

## CHAPTER 246

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**ADMINISTRATIVE RULE REVIEW**

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**SENATE BILL 03-088**

BY SENATOR(S) Linkhart, Evans, and Gordon;  
also REPRESENTATIVE(S) Plant, Groff, Mitchell, and Smith.

**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, 2003 - 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, 2001, and before November 1, 2002, and that are therefore scheduled for expiration May 15, 2003, 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 of the division of plant industry concerning organic certification is not extended (8 CCR 1203-9): Rule 2.01, concerning all certification of organic producers and handlers being done by the department in its capacity as an accredited certifying agent;

(b) Department of corrections; except that the following rules are not extended:

(I) The following rules of the state board of parole concerning procedures of the board of parole (8 CCR 1503-1):

(A) Rule 5.2, concerning when an inmate appears before the board and requests that parole not be considered, or if the inmate submits a written waiver of appearance;

(B) Rule 5.4, concerning when a parole application is deferred;

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

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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.*

(I) The following rules of the state board of education concerning administration of the school improvement plan and grant program (1 CCR 301-52):

(A) Rule 2207-R-2.01 (6), concerning school improvement plan;

(B) Rule 2207-R-2.02 (2) (a), concerning local board adoption of school improvement plans and timelines;

(II) The following rules of the state board of education concerning administration of the teacher pay incentive program (1 CCR 301-53):

(A) Rule 2207607.5-R-1.01, concerning statement of basis and purpose for permanent rules;

(B) Rule 2207607.5-R-2.00, concerning definitions;

(C) Rule 2207607.5-R-3.0, concerning designation of hard to recruit subjects;

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

(I) The following rules of the medical services board concerning medical assistance (10 CCR 2505-10):

(A) Rule 8.401.182 A. 1., concerning an individual is considered to have mental illness;

(B) The first paragraph of Rule 8.401.182 B., concerning an individual is considered to have mental retardation;

(C) Rule 8.401.183 E., concerning PASARR findings, as related to care needs;

(D) The third paragraph of Rule 8.401.42, concerning the reference for the DSM IV;

(E) The first paragraph of Rule 8.406.2, concerning intermediate nursing home care is available for eligible clients when certified to be medically necessary;

(F) Rule 8.406.3 A. 2., concerning the facility meeting the standards defined in Title XIX of the Social Security Act;

(II) The following rules of the medical services board concerning medical assistance (10 CCR 2505-10):

(A) Rule 8.525.12 E., concerning effective September 1, 2002, physical therapy services are available for acute home health clients when medically necessary;

(B) Rule 8.525.13 E., concerning effective September 1, 2002, occupational therapy services are available for acute home health clients when medically necessary;

(C) Rule 8.525.14 E., concerning effective September 1, 2002, speech/language pathology services are available for acute home health clients when medically necessary;

(e) Department of higher education;

(f) Department of human services; except that the following rules are not extended:

(I) The following rule of the state board of human services concerning income maintenance for the Colorado works program is not extended (9 CCR 2503-1) Rule 3.619.7, concerning twenty percent (20%) allocation of extensions;

(II) The following rule of the state board of human services concerning income maintenance for the aid to the needy disabled medically correctable program is not extended (9 CCR 2503-1): Rule 3.491.12, concerning participants in this program;

(g) Department of labor and employment;

(h) Department of law;

(i) Department of local affairs;

(j) Department of natural resources; except that the following rule of the division of mines and geology concerning the mine safety and training program for tourist mines is not extended (2 CCR 407-6): Rule 2, concerning tourist mine permits;

(k) Department of personnel;

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

(I) The following rules of the state board of health, consumer protection section, relating to schools, chapter eight concerning laboratory, industrial, art, and vocational hazards in schools (6 CCR 1010-6):

(A) Rule 8-110, concerning the appropriate National Fire Protection Association Codes;

(B) Rule 8-118, concerning eye protection;

(C) Rule 8-201, concerning all areas being adequately ventilated so that exposures to hazardous or toxic materials are maintained to a safe level;

(II) The following rule of the air quality control commission of regulation No. 3, air contaminant emissions notices, is not extended (5 CCR 1001-5): The third paragraph of Rule I.A., of Part A, concerning pursuant to Colorado Revised Statutes section 24-4-103 (12.5), materials incorporated by reference;

(m) Department of public safety;

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

extended:

(I) The following rule of the state board of pharmacy concerning pharmacies (3 CCR 719-1): Rule 5.01.31 (k) concerning a prescription drug outlet being operated in such a manner that no pharmacist or intern shall be subjected to conditions likely to lead to an error;

(II) The following rule of the commissioner of insurance concerning life, accident and health insurance (3 CCR 702-4): Paragraph A. (3) (b) of section 5 of Regulation 4-6-7, concerning geographic location;

(III) The following rule of the commissioner of insurance concerning property and casualty insurance (3 CCR 702-5): Regulation 5-2-10, concerning qualifying annual gross income levels for reduced personal injury protection automobile insurance policies;

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

(I) The following rule, concerning sales and use tax (1 CCR 201-4): Rule 39-26-105.5, concerning mandatory electronic funds transfer;

(II) The following rules of the Colorado lottery commission, lottery division, concerning interceptions of noncash prizes (1 CCR 206-1):

(A) Rule 12.12, concerning prizes subject to intercept;

(B) Paragraph d) of Rule 6.LU.4, concerning if the owner of a ticket winning a Chevrolet Avalanche truck prize has an outstanding child support obligation on the Colorado department of human services intercept list;

(C) Rule 12.G.8, concerning prizes subject to intercept;

(III) The following rule of the division of gaming, Colorado limited gaming control commission, concerning gaming regulations (1 CCR 207-1): Rule 47.1-4.500 (1) and (2) of Rule 4.5, concerning incorporation by reference;

(IV) The following rule of the liquor enforcement division concerning the liquor code (1 CCR 203-2): Rule 47-415, concerning brew pub license - food requirements;

(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, 2001, and before November 1, 2002, and which are therefore scheduled for expiration May 15, 2003, is postponed.

(3) 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 that became effective before November 1, 2002, 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, 2002, 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 9, 2003