

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 18-0744.01 Jennifer Berman x3286

HOUSE BILL 18-1253

HOUSE SPONSORSHIP

Lee and Herod, Foote, Willett, Wist

SENATE SPONSORSHIP

Gardner, Cooke, Guzman, Holbert, Kagan

House Committees

Legal Services

Senate 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, 2016, and before November 1, 2017, with the exception of the rules specifically listed in the bill. Those specified rules and regulations will

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.

HOUSE
3rd Reading Unamended
March 6, 2018

HOUSE
Amended 2nd Reading
March 5, 2018

expire as scheduled in the "State Administrative Procedure Act" on May 15, 2018, on the grounds that the rules and regulations 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 and regulations scheduled for expiration**

3 **May 15, 2018 - extension.** (1) Except as indicated, the expiration of all
4 rules of agencies in the following principal departments, which rules were
5 adopted or amended on or after November 1, 2016, and before November
6 1, 2017, and that are therefore scheduled for expiration May 15, 2018, 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; except that the following rules of
10 the commissioner of agriculture, plant industry division, are not extended:

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

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

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

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

20 (D) Rule 17.04. (d), concerning the pesticide product label for
21 25(b) minimum risk pesticide products; and

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

24 (A) Rule 2.4.1.1., concerning an exemption from the requirements

- 1 of a tolerance for all active ingredients of the pesticide product;
- 2 (B) Rule 2.4.2.1., concerning an exemption for active and inert
3 ingredients; and
- 4 (C) Rule 2.4.4., concerning the pesticide product label for 25(b)
5 minimum risk pesticide products;
- 6 (b) Department of corrections;
- 7 (c) Department of education;
- 8 (d) Department of health care policy and financing;
- 9 (e) Department of higher education;
- 10 (f) Department of human services;
- 11 (g) Department of labor and employment; except that the
12 following rules are not extended:
- 13 (I) The following rules of the director of the division of oil and
14 public safety concerning underground storage tanks and aboveground
15 storage tanks (7 CCR 1101-14):
- 16 (A) Section 1-5, the definitions of "fire resistant tank" and
17 "protected tank";
- 18 (B) Rule 2-1-1 (d)(2)(A), concerning NACE international
19 standard practice SP 0285;
- 20 (C) Rule 2-1-1 (d)(2)(B), concerning NACE international standard
21 practice SP 0169;
- 22 (D) Rule 2-1-1 (d)(2)(D), concerning Steel Tank Institute
23 recommended practice R892;
- 24 (E) Rule 2-2-1 (a)(1) Note, concerning the following codes of
25 practice;
- 26 (F) Rule 2-2-1 (a)(1)(A), concerning Underwriters Laboratories
27 standard 1316;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (h) Department of law;

19 (i) Department of local affairs;

20 (j) Department of military and veterans affairs;

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

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

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

- 1 license suspensions;
- 2 (l) Department of personnel;
- 3 (m) Department of public health and environment; except that the
- 4 following rules of the water quality control commission concerning
- 5 on-site wastewater treatment system regulation (5 CCR 1002-43) are not
- 6 extended:
- 7 (I) Rule 43.3 66., concerning the definition of "guidelines";
- 8 (II) Rule 43.3 91., concerning the definition of "nitrogen
- 9 reduction";
- 10 (III) Rule 43.3 Table 3-1, concerning abbreviations and acronyms;
- 11 (IV) Rule 43.9 B.3.a., concerning testing of septic tanks;
- 12 (V) Rule 43.9 B.5.a., concerning structural design criteria for
- 13 concrete septic tanks;
- 14 (VI) Rule 43.9 B.6.a., concerning design and structural criteria for
- 15 fiberglass, fiberglass-reinforced polyester, and plastic tanks;
- 16 (VII) Rule 43.9 D.1.b., concerning pipe standards for unperforated
- 17 plastic pipe and fittings;
- 18 (VIII) Rule 43.9 D.1.c., concerning pipe standards for perforated
- 19 distribution pipe surrounded by rock within a soil treatment area;
- 20 (IX) Rule 43.9 I.1.b., concerning certification of pumps for
- 21 wastewater pumping and dosing siphon systems;
- 22 (X) Rule 43.9 I.1.c., concerning certification of grinder pumps for
- 23 wastewater pumping and dosing siphon systems;
- 24 (XI) Rule 43.9 I.2.c., concerning certification of float switches;
- 25 (XII) Rule 43.9 I.7.a.(6), concerning control panels must bear the
- 26 seal of a nationally recognized testing laboratory such as UL or ETL;
- 27 (XIII) Rule 43.10 Table 10-1A footnote 5, concerning the

1 percentage of rock determined by a gradation conducted per ASTM
2 standards or an appropriate field evaluation by volume;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (n) Department of public safety; except that the following rule of
17 the executive director of the department of public safety concerning
18 persons dealing with fireworks (8 CCR 1507-12) is not extended: Rule
19 2.4, concerning codes and standards;

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

22 (I) The following rule of the commissioner of insurance in the
23 division of insurance concerning title insurance (3 CCR 702-8):
24 Regulation 8-1-4, concerning title insurance - fiduciary duties;

25 (II) The following rules of the director of the division of
26 professions and occupations concerning Colorado midwives registration
27 (4 CCR 739-1):

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

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

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

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

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

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

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

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

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

22 (IV) The following rules of the real estate commission in the
23 division of real estate concerning real estate brokers (4 CCR 725-1):

24 (A) Rule D-11., concerning initial license;

25 (B) Rule D-17. (b), concerning a proper application made more
26 than thirty-one days but within one year after the date of expiration of a
27 license for transition period license reinstatements; and

1 (C) Rule D-17. (c), concerning proper application made more than
2 one year but within three years after the date of expiration of a license for
3 transition period license reinstatements;

4 (p) Department of revenue; except that the following rules are not
5 extended:

6 (I) The following rule of the Colorado racing commission
7 concerning racing (1 CCR 208-1): Rule 3.437, concerning random human
8 drug testing; and

9 (II) The following rules of the taxpayer service division
10 concerning procedure and administration (1 CCR 201-1):

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

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

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

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

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

24 (F) Rule 39-21-112(3.5) (6)(f)(ii)(D), concerning no penalty being
25 collected with respect to sales that are de minimis regarding filing an
26 annual customer information report; and

27 (G) Rule 39-21-112(3.5) (6)(f)(ii)(E), concerning no penalty being

1 collected with respect to a non-collecting retailer's failure to file an annual
2 customer information report if all sales are de minimis;

3 (q) Department of state;

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

8 (s) Department of the treasury.

9 (2) The expiration of all rules of the public employees' retirement
10 association, which rules were adopted or amended on or after November
11 1, 2016, and before November 1, 2017, and which are therefore scheduled
12 for expiration May 15, 2018, is postponed.

13 (3) The expiration of all rules of the board of equalization, which
14 rules were adopted or amended on or after November 1, 2016, and before
15 November 1, 2017, and which are therefore scheduled for expiration May
16 15, 2018, is postponed.

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

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