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STATE OF COLORADO
DEPARTMENT OF LAW

DEPARTMENT OF LAW
CY 2023 REGULATORY AGENDA

Pursuant to section 2-7-203(2)(a)(IV), C.R.S., this document contains the Colorado Department of Law's regulatory agenda for calendar year ("CY") 2022 and details new rules or revisions to existing rules expected to be proposed in CY 2023.

I. PEACE OFFICERS STANDARDS AND TRAINING (P.O.S.T.)

A. Rule 1:

Proposed Rule Amendments and Purpose:

- a. Define "inappropriate actions."
- b. Define "tamper."

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:

Second quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

B. Rule 3:

Proposed Rule Amendments and Purpose:

- a. Delegate authority to the Director to summarily suspend a certificate holder under particular circumstances, so as to allow for expedient action in situations that would endanger the public health, safety, and welfare, without necessitating an emergency Board meeting.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Rule 3 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

C. Rule 5:

Proposed Rule Amendments and Purpose:

- a. Distinguish criminal disqualifying incidents and the show cause hearing process, disqualifying incidents requiring a certificate holder to request a hearing for any action against certification to occur, and disqualifying incidents requiring an administrative hearing prior to any actions against certification with or without a request for hearing.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:

Rule 5 was adopted on March 11, 2022, with an effective date of May 15, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

D. Rule 7:

Proposed Rule Amendments and Purpose:

- a. Correct a typographical error referring to the enabling statute.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the

hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:

Rule 7 was adopted on March 11, 2022, with an effective date of May 15, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

E. Rule 7:

Proposed Rule Amendments and Purpose:

a. Add “or Director’s Designee” after each reference to “Director”.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:

Anticipated effective date of second quarter, 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

F. All Rules Referring to Appeal of Director’s Decision:

Proposed Rule Amendments and Purpose:

a. Under section (e) make a reference correction from Rule 5(c) to Rule 5(d)

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:

Second quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

G. Rule 8:

Proposed Rule Amendments and Purpose:

- a. Add section (g)(III) from Rule 14.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Second quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

H. Rule 10:

Proposed Rule Amendments and Purpose:

- a. Remove the word “Colorado” as it describes the type of driver’s license or identification card required for an applicant to prove their identity, in order to comply with C.R.S. § 29-5-101.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Rule 10 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

I. Rule 12:

Proposed Rule Amendments and Purpose:

- a. Remove the word “Colorado” as it describes the type of driver’s license or identification card required for an applicant to prove their identity, in order to comply with C.R.S. § 29-5-101.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Rule 12 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

J. Rule 14:

Proposed Rule Amendments and Purpose:

- a. Require that training academies return applicant finger-print results to POST within two weeks of the start of the academy session, to ensure that applicants and academies do not expend unnecessary resources if an applicant is ineligible for certification based on their criminal record.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Rule 14 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

K. Rule 14:

Proposed Rule Amendments and Purpose:

- a. Use proper name for Rule 8, “Process for Seeking Exemption from Statutory Certification Restrictions,” in section (g)(II).
- b. Strike section (g)(III) and move to Rule 8.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Second quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

L. Rule 17:

Proposed Rule Amendments and Purpose:

- a. Remove the word “Colorado” as it describes the type of driver’s license or identification card required for an applicant to prove their identity, in order to comply with C.R.S. § 29-5-101.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Rule 17 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

M. Rule 21:

Proposed Rule Amendments and Purpose:

- a. Clarify the format of make up instruction permitted when an applicant misses a portion of instruction at an academy, to ensure that academies are not relying inappropriately on virtual instruction, and that applicants make up the missed instruction in a timely and appropriate fashion.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to

promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Rule 21 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

N. Rule 23:

Proposed Rule Amendments and Purpose:

- a. Change the number of hours required for assistant firearms skills instructors to become full firearms skills instructors from 80 hours to twice the hours of a POST academy firearms program, to allow for variations in program lengths across different academies.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Rule 23 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

O. Rule 28:

Proposed Rule Amendments and Purpose:

- a. Clarify that in-service training requirements apply to all peace officers.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Rule 28 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

P. Rule 29:

Proposed Rule Amendments and Purpose:

- a. Clarify that a new psychological evaluation is not needed in situations where an employee in a non- POST Certified position transfers to a POST Certified position within the same organization.

