

CHAPTER 193

---

**ADMINISTRATIVE RULE REVIEW**

---

**SENATE BILL 94-069**

BY SENATORS Wells, Mares, Ruddick, Wattenberg, and Wham;  
also REPRESENTATIVES DeGette, Benavidez, Blue, Entz, Reeves, Rupert, Shoemaker, Strom, and Wright.

**AN ACT**

**CONCERNING IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMITTEE ON LEGAL SERVICES  
IN CONNECTION WITH LEGISLATIVE REVIEW OF RULES AND REGULATIONS 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, 1994 - extension - exceptions.** (1) Except as indicated, the expiration of all rules and regulations of agencies in the following principal departments, which rules and regulations were adopted or amended on or after January 1, 1993, and before November 1, 1993, and which are therefore scheduled for expiration May 15, 1994, is postponed, and the provisions of section 24-4-108 or 24-34-104, Colorado Revised Statutes, shall apply:

- (a) Department of administration;
- (b) Department of agriculture;
- (c) Department of corrections;
- (d) Department of education;
- (e) Department of health;
- (f) Department of higher education;
- (g) Department of institutions; except that the following rule of the division for

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

developmental disabilities is not extended: Rule 6.3.1, concerning the protection of certain rights for individuals (2 CCR 503-1);

(h) Department of labor and employment;

(i) Department of law;

(j) Department of local affairs;

(k) Department of natural resources;

(l) Department of personnel;

(m) Department of public safety; except that the following rules are not extended: Subsections A and B of the "Motor Vehicle Out-of-Service Criteria" section of the rules and regulations concerning minimum standards for the operation of commercial vehicles (8 CCR 1507-1);

(n) Department of regulatory agencies;

(o) Department of revenue; except that the following rules of the motor vehicle division concerning payment of specific ownership tax on special mobile equipment rentals are not extended: The first paragraph of the requirements section of the rules regarding the number of days a vehicle must be rented to qualify for the two percent program, the seventh paragraph of the requirements section of the rules regarding the expiration of decals on mobile machinery and self-propelled machinery, and the fourteenth paragraph of the requirements section of the rules regarding the requirement that out-of-state companies have branch offices in Colorado (1 CCR 204-14);

(p) Department of social services; except that the following rules are not extended:

(I) Rule 8.059.17, concerning the process for resident grievances and appeals of discharges or transfers initiated by nursing facilities (10 CCR 2505-10);

(II) Rule 8.401.182 A., concerning definitions of mental illness and rule 8.415.20 C.1.b., concerning responsibility and documentation in recording resident's chart (10 CCR 2505-10);

(III) Rule 8.501.200, concerning home and community-based services limiting payment to family (10 CCR 2505-10);

(IV) Rule 8.506.2 C. 4. a. 1), concerning application when all five slots are filled, and rule 8.506.2 C. 4. b. 2), concerning assignment of an applicant to a reserved program when the applicant would remain in an institution to retain medical eligibility, of the medical assistance rules of the state board of social services concerning the disabled children care program (10 CCR 2505-10);

(V) Rule B-4010.3, concerning federal and county and state requirements, of the rules of the state board of social services concerning the food stamp program (10 CCR 2506-1);

(VI) Rules 7.504.53 J. and 7.505.5 B., concerning county responsibility when a child is returned to the home, of the rules of the state board of social services concerning child welfare services (12 CCR 2509-6);

(VII) Rules 7.701.34 G. and 7.701.34 H., concerning licensing sanctions against persons who have been convicted or entered a deferred judgment for certain felonies, of the rules of the state board of social services concerning program area VII (12 CCR 2509-8);

(q) Department of state;

(r) Department of transportation.

(2) The expiration of all rules and regulations of the public employees' retirement association, which rules and regulations were adopted or amended on or after January 1, 1993, and before November 1, 1993, and which are therefore scheduled for expiration May 15, 1994, is postponed.

(3) The expiration of the following rules of the hazardous waste commission, department of health, concerning wood preserving, which rules were adopted or amended on or after January 1, 1993, and before November 1, 1993, and which are therefore scheduled to expire May 15, 1994, is postponed until November 1, 1994:

(I) Section 261.35 (b) (2) (iii) (A) and (b) (2) (iii) (B), concerning analytical requirements of equipment cleaning (6 CCR 1007-3); and

(II) Section 264.190 (a), concerning applicability of tank systems used to store or treat hazardous waste which contains no free liquids (6 CCR 1007-3).

