the comment.

(c) If, during the comment period, sufficient public interest is demonstrated in an extension of the time for the submission of comments, the Commission shall provide an additional 30-day period for the receipt of comments from interested persons. In determining whether sufficient public interest has been demonstrated for the purposes of extending the comment period pursuant to N.J.A.C. 1:30-5.4, the Commission shall consider the following criteria:

1. Whether comments received indicated a previously unrecognized impact on regulated entities or persons; or
2. Whether comments received raise unanticipated issues related to the notice of proposal.

(d) Where a 30-day extension of the comment period under (c) above is granted, the proposal shall not be adopted until the Commission has considered all comments received during the entire comment period as extended.

New Rule, R.2003 d.440, effective November 3, 2003.
See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).

Section was "Procedure for the consideration and disposition of rulemaking petitions", was recodified to N.J.A.C. 11:5-10.7.

11:5-10.4 Public hearings concerning proposed adoption of new rule, or proposed amendment or repeal of existing rule

(a) The Commission may hold a public hearing to gather information concerning any proposed rule, amendment, or repeal.

(b) The Commission shall publish a notice of the place, date and time of the hearing at least 15 business days before the date of the hearing.

(c) If, during the comment period following the publication of any proposal to adopt a new rule, or amend or repeal any existing rule, sufficient public interest in holding a public hearing on the proposal is demonstrated, the Commission shall conduct such a hearing. The Commission shall provide at least 15 days notice of such a public hearing, which shall be conducted in accordance with the procedures established in N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:30.

(d) 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 Commission shall consider a request for such a hearing that has been submitted on a form prescribed by the Department of Banking and Insurance. Such a request shall be submitted within 60 days following the publication of the notice of proposal in the New Jersey Register.

1. A person interested in having a public hearing held on a notice of proposal shall submit an application on a form prescribed by the Department of Banking and Insurance to New Jersey Real Estate Commission, Department of Banking and Insurance, PO Box 328, Trenton, NJ 08625-0328. The application shall contain the following information:

- i. The person's name, address, telephone number, agency or association (if applicable);
- ii. The citation and title of the proposed rule and the date the notice of proposal was published in the New Jersey Register; and
- iii. The reasons a public hearing regarding the notice of proposal is considered necessary pursuant to (e) below.

(e) Sufficient public interest for the purpose of holding a public hearing pursuant to N.J.A.C. 1:30-5.5 shall be demonstrated if the Commission determines that the consideration of additional data, findings and/or analysis regarding the notice of proposal is necessary in order to ensure that the proposed rulemaking does not violate the intent of the statutory authority.

Amended by R.2003 d.440, effective November 3, 2003.

See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).

Added (c) through (e).

11:5-10.5 Petitions for rulemaking—scope

N.J.A.C. 11:5-10.5, 10.6 and 10.7 shall apply to all petitions made by interested persons for the adoption of a new rule, or the amendment or repeal of any existing rule by the New Jersey Real Estate Commission, in accordance with N.J.S.A. 52:14B-4(f).

Recodified from N.J.A.C. 11:5-10.1 and amended by R.2003 d.440, effective November 3, 2003.

See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).

Rewrote the section.

11:5-10.6 Procedure for the submission of petitions for rulemaking

(a) Any interested person may petition the Real Estate Commission to adopt a new rule, or amend or repeal an existing rule. Such interested person shall be deemed a "petitioner." The petitioner may include with any petition the text of the proposed new rule, amended rule or repealed rule. All petitions for rulemaking shall clearly and concisely state: