

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 18-0744.01 Jennifer Berman x3286

HOUSE BILL 18-1253

HOUSE SPONSORSHIP

Lee and Herod, Foote, Willett, Wist

SENATE SPONSORSHIP

Gardner, Cooke, Guzman, Holbert, Kagan

House Committees

Legal Services

Senate Committees

Judiciary
Legal Services

A BILL FOR AN ACT

101 **CONCERNING IMPLEMENTATION OF RECOMMENDATIONS OF THE**
102 **COMMITTEE ON LEGAL SERVICES IN CONNECTION WITH**
103 **LEGISLATIVE REVIEW OF RULES OF STATE AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Committee on Legal Services. Based on the findings and recommendations of the committee on legal services, the bill extends all state agency rules that were adopted or amended on or after November 1, 2016, and before November 1, 2017, with the exception of the rules specifically listed in the bill. Those specified rules and regulations will

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 9, 2018

HOUSE
3rd Reading Unamended
March 6, 2018

HOUSE
Amended 2nd Reading
March 5, 2018

expire as scheduled in the "State Administrative Procedure Act" on May 15, 2018, on the grounds that the rules and regulations either conflict with statute or lack or exceed statutory authority.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Rules and regulations scheduled for expiration**

3 **May 15, 2018 - extension.** (1) Except as indicated, the expiration of all
4 rules of agencies in the following principal departments, which rules were
5 adopted or amended on or after November 1, 2016, and before November
6 1, 2017, and that are therefore scheduled for expiration May 15, 2018, is
7 postponed, and the provisions of section 24-4-108 or 24-34-104,
8 Colorado Revised Statutes, apply:

9 (a) Department of agriculture; except that the following rules of
10 the commissioner of agriculture, plant industry division, are not extended:

11 (I) With regard to the administration and enforcement of the
12 "Pesticide Applicators' Act" (8 CCR 1203-2):

13 (A) Rule 17.03., concerning registration of pesticides used in the
14 cultivation of cannabis;

15 (B) Rule 17.04. (a)(1), concerning an exemption from the
16 requirements of a tolerance for all active ingredients of the pesticide
17 product;

18 (C) Rule 17.04. (b)(1), concerning an exemption for active and
19 inert ingredients; and

20 (D) Rule 17.04. (d), concerning the pesticide product label for
21 25(b) minimum risk pesticide products; and

22 (II) With regard to the use of pesticides in the cultivation of retail
23 marijuana (8 CCR 1203-26):

24 (A) Rule 2.4.1.1., concerning an exemption from the requirements

- 1 of a tolerance for all active ingredients of the pesticide product;
- 2 (B) Rule 2.4.2.1., concerning an exemption for active and inert
3 ingredients; and
- 4 (C) Rule 2.4.4., concerning the pesticide product label for 25(b)
5 minimum risk pesticide products;
- 6 (b) Department of corrections;
- 7 (c) Department of education;
- 8 (d) Department of health care policy and financing;
- 9 (e) Department of higher education;
- 10 (f) Department of human services;
- 11 (g) Department of labor and employment; except that the
12 following rules are not extended:
- 13 (I) The following rules of the director of the division of oil and
14 public safety concerning underground storage tanks and aboveground
15 storage tanks (7 CCR 1101-14):
- 16 (A) Section 1-5, the definitions of "fire resistant tank" and
17 "protected tank";
- 18 (B) Rule 2-1-1 (d)(2)(A), concerning NACE international
19 standard practice SP 0285;
- 20 (C) Rule 2-1-1 (d)(2)(B), concerning NACE international standard
21 practice SP 0169;
- 22 (D) Rule 2-1-1 (d)(2)(D), concerning Steel Tank Institute
23 recommended practice R892;
- 24 (E) Rule 2-2-1 (a)(1) Note, concerning the following codes of
25 practice;
- 26 (F) Rule 2-2-1 (a)(1)(A), concerning Underwriters Laboratories
27 standard 1316;

1 (G) Rule 2-2-1 (a)(1)(B), concerning Underwriters Laboratories
2 of Canada S615;

3 (H) Rule 2-2-1 (a)(2)(iv) Note, concerning the following codes of
4 practice;

5 (I) Rule 2-2-1 (a)(2)(iv)(A), concerning Steel Tank Institute
6 "sti-P3 Specification and Manual for External Corrosion Protection of
7 Underground Steel Storage Tanks";

