

CHAPTER 45

AN ACT concerning State agency rule-making and amending P.L.2001, c.5.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 10 of P.L.2001, c.5 (C.52:14B-5.1) is amended to read as follows:

C.52:14B-5.1 Expiration of rules; continuation.

10. a. (Deleted by amendment, P.L.2011, c.45)

b. Every rule adopted on or after the effective date of P.L.2001, c.5 (C.52:14B-4.1a et al.) shall expire seven years following the effective date of the rule unless a sooner expiration date has been established for the rule. The expiration date shall be included in the adoption notice of the rule in the New Jersey Register and noted in the New Jersey Administrative Code.

c. (1) Notwithstanding any other provision of P.L.1968, c.410 (C.52:14B-1 et seq.), or rule adopted pursuant thereto, to the contrary, in the case of a proposed readoption without changes to the existing rule, or a proposed readoption with technical changes as approved by the Office of Administrative Law, an agency may continue in effect an expiring rule for a seven-year period by filing a public notice with the Office of Administrative Law for publication in the New Jersey Register at least 30 days prior to the expiration date of the rule. The notice pursuant to this paragraph shall include the citation for the rule, a general description of the rule, the specific legal authority under which the rule is authorized, and the new expiration date of the rule. The notice pursuant to this paragraph shall be effective upon filing with the Office of Administrative Law.

Upon the receipt of a public notice pursuant to this paragraph, the Office of Administrative Law shall publish the notice in the New Jersey Register. The new expiration date of the rule shall be noted in the New Jersey Administrative Code.

As used in this paragraph, "technical changes" means changes to: correct spelling, grammar and punctuation; correct codification; update contact information; or correct cross-references.

(2) In the case of a proposed readoption of an expiring rule with substantive changes, an agency may continue the expiring rule for a seven-year period by duly proposing the readoption with substantive changes and readopting the rule prior to its expiration. Upon the filing of a notice of proposed readoption with substantive changes, the expiration date of the rule shall be extended for 180 days, if such notice is filed prior to the expiration of the rule.

As used in this paragraph, "substantive changes" means any changes that are not technical changes as defined in paragraph (1) of this subsection.

d. (1) The Governor may, upon the request of an agency head, and prior to the expiration date of the rule, continue in effect an expiring rule for a period to be specified by the Governor.

(2) The Governor may, upon the request of an agency head within five days after the expiration of a rule, restore the effectiveness of an expired rule as of its expiration date, for a period to be specified by the Governor, in order to effect the readoption of the rule in accordance with subsection c. of this section.

e. This section shall not apply to any rule repealing a rule or any rule prescribed by federal law or whose expiration would violate any other federal or State law, in which case the federal or State law shall be cited in the publication of the rule.

2. This act shall take effect immediately.

Approved April 6, 2011.