

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 19-0731.01 Jennifer Berman x3286

SENATE BILL 19-168

SENATE SPONSORSHIP

Lee and Gardner, Cooke, Foote, Rodriguez

HOUSE SPONSORSHIP

Weissman and Herod, Snyder, Soper, Van Winkle

Senate Committees

Legal Services

House Committees

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, 2017, and before November 1, 2018, with the exception of the rules specifically listed in the bill. Those specified rules will expire as

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
March 11, 2019

scheduled in the "State Administrative Procedure Act" on May 15, 2019, on the grounds that the rules 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 scheduled for expiration May 15, 2019 -**
3 **extension.** (1) Except as indicated, the expiration of all rules of agencies
4 in the following principal departments, which rules were adopted or
5 amended on or after November 1, 2017, and before November 1, 2018,
6 and that are therefore scheduled for expiration May 15, 2019, 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;

10 (b) Department of corrections;

11 (c) Department of education; except that the following rule of the
12 Colorado state board of education concerning the administration of the
13 waiver of statute and rule (1 CCR 301-35) is not extended: Rule 2.6(o),
14 which states "Any provisions of section 22-1-130, relating to notification
15 to parents of alleged criminal conduct by charter school employees.";

16 (d) Department of health care policy and financing;

17 (e) Department of higher education;

18 (f) Department of human services; except that the following rule
19 of the state board of human services concerning adult protective services
20 (12 CCR 2518-1) is not extended: The definition of "self-neglect" in Rule
21 30.100, which states in part "'Self-Neglect', pursuant to Section
22 26-3.1-101 (10), C.R.S., means an act or failure to act ...";

23 (g) Department of labor and employment; except that:

24 (I) The following rules of the Colorado uninsured employers

1 board concerning the Colorado uninsured employers fund (7 CCR
2 1106-1) are not extended:

3 (A) Rule 2-1 (B), which states in part "Any Application for
4 Hearing or Response to Application for Hearing ...";

5 (B) Rule 2-3 (D), which states in part "Any claimant entitled to
6 receive benefits under the Workers' Compensation Act must file a notice
7 of entitlement ..."; and

8 (C) Rule 3-2 (B) (1), which states in part "Any claimant denied
9 access to the Fund upon initial application because of lack of funding ...";
10 and

11 (II) The following rules of the director of the division of oil and
12 public safety concerning explosives regulations (7 CCR 1101-9) are not
13 extended:

14 (A) Rule 1-5, which states "The following publications and codes
15 are hereby incorporated by this reference: ... These rules incorporate the
16 editions and revisions specified ... and may also be inspected at the state
17 depository libraries.";

18 (B) Rule 3-4 (A), which states in part "In any case where the
19 Division denies, suspends, or revokes a permit, the Division shall
20 notify ...";

21 (C) Rule 3-4 (B), which states in part "Upon notice of the
22 revocation or suspension of any permit, the former permittee shall
23 immediately surrender to the Division the permit ...";

24 (D) Rule 3-4 (D), which states in part "Any person whose permit
25 has been denied, suspended, or revoked under Section 3.3 ..."; and

26 (E) Rule 6-1 (G), which states "Whenever blasting operations are
27 subject to federal, state and local rules, the higher standard shall apply.";

- 1 (h) Department of law;
- 2 (i) Department of local affairs;
- 3 (j) Department of military and veterans affairs;
- 4 (k) Department of natural resources; except that the following rule
- 5 of the parks and wildlife commission concerning general provisions
- 6 (2 CCR 406-0) is not extended: Rule #012 F., which states in part "No
- 7 person shall import, transport, possess, or release any aquatic nuisance
- 8 species ...";
- 9 (l) Department of personnel;
- 10 (m) Department of public health and environment;
- 11 (n) Department of public safety; except that:
- 12 (I) The following rule of the executive director of the department
- 13 of public safety concerning persons dealing with fireworks (8 CCR
- 14 1507-12) is not extended: Rule 4.9, which has the heading "Procedure on
- 15 denial, suspension, or revocation";
- 16 (II) The following rules of the director of the division of fire
- 17 prevention and control concerning the Colorado fire suppression program
- 18 (8 CCR 1507-11):
- 19 (A) Rule 5.5.1 4., which states in part "The applicant has been
- 20 convicted of a crime which reflects upon the integrity of the
- 21 applicant ...";
- 22 (B) Rule 10.5.1, which states in part "A registration or
- 23 certification may be suspended for a single, substantiated violation of
- 24 these rules ..."; and
- 25 (C) Rule 10.5.4, which states "Notices of suspension or denial will
- 26 be issued as Letters of Admonition in accordance with Section 10.4."; and
- 27 (III) The following rules of the director of the division of fire

1 prevention and control concerning building, fire, and life safety code
2 enforcement and certification of inspectors for health facilities licensed
3 by the state of Colorado (8 CCR 1507-31):

4 (A) Rule 3.1, which states in part "The technical requirements of
5 these rules are supported primarily by codes developed by the
6 International Code Council and the National Fire Protection
7 Association ...";