8 (J) Rule 2-2-1 (a)(2)(iv)(B), concerning Underwriters Laboratories
9 standard 1746;

10 (K) Rule 2-2-1 (a)(2)(iv)(C), concerning Underwriters
11 Laboratories of Canada S603;

12 (L) Rule 2-2-1 (a)(2)(iv)(D), concerning NACE international
13 standard practice SP 0285;

14 (M) Rule 2-2-1 (a)(3) Note, concerning the following codes of
15 practice;

16 (N) Rule 2-2-1 (a)(3)(A), concerning Underwriters Laboratories
17 standard 1746;

18 (O) Rule 2-2-1 (a)(3)(B), concerning Steel Tank Institute
19 ACT-100 specification F894;

20 (P) Rule 2-2-1 (a)(3)(C), concerning Steel Tank Institute
21 ACT-100-U specification F961;

22 (Q) Rule 2-2-1 (a)(3)(D), concerning Steel Tank Institute
23 specification F922;

24 (R) Rule 2-2-1 (b)(1) Note, concerning the following codes and
25 standards;

26 (S) Rule 2-2-1 (b)(1)(A), concerning Underwriters Laboratories
27 standard 971;

- 1 (T) Rule 2-2-1 (b)(1)(B), concerning Underwriters Laboratories
- 2 of Canada standard S660;
- 3 (U) Rule 2-2-1 (b)(2)(iv) Note, concerning the following codes
- 4 and standards;
- 5 (V) Rule 2-2-1 (b)(2)(iv)(A), concerning American Petroleum
- 6 Institute recommended practice 1632;
- 7 (W) Rule 2-2-1 (b)(2)(iv)(B), concerning Underwriters
- 8 Laboratories subject 971A;
- 9 (X) Rule 2-2-1 (b)(2)(iv)(C), concerning Steel Tank Institute
- 10 recommended practice R892;
- 11 (Y) Rule 2-2-1 (b)(2)(iv)(D), concerning NACE international
- 12 standard practice SP 0169;
- 13 (Z) Rule 2-2-1 (b)(2)(iv)(E), concerning NACE international
- 14 standard practice SP 0285;
- 15 (AA) Rule 2-3-4-1 (a)(2) Note, concerning the following code of
- 16 practice;
- 17 (BB) Rule 2-3-6-1 (c) Note, concerning the following code of
- 18 practice;
- 19 (CC) Rule 2-5-2 (d), concerning in addition to the codes of
- 20 practice;
- 21 (DD) Rule 2-5-3 (b)(1)(A), concerning NACE international
- 22 standard practice SP 0285;
- 23 (EE) Rule 2-5-3 (b)(1)(C), concerning National Leak Prevention
- 24 Association standard 631;
- 25 (FF) Rule 2-5-3 (b)(1)(D), concerning American Society for
- 26 Testing and Materials standard G158;
- 27 (GG) Rule 2-5-3 (d)(1)(v), concerning perform inventory control;

1 (HH) Rule 2-5-3 (d)(2)(iii), concerning perform inventory control;

2 (II) Rule 3-2-2-5 (f), concerning vaults that contain tanks of class
3 I liquids;

4 (JJ) Rule 3-2-3 (c)(3), concerning an AST permit may be revoked
5 if the AST installation or operation; and

6 (KK) Rule 3-2-3 (c)(4), concerning an AST permit may be
7 revoked if an inspection by the director reveals; and

8 (II) The following rules concerning the division of vocational
9 rehabilitation (7 CCR 1105-1):

10 (A) Rule 9.207.3, concerning state allocation for delivery of
11 independent living services;

12 (B) Rule 9.209, concerning evaluation of independent living
13 centers: Enforcement proceedings;

14 (C) Rule 9.209.1, concerning modification of enforcement
15 proceedings; and

16 (D) Rule 9.209.2 A., concerning termination of funds due to
17 failure to meet federal requirements;

18 (h) Department of law;

19 (i) Department of local affairs;

20 (j) Department of military and veterans affairs;

21 (k) Department of natural resources; except that the following
22 rules of the parks and wildlife commission in the division of parks and
23 wildlife concerning parks and wildlife procedures (2 CCR 406-16) are not
24 extended:

25 (I) Rule #1601, section B.2.e., concerning written notice of a final
26 decision of the commission regarding license suspension appeals; and

