

## N.J. EO-127 Extends Contested Case, Rule Deadlines — May Impact Utilities, Other Regulated Entities

On April 14, 2020, New Jersey Governor Phil Murphy signed Executive Order No. 127 (EO-127), which took effect immediately, to extend: (i) pending deadlines for Initial Decisions and Final Decisions in contested administrative cases; (ii) deadlines under the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) associated with rulemaking for state agencies; and (iii) any rules or emergency rules that would expire during the current public health emergency (under EO-103). The extension granted by EO-127 is until 90 days following the end of the public health emergency, with the goal of providing state agencies with flexibility during the public health emergency to continue their focus on the fight against COVID-19.

Entities subject to New Jersey regulations or with interests in pending administrative proceedings, proposed rulemakings and pending rulemakings, including New Jersey public utilities and Board of Public Utilities' licensees, should consider how these extensions may impact their planning and/or expectations with respect to the timing of anticipated changes, results, or outcomes of pending rulemakings and contested matters. <sup>1</sup>

Specifically, the extensions apply<sup>2</sup> to matters under:

- **N.J.S.A. 52:14B-10(c)**, which requires recommended reports and decisions in contested cases to be filed, not later than 45 days after the hearing is concluded;
- **N.J.S.A. 52:14B-10(a)(2)**, which requires the production and certification of a permitting record related to a permitting decision by the Department of Environmental Protection within 30 days after the filing of a contested case;
- **N.J.A.C. 1:30-6.2(c)**, which provides a one-year expiration date for notices of rule proposals. However, the extension only applies if the notice of proposal was published on or after April 15, 2019 and the rule proposal would otherwise expire without the extension;
- **N.J.S.A. 52:14B-4.10(e), N.J.A.C. 1:30-6.2(c) and N.J.A.C. 1:30-6.3(e)**, which provide an 18-month expiration date for notices of rule proposal if the notice of proposal was published in the New Jersey Register before April 15, 2019,<sup>3</sup> and the notice of rule proposal would otherwise expire without the benefit of such an extension;
- **N.J.S.A. 52:14B-4(f), and N.J.A.C. 1:30-4.1 to -4.3**, which provide deadlines for any executive branch department or agency to act on any currently pending petition for rulemaking, or on any petition for rulemaking filed during the public health emergency, or any executive branch department or agency rule prescribing procedures for the consideration and disposition of petitions for rulemaking, if the deadline would otherwise occur sooner;
- **N.J.S.A. 52:14B-5.1 and N.J.A.C. 1:30-6.4**, which pertain to the expiration dates of rules, for any rule scheduled to expire during the public health emergency or within 90 days thereafter, if the deadline would otherwise occur sooner;
- **N.J.S.A. 52:14B-4(c) and N.J.A.C. 1:30-6.5**, which pertain to the expiration dates of emergency rules, for any emergency rule scheduled to expire during the public health emergency if the deadline would otherwise occur sooner.

In addition, EO-127 also provides that, upon the request of the executive branch department or agency and with the written approval of the governor, any deadline or expiration date extended with respect to the foregoing may be extended by an additional 30 days. Also, the deadline for state officers or employees to file a financial disclosure statement pursuant to Executive Order No. 2 (2018) (Murphy) or a conflict of interest form pursuant to Executive Order No. 14 (2006) (Corzine) is extended by EO-127 until July 31, 2020.

A copy of Executive Order 127 is available [here](#).



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### Related Practice Areas

- Utility & Energy

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<sup>1</sup> A “pending deadline” is any deadline that falls during the public health emergency or within 30 days after the last day of such emergency.

<sup>2</sup> The extensions **do not** apply to emergent cases and certain appeals to the Civil Service Commission (as specified in N.J.S.A. 11A:2-13 or N.J.S.A. 11A:2-6(a)(4), which are governed by N.J.S.A. 11A:2-15).

<sup>3</sup> However, if the notice of proposal was published in the New Jersey Register on or after April 15, 2019, the extension is for 270 days after the last day of the public health emergency.