Statutory Basis:

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:

Rule 29 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

II. CONSUMER CREDIT UNIT

A. Income Share Agreement (“ISA”) Rulemaking: Colorado Uniform Consumer Credit Code (“UCCC”) and Colorado Student Loan Equity Act (“SLEA”)

Proposed Rule Amendments and Purpose:

In response to questions concerning the regulatory treatment of the relatively new financial product called an Income Share Agreement (“ISA”), the UCCC Administrator anticipates issuing rules regarding the application of the UCCC and SLEA to ISAs, creditors making ISAs, and ISA servicers. Rules will address: the applicability of and required information for disclosure and compliance with the Truth in Lending Act; methods for complying with Regulation Z; maximum finance charges; right to prepay and rebates; licensure and registration requirements; prohibitions against false, misleading, or deceptive statement or representation; prohibition against assignment of earnings; the definition of private education loan and student loan servicer; necessary protections for consumers entering into ISAs; and areas that need clarification to aid creditors or servicers in their efforts to comply with Colorado law.

Statutory Basis:

§ 5-6-104(1)(e), (2), (5), C.R.S.

Contemplated Schedule for Adoption:

Rules are anticipated to be adopted and/or repealed by January 2023

Listing of Persons and Parties Affected:

Creditors making ISAs and ISA servicers that may be affected by the anticipated rulemaking.

III. CONSUMER PROTECTION

A. Colorado Privacy Act Rulemaking

Proposed Rule and Purpose:

The Colorado Privacy Act (“CPA”) mandates that the Attorney General promulgate new rules that detail the technical specifications for one or more Universal Opt-Out Mechanisms that clearly communicate a consumer’s affirmative, freely given, and unambiguous choice to opt out of the processing of personal data for purposes of targeted advertising or the sale of Personal Data. The mechanisms will allow Colorado residents to automatically communicate their choice to opt out of the Processing of Personal Data across multiple Controllers that Coloradans interact with online or in the digital space. Rules will address notice, default settings, and Personal Data use limitations for Universal Opt-Out Mechanisms; technical requirements and system of recognition for Universal Opt-Out Mechanisms; obligations for Controllers; and Consumer consent after use of a Universal Opt-Out Mechanism.

The CPA further authorizes the Attorney General to promulgate rules for the purpose of carrying out the CPA. The Attorney General will adopt rules clarifying and providing further detail to certain CPA provisions. Specifically, the rules will address: the definition of terms used throughout the CPA and the rules; requirements for disclosures and notifications made to Consumers; the scope of Consumer Personal Data rights, including the right to opt out, right of access, right to correction, right to deletion, and right to data portability, and how data rights must be made available; the requirements for authenticating, processing, and responding to consumer requests; the requirements for Controller duties, including access to and content of privacy notices, the Processing of Personal Data in connection with loyalty programs, purpose specification, data minimization, secondary use, duty of care, use of sensitive data, and documentation; consent requirements, including the prohibition against using dark patterns; the scope, content and timing of data protection assessments; and the scope and requirements of Profiling.

The Attorney General will seek input from individual Coloradans, stakeholders, experts, advocacy groups, and other members of the public during the rulemaking process.

Statutory Basis:

§ 6-1-1308(1), § 6-1-1313(1), and § 6-1-1313(2), C.R.S.

Contemplated Schedule for Adoption:

Rules are anticipated to be adopted in or around February 2023, with an effective date of July 1, 2023.

Listing of Persons and Parties Affected:

Private and public entities subject to the Colorado Privacy Act; Colorado residents and consumers; and platforms, developers, and providers of Universal Opt-Out Mechanisms.