

CHAPTER 212

ADMINISTRATIVE RULE REVIEW

HOUSE BILL 18-1253

BY REPRESENTATIVE(S) Lee and Herod, Foote, Willett, Wist, Buckner, Exum, Melton, Gray, Rosenthal, Duran;
also SENATOR(S) Gardner, Cooke, Guzman, Holbert, Kagan, Court, Crowder, Martinez Humenik, Scott, Tate.

AN ACT

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

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

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

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

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

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

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

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

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

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

(A) Rule 2.4.1.1., concerning an exemption from the requirements of a tolerance for all active ingredients of the pesticide product;

(B) Rule 2.4.2.1., concerning an exemption for active and inert ingredients; and

(C) Rule 2.4.4., concerning the pesticide product label for 25(b) minimum risk pesticide products;

(b) Department of corrections;

(c) Department of education;

(d) Department of health care policy and financing;

(e) Department of higher education;

(f) Department of human services;

(g) Department of labor and employment; except that the following rules are not extended:

(I) The following rules of the director of the division of oil and public safety concerning underground storage tanks and aboveground storage tanks (7 CCR 1101-14):

(A) Section 1-5, the definitions of "fire resistant tank" and "protected tank";

(B) Rule 2-1-1 (d)(2)(A), concerning NACE international standard practice SP 0285;

(C) Rule 2-1-1 (d)(2)(B), concerning NACE international standard practice SP 0169;

(D) Rule 2-1-1 (d)(2)(D), concerning Steel Tank Institute recommended practice R892;

(E) Rule 2-2-1 (a)(1) Note, concerning the following codes of practice;

(F) Rule 2-2-1 (a)(1)(A), concerning Underwriters Laboratories standard 1316;

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

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

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

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

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

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

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

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

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

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

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

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

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

(T) Rule 2-2-1 (b)(1)(B), concerning Underwriters Laboratories of Canada standard S660;

(U) Rule 2-2-1 (b)(2)(iv) Note, concerning the following codes and standards;

(V) Rule 2-2-1 (b)(2)(iv)(A), concerning American Petroleum Institute recommended practice 1632;

(W) Rule 2-2-1 (b)(2)(iv)(B), concerning Underwriters Laboratories subject 971A;

(X) Rule 2-2-1 (b)(2)(iv)(C), concerning Steel Tank Institute recommended practice R892;

(Y) Rule 2-2-1 (b)(2)(iv)(D), concerning NACE international standard practice SP 0169;

(Z) Rule 2-2-1 (b)(2)(iv)(E), concerning NACE international standard practice SP 0285;

(AA) Rule 2-3-4-1 (a)(2) Note, concerning the following code of practice;

(BB) Rule 2-3-6-1 (c) Note, concerning the following code of practice;

(CC) Rule 2-5-2 (d), concerning in addition to the codes of practice;

(DD) Rule 2-5-3 (b)(1)(A), concerning NACE international standard practice SP 0285;

(EE) Rule 2-5-3 (b)(1)(C), concerning National Leak Prevention Association standard 631;

(FF) Rule 2-5-3 (b)(1)(D), concerning American Society for Testing and Materials standard G158;

(GG) Rule 2-5-3 (d)(1)(v), concerning perform inventory control;

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

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

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

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

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

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

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

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

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

(h) Department of law;

(i) Department of local affairs;

(j) Department of military and veterans affairs;

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

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

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

(l) Department of personnel;

(m) Department of public health and environment; except that the following rules of the water quality control commission concerning on-site wastewater treatment system regulation (5 CCR 1002-43) are not extended:

(I) Rule 43.3 66., concerning the definition of "guidelines";

(II) Rule 43.3 91., concerning the definition of "nitrogen reduction";

(III) Rule 43.3 Table 3-1, concerning abbreviations and acronyms;

(IV) Rule 43.9 B.3.a., concerning testing of septic tanks;

(V) Rule 43.9 B.5.a., concerning structural design criteria for concrete septic tanks;

(VI) Rule 43.9 B.6.a., concerning design and structural criteria for fiberglass, fiberglass-reinforced polyester, and plastic tanks;

(VII) Rule 43.9 D.1.b., concerning pipe standards for unperforated plastic pipe and fittings;

(VIII) Rule 43.9 D.1.c., concerning pipe standards for perforated distribution pipe surrounded by rock within a soil treatment area;

(IX) Rule 43.9 I.1.b., concerning certification of pumps for wastewater pumping and dosing siphon systems;

(X) Rule 43.9 I.1.c., concerning certification of grinder pumps for wastewater pumping and dosing siphon systems;

(XI) Rule 43.9 I.2.c., concerning certification of float switches;

(XII) Rule 43.9 I.7.a.(6), concerning control panels must bear the seal of a nationally recognized testing laboratory such as UL or ETL;

(XIII) Rule 43.10 Table 10-1A footnote 5, concerning the percentage of rock determined by a gradation conducted per ASTM standards or an appropriate field evaluation by volume;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Rule 8-1-4 Section 8 concerning making a knowing violation of notice

requirements an unfair or deceptive act or practice;

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

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

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

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

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

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

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

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

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

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

(p) Department of revenue; except that the following rules of the taxpayer service division concerning procedure and administration (1 CCR 201-1) are not extended:

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

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

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

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

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

(VI) Rule 39-21-112(3.5) (6)(f)(ii)(D), concerning no penalty being collected

with respect to sales that are de minimis regarding filing an annual customer information report; and

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

(q) Department of state;

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

(s) Department of the treasury.

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

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

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

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

Approved: May 11, 2018