27 (II) Rule #1601, section B.5., concerning requests to end previous

- 1 license suspensions;
- 2 (l) Department of personnel;
- 3 (m) Department of public health and environment; except that the
- 4 following rules of the water quality control commission concerning
- 5 on-site wastewater treatment system regulation (5 CCR 1002-43) are not
- 6 extended:
- 7 (I) Rule 43.3 66., concerning the definition of "guidelines";
- 8 (II) Rule 43.3 91., concerning the definition of "nitrogen
- 9 reduction";
- 10 (III) Rule 43.3 Table 3-1, concerning abbreviations and acronyms;
- 11 (IV) Rule 43.9 B.3.a., concerning testing of septic tanks;
- 12 (V) Rule 43.9 B.5.a., concerning structural design criteria for
- 13 concrete septic tanks;
- 14 (VI) Rule 43.9 B.6.a., concerning design and structural criteria for
- 15 fiberglass, fiberglass-reinforced polyester, and plastic tanks;
- 16 (VII) Rule 43.9 D.1.b., concerning pipe standards for unperforated
- 17 plastic pipe and fittings;
- 18 (VIII) Rule 43.9 D.1.c., concerning pipe standards for perforated
- 19 distribution pipe surrounded by rock within a soil treatment area;
- 20 (IX) Rule 43.9 I.1.b., concerning certification of pumps for
- 21 wastewater pumping and dosing siphon systems;
- 22 (X) Rule 43.9 I.1.c., concerning certification of grinder pumps for
- 23 wastewater pumping and dosing siphon systems;
- 24 (XI) Rule 43.9 I.2.c., concerning certification of float switches;
- 25 (XII) Rule 43.9 I.7.a.(6), concerning control panels must bear the
- 26 seal of a nationally recognized testing laboratory such as UL or ETL;
- 27 (XIII) Rule 43.10 Table 10-1A footnote 5, concerning the

1 percentage of rock determined by a gradation conducted per ASTM
2 standards or an appropriate field evaluation by volume;

3 (XIV) Rule 43.10 G.1.a., concerning material that must surround
4 perforated pipe;

5 (XV) Rule 43.10 I.6.c.(3), concerning material used to fill the
6 over-excavated volume of a seepage pit;

7 (XVI) Rule 43.11 C.2.e.(1), concerning gravel requirements for
8 clean, graded gravel or rock in sand filters;

9 (XVII) Rule 43.11 C.4.d., concerning an intermediate layer of pea
10 gravel placed between a sand filter media and course under-drain media
11 for a lined sand filter;

12 (XVIII) Rule 43.11 C.4.e., concerning a requirement for a
13 minimum four-inch diameter slotted SCH40 PVC under-drain pipe to
14 collect treated effluent for a lined sand filter;

15 (XIX) Rule 43.11 C.5.d.(1), concerning a size requirement for
16 washed, graded gravel or rock serving as top gravel for a recirculating
17 sand filter;

18 (XX) Rule 43.11 C.5.f.(1), concerning a requirement to place an
19 intermediate layer of pea gravel for a recirculating sand filter;

20 (XXI) Rule 43.11 C.5.g.(1), concerning a requirement for a
21 minimum four-inch diameter slotted SCH40 PVC under-drain pipe for a
22 recirculating sand filter;

23 (XXII) Rule 43.12 A.1.b., concerning *The Colorado Professionals*
24 *in Onsite Wastewater Guidelines for the Design and Installation of*
25 *Non-Pressurized Drip Dispersal Systems (NDDS)*;

26 (XXIII) Rule 43.12 E.5.a., concerning requirements for
27 composting toilets;

1 (XXIV) Rule 43.12 E.6.a., concerning requirements for
2 incinerating toilets;

3 (XXV) Rule 43.12 G.6.a., concerning methods for analyzing all
4 effluent samples;

5 (XXVI) Rule 43.13 D.3.b., concerning a requirement that field
6 performance testing for residential applications must be performed on a
7 minimum of 12 single-family homes under normal operating conditions;

8 (XXVII) Rule 43.13 D.3.j., concerning acceptance for use of a
9 proprietary product previously accepted for use in Colorado for field
10 performance testing;

11 (XXVIII) Rule 43.14 E.3.c., concerning sampling and analysis
12 requirements for an owner or occupant of property on which an OWTS
13 is located; and

14 (XXIX) Rule 43.16, concerning materials incorporated by
15 reference;

16 (n) Department of public safety; except that the following rule of
17 the executive director of the department of public safety concerning
18 persons dealing with fireworks (8 CCR 1507-12) is not extended: Rule
19 2.4, concerning codes and standards;

