

## CHAPTER 33

AN ACT concerning State agency rule-making and supplementing P.L.1968, c.410 (C.52:14B-1 et seq.).

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

C.52:14B-4.10 Changes to agency rule, certain, upon adoption.

1. a. Notwithstanding any other provision of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), or rule adopted pursuant thereto, to the contrary, where, following a notice of proposal and upon conclusion of the public comment period, an agency determines that it would be appropriate to make substantial changes to the proposed rule upon adoption, the agency may follow the procedure set forth in this section instead of filing a new notice of proposal.

As used in this section, “substantial changes” means any changes to a proposed rule that would significantly: enlarge or curtail who and what will be affected by the proposed rule; change what is being prescribed, proscribed or otherwise mandated by the rule; or enlarge or curtail the scope of the proposed rule and its burden on those affected by it.

b. Upon making a determination that it would be appropriate to make substantial changes to a proposed rule upon adoption, an agency may submit a public notice to the Office of Administrative Law setting forth the proposed changes. The public notice shall include: (1) a description of the changes between the rule as originally proposed and the new proposed changes; (2) the specific reasons for proposing the additional changes; (3) a discussion of how the new proposed changes would alter the impact statements and analyses included in the notice of proposal; (4) a report listing all parties submitting comments on the originally proposed rule provisions subject to the proposed additional changes, summarizing the content of the submissions on those provisions, and providing the agency's response to the data, views and arguments contained in the submissions; and (5) the manner in which interested persons may present their views on the new proposed changes.

c. (1) Upon receipt of a public notice pursuant to subsection b. of this section, the Office of Administrative Law shall publish the notice in the New Jersey Register.

(2) The agency submitting the public notice containing substantial changes to a notice of proposal shall comply with the notice requirements set forth in paragraphs (1) and (3) of subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4), and provide a comment period of 60 days from the date the public notice is published in the New Jersey Register in which interested parties may present their views on the new proposed changes.

d. Upon the conclusion of the 60 day public comment period, the agency may proceed with a notice of adoption in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). As part of the notice of adoption, the agency shall prepare for public distribution a report listing all parties submitting comments concerning the provisions of the proposed rule changes contained in the public notice, summarizing the content of the submissions that are related to the proposed rule changes contained in the public notice, and providing the agency's response to the data, views and arguments contained in the relevant submissions.

e. A notice of proposal that includes a public notice pursuant to this section shall expire 18 months after the date of publication of the notice of proposal in the New Jersey Register.

2. This act shall take effect immediately.

Approved March 1, 2011.