

2020

Regulatory Agenda

January 1, 2020-December 31, 2020



COLORADO
Department of
Labor and Employment

Overview

The Colorado Department of Labor and Employment submits the following 2020 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes Department of Labor and Employment's Regulatory Agenda for 2017-2018 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

| Schedule Anticipate d Hearing or Adoption Date | Rule Number | Rule Title | New rule, revision, or repeal? | Statutory or other basis for adoption or change to rule | Purpose of Proposed Rule | Stakeholders <i>Consider including high-level outreach bullets</i> | List of all rules adopted since previous DRA was filed |
|---|-----------------|---|--------------------------------------|---|---|---|---|
| Spring 2020 | 7 CCR 1101-1 | Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act | Revision | C.R.S. 8-1-107(2)(p), 8-3-105 | To clarify and modernize the various processes required under the Acts, and may expand dependent on the 2020 legislative agenda | Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies | |

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| July 2020 | 7 CCR 1101-2 | Worker Classification Investigations and Fines | Revision | 8-72-114(3) | To change the amount of the monetary penalty assessed upon the first finding of an employee misclassification and any time after should that misclassification continue. | Employers and workers, business associations, advocacy groups, labor and union organizations | |
| January 2020 | 7 CCR 1101-2 | Responsibilities of the Paying State | Revision | 8-72-110 (2) | To bring the regulation into compliance with Chapter 20 of the Code of Federal Regulations, 616.8(f)(2). The federal requirements is that the ratio be expressed as a percentage of three or more decimal points. | Employers and workers, business associations, advocacy groups, labor and union organizations | |
| January 2020 | 7 CCR 1101-2 | Hearing Participation clarification | Revision | 8-72-108, 8-74-101 to 8-74-109, 8-76-103 (4), 8-76-113, and 8-80-102, C.R.S | Adds additional language to clarify appeals processes concerning pre-registration, and failure to appear for a hearing. | Employers and workers, business associations, advocacy groups, labor and union organizations | September 2019 |

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| February 2020 | 7 CCR 1101-3 | Surcharge | Revision | 8-47-107 | Mandatory annual review of Workers' Compensation surcharge | Employers, insurers | |
| Spring 2020 | 7 CCR 1101-3 | Medical utilization Review and Physician Accreditation | Revision | 8-47-107 | Modernize the process for conducting a medical utilization review and harmonize with physician accreditation | Employers, claimants, attorneys, insurers, medical providers | |
| Fall 2020 | 7 CCR 1101-3 | Fee Schedule | Revision | 8-47-107 | Mandatory annual review of Workers' Compensation fee schedule | Employers, claimants, attorneys, insurers, medical providers | |
| Fall 2020 | 7 CCR 1101-3 | Treatment Guidelines | Revision | 8-47-107 | Mandatory annual review of Workers' Compensation medical treatment guidelines | Employers, claimants, attorneys, insurers, medical providers | |
| Summer 2020 | 7 CCR 1101-3 | Claims Adjusting Rules | Revision | 8-47-107 | Update and clarify rules governing claims adjusting | Employers, claimants, attorneys, insurers | |

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| January 2020 | 7 CCR 1101-5 | Rehabilitation Services | Revision | CRS 8-84-105 | Formalize the organizational structure of the Blind and Low Vision Services unit within DVR | National Federation of the Blind of CO; American Council of the Blind of CO; CO Center for the Blind; Business Enterprise Program operators; BLVS clients; State Rehabilitation Council; individuals with disabilities | September 2019 |
| November, 2020 | 7 CCR 1101-8 | Conveyance Regulations | Revision | CRS 9-5.5-112 | Adopt latest edition of the Elevator Safety Code and further clarification of existing regulations. | Conveyance owners and/or property managers, conveyance contractors, conveyance inspectors, and interested citizens | |

