

IC 13-14-9.5

Chapter 9.5. Expiration and Readoption of Administrative Rules

IC 13-14-9.5-1

Exceptions

Sec. 1. This chapter does not apply to a rule that incorporates a federal regulation by reference or adopts under a federal mandate a federal regulation in its entirety without substantive additions.

As added by P.L.17-1996, SEC.9.

IC 13-14-9.5-1.1

Rules that do not expire; public hearings

Sec. 1.1. (a) This section applies to the following:

(1) A rule that is required to receive or maintain:

(A) delegation;

(B) primacy; or

(C) approval;

for state implementation or operation of a program established under federal law.

(2) A rule that is required to begin or continue receiving federal funding for the implementation or operation of a program.

(b) A rule described in subsection (a) does not expire under this chapter.

(c) In the seventh year after the effective date of a rule or an amendment to a rule described in subsection (a), the department shall publish a notice in the Indiana Register. The notice may contain a list of several rules that have been effective for seven (7) years. A separate notice must be published for each board with rulemaking authority. A notice under this subsection must provide for the following:

(1) A written comment period of at least thirty (30) days.

(2) A request for comments on specific rules that should be reviewed through the regular rulemaking process under IC 13-14-9.

(3) A notice of public hearing before the appropriate board.

(4) The information required to be identified or described under IC 13-14-9-4(5) through IC 13-14-9-4(7) in the same manner that would apply if the proposed renewal of the expired rule were a proposal to adopt a new rule.

(d) The department shall:

(1) prepare responses to all comments received during the comment period; and

(2) provide all comments and responses to the board during the public board hearing;

described in subsection (c).

(e) The board, after considering the written comments and responses, as well as testimony at the public hearing described in subsection (c), shall direct the department on whether additional rulemaking actions must be initiated to address concerns raised to the board.

(f) For the rules described in subsection (a) that are effective on or before July 1, 2001, the notice described in subsection (c) shall be published in the Indiana Register before December 31, 2008.
As added by P.L.146-2001, SEC.3. Amended by P.L.240-2003, SEC.8.

IC 13-14-9.5-2

Dates for expiration

Sec. 2. (a) Except as provided in subsection (b) or section 1.1 of this chapter, an administrative rule adopted under IC 13-14-9 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. The expiration date of a rule under this section is extended each time that a rule amending an unexpired rule takes effect. The rule, as amended, expires on January 1 of the seventh year after the year in which the amendment takes effect.

(b) An administrative rule that:

- (1) was adopted under a provision of IC 13 that has been repealed by a recodification of IC 13;
- (2) is in force on December 31, 1995; and
- (3) is not amended by a rule that takes effect after December 31, 1995, and before January 1, 2002;

expires not later than January 1, 2002.

(c) The determination of whether an administrative rule expires under this chapter shall be applied at the level of an Indiana Administrative Code section.

As added by P.L.17-1996, SEC.9. Amended by P.L.146-2001, SEC.4; P.L.215-2005, SEC.18.

IC 13-14-9.5-3

Procedures for readoption

Sec. 3. (a) The department or a board that has rulemaking authority under this title may adopt a rule under IC 13-14-9 in anticipation of a rule's expiration under this chapter.

(b) Except as provided in section 5 of this chapter, the department or a board that has rulemaking authority under this title may not use emergency rule procedures to readopt a rule that is subject to expiration under this chapter.

As added by P.L.17-1996, SEC.9.

IC 13-14-9.5-4

Readoption of rules; request for readoption of particular rule

Sec. 4. (a) Except as provided in subsection (b), with respect to the rules subject to expiration under this chapter, the department or a board that has rulemaking authority under this title:

- (1) may readopt one (1) or more of the rules under one (1) rule that lists all rules that are readopted by their titles and subtitles only; and
- (2) shall publish a notice in the Indiana Register identifying:
 - (A) the rules, if any, that will be readopted; and

(B) the rules, if any, that will not be readopted.
A rule that has expired but is readopted under this subsection may not be removed from the Indiana Administrative Code.

(b) If a person submits to the department or a board that has rulemaking authority under this title a written request stating a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule described in subsection (a), the department or board must:

- (1) consider readoption of that rule separately from the readoption rule described in subsection (a); and
- (2) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule.

(c) If the department or board does not receive a written request under subsection (b) regarding a rule within the first comment period, the agency may:

- (1) submit the readoption rule for filing with the publisher under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule; or
- (2) for one (1) or more of the rules proposed to be readopted as part of the readoption rule described in subsection (a), elect the procedure for readoption under IC 13-14-9.

(d) If a person submits to the department or a board that has rulemaking authority under this title a written request stating a basis for the request during the first comment period that a particular rule that the department or board does not intend to readopt as part of the readoption rule described in subsection (a) be readopted, the department or board must:

- (1) consider readoption of that rule separately from the readoption rule described in subsection (a); and
- (2) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule.

As added by P.L.17-1996, SEC.9. Amended by P.L.123-2006, SEC.31; P.L.114-2008, SEC.7.

IC 13-14-9.5-5

Power of governor to postpone expiration date

Sec. 5. If a rule is not readopted and the governor finds that the failure to readopt the rule causes an emergency to exist, the governor may, by executive order issued before the rule's expiration date, postpone the expiration date of the rule until a date that is one (1) year after the date specified in section 2 of this chapter.

As added by P.L.17-1996, SEC.9.

IC 13-14-9.5-6

Removal of expired rules

Sec. 6. Except as provided in section 4(a) of this chapter, the publisher shall remove all rules that have expired under this chapter from the Indiana Administrative Code.

As added by P.L.17-1996, SEC.9.