8 (B) Rule 3.2, which states in part "The following codes and their
9 referenced standards are adopted and promulgated as minimum standards
10 for the construction and maintenance of all property, buildings, and
11 structures containing a Health Facility ...";

12 (C) Rule 3.3, which states in part "The Fire Safety Evaluation
13 System (FSES) as prescribed by NFPA 101A ...";

14 (D) Rule 3.4, which states in part "In any facility where the
15 evacuation capability of the facility or resident population is required to
16 be rated ...";

17 (E) Rule 3.7, which states in part "The Division shall maintain
18 copies of the complete texts of the adopted codes for public
19 inspection ...";

20 (F) Rule 3.8, which states "In the event that a new edition of the
21 code is adopted by the Division, the code in effect at the time of permit
22 application will remain in effect throughout the work authorized by the
23 permit.";

24 (G) Rule 3.9, which states "This rule does not include later
25 amendments or editions of the incorporated material.";

26 (H) Rule 4.2, which states in part "Where the Health Facility is
27 located in a jurisdiction with no local Building Department ...";

1 (I) Rule 5.3, which states in part "If the local fire department
2 declines to perform the plan review or any subsequent inspection ...";

3 (J) Rule 5.4, which states in part "For Certified Health Facilities
4 located in a jurisdiction where the local fire department has Qualified Fire
5 Inspectors at the appropriate level for the task ...";

6 (K) Rule 6.2.1, which states in part "For all construction
7 (including adding previously unlicensed space to a Health Facility
8 license) ...";

9 (L) Rule 6.2.3, which states in part "The building permit
10 application package shall be concurrently submitted to the Division and
11 to the local fire department ...";

12 (M) Rule 6.5.1, which states in part "Deferred design/build (shop
13 drawing) submittals for fire protection and life safety systems ...";

14 (N) Rule 6.5.2, which states in part "Shop (Installation) drawings
15 for fire protection and life safety systems ...";

16 (O) Rule 6.5.3 C), which states in part "Other Fire and Life Safety
17 Protection Systems Regulated by the Building, Fire, or Life Safety
18 Codes ...";

19 (P) Rule 7.2.1, which states in part "Project sites shall be
20 inspected by the Fire and Life Safety Code Officials to verify compliance
21 with the Fire and Life Safety Codes and approved construction
22 documents ...";

23 (Q) Rule 8.4, which states in part "Certificates of Occupancy and
24 Certificates of Compliance will be issued based on the codes in effect
25 during the most recent inspection of the facility ...";

26 (R) Rule 9.1.1, which states in part "The Division may perform
27 inspections of the buildings and structures when deemed necessary ...";

1 (S) Rule 9.2.1, which states "The Business Entity shall ensure that
2 building systems are inspected, tested, and maintained as required by the
3 adopted codes and referenced standards.";

4 (T) Rule 9.2.2, which states in part "Personnel employed by a
5 Business Entity performing inspection, testing, and maintenance
6 programs are not required to be Qualified Fire Inspectors ...";

7 (U) Rule 10.1.3 A), which states in part "Third-Party Inspectors
8 contracted by the Business Entity shall conduct the required
9 inspections ...";

10 (V) Rule 10.1.3 B), which states "Third-Party Inspectors
11 contracted by the Business Entity shall enforce only the codes adopted by
12 the Division.";

13 (W) Rule 10.2.1, which states "Fire Inspectors performing
14 construction plan review and inspections must be "Qualified Fire
15 Inspectors" as defined in section 24-33.5-1202 (2.5), C.R.S.";

16 (X) Rule 10.2.3 B), which states in part "Where there is not a
17 Qualified Fire Department, Division Fire Inspectors shall conduct the
18 required plan reviews and inspections ..."; and

19 (Y) Rule 12.1.3, which states in part "An application for appeal
20 must be based on a claim that the true intent of this code or the standards
21 legally adopted therein have been incorrectly interpreted ...";

22 (o) Department of regulatory agencies;

23 (p) Department of revenue; except that the following rule of the
24 division of motor vehicles concerning title and registration section
25 (1 CCR 204-10) is not extended: Rule 12. 2.6, which states in part "The
26 Department may cancel or suspend an Operator or Towing Law
27 Enforcement Agency's registration and access to the Department

1 Website ...";

2 (q) Department of state;

3 (r) Department of transportation; and

4 (s) Department of the treasury.

5 (2) The expiration of all rules of the public employees' retirement
6 association, which rules were adopted or amended on or after November
7 1, 2017, and before November 1, 2018, and which are therefore scheduled
8 for expiration May 15, 2019, is postponed.

9 (3) The expiration of all rules of the board of equalization, which
10 rules were adopted or amended on or after November 1, 2017, and before
11 November 1, 2018, and which are therefore scheduled for expiration May
12 15, 2019, is postponed.

13 (4) The recommendations of the committee on legal services as
14 reflected in this act apply to the specified rules in the form in which the
15 rules were considered and acted upon by the committee. Any amendments
16 or other changes in the specified rules that became effective before
17 November 1, 2018, that comply with the recommendations of the
18 committee on legal services are not affected by this act. Any subsequent
19 amendments or other changes in the specified rules that became effective
20 on or after November 1, 2018, are not affected by this act.

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