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| July, 2020 | 7 CCR 1101-9 | Explosives Regulations | Revision | CRS 9-7-105 | General clarification of requirements and Increase of permit fees in response to increased costs of performing criminal background checks. | Permit Holders, Special Districts, interested citizens | May 1, 2019 December 1, 2018 |
| July, 2020 | 7 CCR 1101-12 | Amusement Rides and Devices Regulations | Revision | CRS 8-20-1001 through 8-20-1004 | Revise exemption language and definitions to clarify OPS' authority of amusement devices operating at camps | Owners/Operators, Special Districts, Inspectors, Interested Citizens | July 15, 2019 |

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| July 2020 | 7 CCR 1101-15 | Colorado Liquefied Petroleum Gas (LP-Gas) Regulations | Revision | CRS 8-20-402 | Adopt current editions of National Fire Codes related to the use and storage LP-Gas. Add new section related to the use of LP-Gas as an extraction solvent in the cannabis industry | LP-Gas industry Cannabis extraction industry | |
| November, 2020 | 7 CCR 1101-18 | Underground Damage Prevention Safety Commission Regulations | Revision | CRS 8-20-1001 | Revise rules primarily pertaining to enforcement of violations | Utility Notification Center of Colorado, excavators, underground facility owners | February 14, 2019 (Emergency Rules) & June 14, 2019 |
| January 1, 2020 (Adoption Date) | 7 CCR 1103-1 | Temporary Colorado Minimum Wage Order Number 35 | Rev | C.R.S. 8-1-107(2)(p), 8-6-1-6, 8-6-108(2), 8-6-109 | MWO 35 will adjust the Colorado state minimum wage rate to \$12.00 per hour required by the Colorado Constitution. It will also incorporate the \$3.02 minimum wage offset for employees who regularly receive tips | Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies | |

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| March 2019 (Anticipated Adoption Date) | 7 CCR 1103-1 | Colorado Overtime and Minimum Pay Standards Number 36 | Revision | C.R.S. 8-1-107(2)(p), 8-6-1-6, 8-6-108(2), 8-6-109 | Rulemaking will update certain provisions of the wage order, update the salary figures to conform to Colorado's higher wages and living costs, and will update industry coverage to reflect the current labor market | Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies | (Temporary) MWO 35 will be adopted/effective January 1, 2020. |
| September 2020 | 7 CCR 1103-1 | Colorado Overtime and Minimum Pay Standards Number 37 | Revision | C.R.S. 8-1-107(2)(p), 8-6-1-6, 8-6-108(2), 8-6-109 | COMPS 327 will index the annual state minimum wage rate based on the Consumer Price Index, along with other potential changes to offer clarity | Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies | COMPS 36 will be adopted/effective March 2020. |
| Fall 2020 | 7 CCR 1103-8 | Wage and Hour Direct Investigation Rules | Revision | C.R.S. 8-1-103(3), 8-1-107(2), 8-1-111, | These revision rules will provide clarification to the employer and the employee on the Division's relatively | Labor and union organizations, non-profit organizations, | |

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| | | | | 8-1-116, 8-1-117, 8-4-111(1)(a), and 8-6-107 | new Wage and Hour Direct Investigation program | advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies | |
| Fall 2020 | 7 CCR 1103-10 | Colorado Youth Employment Opportunity Act | New | C.R.S. 8-1-107(2)(p), 8-12-115 | To clarify the Division's exemption process and investigation process required by statute | Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, schools, universities, business associations and organizations, internal state agencies | |
| September 2020 | 7 CCR 1103-11 | Equal Pay for Equal Work | New | C.R.S. 8-1-107(2)(p), 8-5-203(3) | The purpose of these rules is to implement the Division's authority to conduct investigations of potential violations under the new Equal Pay for Equal Work | Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and | |

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| | | | | | Act, enacted during the 2019 legislative session | bar associations, schools, universities, business associations and organizations, internal state agencies | |
| Spring 2020 | 7 CCR 1104-1 | Colorado Nonimmigrant Agricultural Seasonal Worker Pilot Program | Repeal | C.R.S. § 8-3.5-101 to 8-3.5-114 | The rules will be repealed since the statute was repealed January 1, 2014 | Agricultural employers and non-immigrant agricultural seasonal workers | |