

## CHAPTER 160

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**ADMINISTRATIVE RULE REVIEW**

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**HOUSE BILL 97-1193**

BY REPRESENTATIVES Adkins, Kaufman, Kreutz, Snyder, and Grossman;  
also SENATORS Wham, Matsunaka, Perlmutter, Wattenberg, Wells, Mutzebaugh, and Weddig.

**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, 1997 - 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 November 1, 1995, and before November 1, 1996, and which are therefore scheduled for expiration May 15, 1997, is postponed, and the provisions of section 24-4-108 or 24-34-104, Colorado Revised Statutes, shall apply:

(a) Department of agriculture; except that the following rule is not extended: Rule 7.04 (5), concerning the size of the legend "Not for human consumption", of the rules of the commissioner of agriculture pertaining to inedible meat rendering and processing (8 CCR 1201-9);

(b) Department of corrections;

(c) Department of education; except that the following rules are not extended:

(I) Rule 2202-R-3.01 (5), concerning the inclusion in the contract of requests to the state board of education for waivers from state statutes and/or regulations, of the rules of the state board of education concerning administration of the accreditation of schools and school districts (1 CCR 301-1);

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

(II) Rule 2202-R-3.03 (1) (b) (v), concerning the requirements for district advisory accountability committee membership, of the rules of the state board of education concerning administration of the accreditation of schools and school districts (1 CCR 301-1);

(III) Rule 2202-R-3.04 (4), concerning appeal procedures, of the rules of the state board of education concerning administration of the accreditation of schools and school districts (1 CCR 301-1);

(d) Department of health care policy and financing; except that the following rules are not extended:

(I) Rule 8.317.15, concerning peer review organization review criteria, of the rules of the state board of medical services concerning prior authorization of medical assistance for inpatient hospital services by peer review committees (10 CCR 2505-10);

(II) Rule 8.318.16, concerning appeal of retrospective denials (provider appeals), of the rules of the state board of medical services concerning appeals of peer review committees' review decisions concerning inpatient hospital services (10 CCR 2505-10);

(III) Rule 8.508.30 A. 4., concerning a child at risk or reported/found to be abused and/or neglected or dependent or a youth in conflict or exhibiting behavioral problems being found eligible for the children's habilitation residential program, of the rules of the state board of medical services concerning the children's habilitation residential program (10 CCR 2505-10);

(IV) Rule 8.515.20 B., concerning family members other than spouse being employed by certified personal care agencies to provide personal care services to relatives, of the rules of the state board of medical services concerning home and community based services for people with brain injury (10 CCR 2505-10);

(V) Rule 8.515.70 A. 1., concerning the definition of "adult day services", of the rules of the state board of medical services concerning home and community based services for people with brain injury (10 CCR 2505-10);

(VI) Rule 8.516.10 B. 1., concerning what services may include, of the rules of the state board of medical services concerning home and community based services for people with brain injury (10 CCR 2505-10);

(VII) Rule 8.065.2, concerning hardship exception, of the rules of the state board of medical services concerning recovery of medical assistance overpayments (10 CCR 2505-10);

(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) Rule III. D. 1., concerning election to reject coverage for an officer of a corporation or a member of a Limited Liability Company, of the rules of the director of the division of workers' compensation concerning insurance coverage (7 CCR 1101-3);

(II) Form WC 43 of Rule III., concerning "Rejection of Coverage by Corporate Officers or Members of a Limited Liability Company", of the rules of the director of the division of workers' compensation concerning insurance coverage (7 CCR 1101-3);

(III) The "Youth Opportunity Sub-Minimum Wage" provision of section 4 of Minimum Wage Order Number 20, of the rules of the director of the division of labor (7 CCR 1103-1);

(h) Department of law;

(i) Department of local affairs;

(j) Department of natural resources;

(k) Department of personnel;

(l) Department of public health and environment; except that the following rules are not extended:

(I) Section V. of Part A of Regulation No. 11, concerning references, of the rules of the Colorado air quality control commission concerning the motor vehicle emissions inspection program (5 CCR 1001-13);

(II) The first paragraph of Part A of Regulation No. 6, concerning Federal Register Regulations Adopted by Reference, of the rules of the Colorado air quality control commission concerning standards of performance for new stationary sources (5 CCR 1001-8);

(m) Department of public safety; except that the following rules of the Chief of the Colorado State Patrol are not extended:

(I) Rule HMR 10 C. 2. b., concerning parking for the purpose of a rest stop, of the rules concerning hazardous materials route designation (8 CCR 1507-7);

(II) Rule HMR 10 C. 3., concerning parking regulations or ordinances being deemed to "unreasonably limit", of the rules concerning hazardous materials route designation (8 CCR 1507-7);

(III) Rule HMP 4 A., concerning the definition of "Liability Insurance", of the rules concerning hazardous materials transportation permits (8 CCR 1507-8);

(IV) Rule HMP 4 B., concerning persons making application for a hazardous materials transportation annual permit, of the rules concerning hazardous materials

transportation permits (8 CCR 1507-8);

(V) Rule HMP 4 C. 3., concerning a copy of a written decision, order, or authorization of the Federal Highway Administration authorizing the motor carrier to self-insure, of the rules concerning hazardous materials transportation permits (8 CCR 1507-8);

(VI) Rule HMP 6 A., concerning Longer Vehicle Combinations, of the rules concerning hazardous materials transportation permits (8 CCR 1507-8);

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

(I) Rule DA3 B. 1. i., concerning the increase of fees charged to the debtor, of the rules of the state banking board concerning debt adjusters (3 CCR 701-8);

(II) Rule DA3 C. 3., concerning the debtor being unable to complete the original debt adjustment plan within sixty months, of the rules of the state banking board concerning debt adjusters (3 CCR 701-8);

(III) Rule DA3 C. 4., concerning a licensee increasing the fees charged to the debtor, of the rules of the state banking board concerning debt adjusters (3 CCR 701-8);

(IV) Section VI. B. 21., concerning unlawful payments to producers of title business for inspecting or appraising property of Regulation 3-5-1, concerning Standards of Conduct, of the rules of the commissioner of insurance, concerning title insurance (3 CCR 702-3);

(V) Section VI. B. 26., concerning the unlawful use of the office of a producer of title business of Regulation 3-5-1, concerning Standards of Conduct, of the rules of the commissioner of insurance, concerning title insurance (3 CCR 702-3);

(VI) Rule 3.00.70 (b), concerning a pharmacist not supervising the work of more than one unlicensed person to assist in the practice of pharmacy when dispensing pursuant to a prescription order, of the rules of the state board of pharmacy concerning dispensing (3 CCR 719-1);

(VII) Rule 1.8 of Chapter 1, concerning the definition of initial registration, license or certificate, of the rules of the board of real estate appraisers concerning real estate appraisers (4 CCR 725-2);

(VIII) Rule 8.3 of Chapter 8, concerning the holder of an expired registration, license or certificate reinstating the same, of the rules of the board of real estate appraisers concerning real estate appraisers (4 CCR 725-2);

(IX) Rule 723-38-3.2.2, concerning Part 3 service, of the rules of the public utilities commission regulating applications by local exchange telecommunications providers for specific forms of price regulation (4 CCR 723-38);

(o) Department of revenue;

(p) Department of state;

(q) 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 November 1, 1995, and before November 1, 1996, and which are therefore scheduled for expiration May 15, 1997, is postponed.

(3) 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 repromulgate 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.

(4) 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, 1996, 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, 1996, are not affected by this act.

**SECTION 2. Repeal - property tax instructions.** (1) Pages 4.1, 4.3, 4.5, 4.11, 4.12, 4.15, and 4.19 of instructions in the Assessors' Reference Library Volume 3, Section IV, dated January 1996, of the division of property taxation, department of local affairs, are repealed.

(2) Pages 1.10 through 1.13, 1.48, 1.49, 1.54, 1.57, 1.60 through 1.64, and 1.75 of instructions in the Vacant Land Workshop Materials, dated March 28, 1996, and titled "Appraisal 010, Vacant Land Workshop, Valuation of Vacant Land, Present Worth, of the division of property taxation, department of local affairs, are repealed.

**SECTION 3. Pilot project for review of rules.** In the interests of using staff resources efficiently in carrying out the rule review functions pursuant to section 24-4-103, Colorado Revised Statutes, the committee on legal services is authorized to direct the staff of the office of legislative legal services to implement a one-year pilot project for the prioritization of the review of executive branch rules for rules adopted or amended on or after November 1, 1996, and before November 1, 1997. The pilot project shall require that every rule submitted be reviewed but shall provide for appropriate graduated levels of review based on criteria established by the committee on legal services.

**SECTION 4. 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 13, 1997