20 (o) Department of regulatory agencies; except that the following
21 rules are not extended:

22 (I) The following rules of the commissioner of insurance in the
23 division of insurance concerning title insurance (3 CCR 702-8):

24 (A) Rule 8-1-4 Section 5 J.3.b., concerning the ability of title
25 insurance entities to interplead all parties and deposit funds into a court
26 of competent jurisdiction and recover court costs and reasonable attorney
27 and legal fees; and

1 (B) Rule 8-1-4 Section 8 concerning making a knowing violation
2 of notice requirements an unfair or deceptive act or practice:

3 (II) The following rules of the director of the division of
4 professions and occupations concerning Colorado midwives registration
5 (4 CCR 739-1):

6 (A) Rule 5 B.7., concerning provision of a mandatory disclosure
7 form and obtaining informed consent as minimum practice requirements
8 regarding antepartum care;

9 (B) Rule 8, concerning minimum practice requirements regarding
10 newborn care; and

11 (C) Rule 21, concerning direct supervision of unregistered
12 birthing attendants; and

13 (III) The following rules of the state electrical board in the
14 division of professions and occupations concerning the regulation of
15 electricians (3 CCR 710-1):

16 (A) Rule 7.2.5.9, concerning the definition of the term "reasonable
17 time";

18 (B) Rule 8.3.3.1, concerning a citation becoming a final board
19 action if certain actions have not been taken by the citation recipient;

20 (C) Rule 11.2, concerning reinstatement of an expired license;

21 (D) Rule 11.3.7 introductory portion, concerning exemptions from
22 continuing education requirements; and

23 (E) Rule 11.3.7.2, concerning licensees seeking exemption from
24 continuing education requirements providing evidence and a written
25 explanation of the licensee's inability to comply with continuing
26 education requirements;

27 (p) Department of revenue; except that the following rules of the

1 taxpayer service division concerning procedure and administration (1
2 CCR 201-1) are not extended:

3 (I) Rule 39-21-112(3.5) (3), concerning de minimis non-collecting
4 retailers;

5 (II) Rule 39-21-112(3.5) (4)(g)(ii)(C), concerning no penalty
6 being collected with respect to sales that are de minimis regarding
7 transactional notices;

8 (III) Rule 39-21-112(3.5) (5)(b), concerning a de minimis
9 Colorado purchaser for purposes of an annual purchase summary;

10 (IV) Rule 39-21-112(3.5) (5)(c)(ii)(D), concerning no penalty
11 being collected with respect to sales that are de minimis regarding an
12 annual purchase summary;

13 (V) Rule 39-21-112(3.5) (5)(c)(ii)(E), concerning no penalty
14 being collected with respect to a non-collecting retailer's failure to send
15 an annual purchase summary for purchases that are de minimis;

16 (VI) Rule 39-21-112(3.5) (6)(f)(ii)(D), concerning no penalty
17 being collected with respect to sales that are de minimis regarding filing
18 an annual customer information report; and

19 (VII) Rule 39-21-112(3.5) (6)(f)(ii)(E), concerning no penalty
20 being collected with respect to a non-collecting retailer's failure to file an
21 annual customer information report if all sales are de minimis;

22 (q) Department of state;

23 (r) Department of transportation; except that the following rule of
24 the transportation commission concerning transport permits for the
25 movement of extra-legal vehicles or loads (2 CCR 601-4) is not extended:
26 Rule 1100, concerning incorporation by reference; and

27 (s) Department of the treasury.

1 (2) The expiration of all rules of the public employees' retirement
2 association, which rules were adopted or amended on or after November
3 1, 2016, and before November 1, 2017, and which are therefore scheduled
4 for expiration May 15, 2018, is postponed.

5 (3) The expiration of all rules of the board of equalization, which
6 rules were adopted or amended on or after November 1, 2016, and before
7 November 1, 2017, and which are therefore scheduled for expiration May
8 15, 2018, is postponed.

9 (4) The recommendations of the committee on legal services as
10 reflected in this act apply to the specified rules in the form in which rules
11 were considered and acted upon by the committee. Any amendments or
12 other changes in the specified rules that became effective before
13 November 1, 2017, that comply with the recommendations of the
14 committee on legal services are not affected by this act. Any subsequent
15 amendments or other changes in the specified rules that became effective
16 on or after November 1, 2017, are not affected by this act.

17 **SECTION 2. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.