(4) The expiration of the following rules of the motor vehicle division, department of revenue, concerning enforcement and hearing procedures for violations of title or registration regulations, which rules were adopted or amended on or after January 1, 1993, and before November 1, 1993, and which are therefore scheduled to expire May 15, 1994, is postponed until January 1, 1995: The third paragraph of the requirements section of the rules, regarding service of notices and orders, and the eighth paragraph of the requirements section of the rules, regarding the finding of facts and the issuance of orders by hearing officers (1 CCR 204-14).

(5) (a) The expiration of the following rules and regulations of the department of personnel, which rules and regulations were adopted or amended on or after January 1, 1987, and before January 1, 1988, and which were extended until June 1, 1994, in House Bill 93-1131, chapter 200, Session Laws of Colorado 1993, is postponed until May 15, 1996:

(I) R12-1-24, concerning job group (4 CCR 801-1);

(II) P11-2-4, concerning selective referral (4 CCR 801-2);

(III) P12-1-8 (f), (f)(1), and (f)(2), concerning promotional examination announcements (4 CCR 801-2);

(IV) P11-2-1, concerning protected classes, P11-2-2, concerning workforce availability and utilization analysis, and P11-2-3, concerning affirmative action plan (4 CCR 801-2).

(b) The expiration of the following rules and regulations of the department of personnel, which rules and regulations were adopted or amended on or after January 1, 1992, and before January 1, 1993, and which were extended until June 1, 1994, in House Bill 93-1131, chapter 200, Session Laws of Colorado 1993, is postponed until May 15, 1996:

(I) Policy 11-1, concerning discrimination prohibited (4 CCR 801-1);

(II) R11-1-1, concerning appeals and grievances (4 CCR 801-1);

(III) R11-1-2, concerning guidelines and standards (4 CCR 801-1);

(IV) R11-1-3, concerning sexual harassment (4 CCR 801-1);

(V) R11-1-4, concerning reasonable accommodation for persons with a disability (4 CCR 801-1);

(VI) R11-1-5, concerning remedies (4 CCR 801-1);

(VII) Policy 11-2 (A), concerning affirmative action being the commitment of state government (4 CCR 801-1);

(VIII) Policy 11-2 (B), concerning implementing the affirmative action policy of the state (4 CCR 801-1);

(IX) Policy 11-2 (C), concerning persons with disabilities (4 CCR 801-1);

(X) R11-2-1, concerning affirmative action plan (4 CCR 801-1);

(XI) R11-2-2, concerning recruitment program (4 CCR 801-1);

(XII) R11-2-3, concerning trainees and interns (4 CCR 801-1);

(XIII) R11-2-4, concerning promotional examinations (4 CCR 801-1);

(XIV) R11-2-5, concerning director's review of examination (4 CCR 801-1);

(XV) R11-2-6, concerning selective referral (4 CCR 801-1);

(XVI) R11-2-7, concerning considerations in making appointments (4 CCR 801-1);

(XVII) R11-2-8, concerning determination of underutilization (4 CCR 801-1);

(XVIII) R11-2-9, concerning complaints regarding administration (4 CCR 801-1);

(XIX) R11-2-10, concerning affirmative action referral (4 CCR 801-1);

(XX) P 5-6-2 (E), concerning referrals for affirmative action remedies (4 CCR 801-2).

(c) No later than August 1, 1995, the department of personnel shall submit to the committee on legal services the following information:

(I) Employment utilization figures for the state personnel system for the period from January 1, 1994, through June 30, 1995;

(II) The department's annual equal employment opportunity reports to the governor for 1993 and 1994; and

(III) Such other information as the staff of the committee on legal services may reasonably request related to implementation of the affirmative action rules to aid in the evaluation of their operation and legal sufficiency.

(6) It is the opinion of the general assembly that the rules allowed to expire pursuant to the provisions of this act were adopted without authority of the state constitution or statute. Therefore, pursuant to section 24-4-103 (8) (d), Colorado Revised Statutes, any rule allowed to expire pursuant to the provisions of this act which is repromulgated shall be void unless the authority to promulgate such rule has been granted to an agency by a statutory amendment or by the state constitution or by a judicial determination that statutory or constitutional authority exists for such rule.

(7) The recommendations of the committee on legal services as reflected in this act shall apply to the specified rules in the form in which said rules were considered and acted upon by the committee. Any amendments or other changes in the specified rules which became effective before November 1, 1993, which 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 which became effective on or after November 1, 1993, are not affected by this act.

**SECTION 2. Repeal - property tax instructions.** The following portions of the Assessors' Reference Library Volume 2 of the division of property taxation are repealed: Pages 1.2, 4.27, 6.1, 6.3, and 7.36 and the paragraph labeled "NOTE" immediately preceding the "Reporting Requirements" section of Addendum 8A.1.

**SECTION 3. 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 12, 1994