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Colorado Department  
of Public Health  
and Environment

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**Colorado State Board of Health**

**6 CCR 1014-8**

**Colorado State Board of Health Procedural Rules  
(PROMULGATED BY THE STATE BOARD OF HEALTH)**

**Last amended 10/17/12, effective 11/30/12**

## **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

### **Colorado State Board of Health**

#### **PROCEDURAL RULES**

##### **6 CCR 1014-8**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### **Regulation I. General Provisions**

##### Section 1.01 Definitions

- 1.01.1 "Board" means the Colorado State Board of Health
- 1.01.2 "Department" means the Colorado Department of Public Health and Environment and its staff.
- 1.01.3 "General public" means any members of the public not in the attentive public or associated with a group or organization on any given issue; laypersons.
- 1.01.4 "Hearing Chair" means the Board member that presides over a rulemaking hearing.
- 1.01.5 "Interested person" means any person, organization, association, or governmental entity that may be aggrieved by agency action.
- 1.01.6 "Proponent" means a person, organization, association, or governmental entity that is advocating for the adoption of a rule proposal.
- 1.01.7 "Rule-making" means the Board process for the formulation, amendment, or repeal of a rule.
- 1.01.8 "Staff" means the administrator for the Board, the program assistant for the Board and any person employed by the department or on contract with the department. "On contract" includes working within the department via a temporary contract.

#### **Regulation II. Hearing Chair**

##### Section 2.01 Who serves and how selected

- 2.01.1 Any member of the Board may serve as a Hearing Chair for a rulemaking hearing.
- 2.01.2 The president of the Board shall serve as the Hearing Chair for rulemaking hearings, or in his or her absence, the vice-president. The president may also select any member to serve as a Hearing Chair as provided in 2.01.3
- 2.01.3 At the time the Board sets a rulemaking hearing, or at anytime thereafter, the President may select a member of the Board to serve as the Hearing Chair. The President shall use his or her discretion in selecting a Hearing Chair but in no event may the Hearing Chair have an actual or perceived/apparent conflict of interest. Any actual or perceived/apparent conflict of interest must be voluntarily disclosed as provided in C.R.S. §24-18-110 by the prospective hearing chair during the selection process in the subject matter of the rulemaking hearing over which he or she shall preside.

## Regulation III. Rulemaking Hearings

### Section 3.01 General Provisions

3.01.1 The rulemaking hearing ordinarily is conducted under Robert's Rules of Order –Revised, but the Board may from time to time act on a more informal basis, but in no event shall the hearing fail to comply with C.R.S. §24-4-103 Nothing in these rules shall be construed to limit the ability of Board members to ask appropriate questions of any participant in a rulemaking hearing.

3.01.2(1) The Board shall conduct a public rulemaking hearing before promulgating any rule. The Board shall afford any interested persons, members of the general public and department staff an opportunity to submit written data, views, or arguments. The Hearing Chair may set appropriate limitations on the length, format, time frame for submission and general scope of any written data, views, or arguments in the notice of proposed rulemaking or by a subsequent order of the Board.

(2) The Board may allow interested persons, members of the general public and department staff to present data, views or arguments orally at the rulemaking hearing if the Board determines, in its discretion, that such oral testimony will be helpful. Oral testimony at the rulemaking hearing may be limited. The Hearing Chair may impose reasonable restrictions on the oral testimony at the rulemaking hearing, including but not limited to, restricting the amount of time, and prohibiting duplicative or repetitive testimony.

3.01.3 Board members, department staff, interested parties, and the general public may not address the Board until recognized by the Hearing Chair.

### Section 3.02 Submission of Written Comments

3.02.1 The Board may require that written data, views and arguments be submitted in advance of the rulemaking hearing as stated in the notice of proposed rulemaking or by a subsequent order of the Board. Written data, views, comments and arguments shall be submitted no later than five (5) calendar days prior to the rulemaking hearing unless extenuating circumstances exist.

3.02.2 The Board may limit or prohibit the introduction of new substantive written information concerning a proposed rule at the rulemaking hearing.

3.02.3 The Board may set appropriate limitations on the length, format, time frame for submission and general scope of any written data, views, or arguments. The Board may specify the limitations in the notice of proposed rulemaking or by a subsequent order of the Board.

3.02.4 Interested persons and the department are encouraged to develop consensus positions which emanate from discussions prior to the rulemaking hearing. The Board, interested persons and the department must have a reasonable opportunity, in light of the circumstances, to evaluate any alternative proposals.

3.02.5 The Hearing Chair may limit or prohibit the introduction of new substantive written or oral information concerning a proposed rule or alternative proposal at the rulemaking hearing. When determining whether to consider new written substantive information the Board may consider:

- a. whether the submitter has been given an opportunity to be involved in the stakeholder process and with the development of the rule being proposed and/or discussions concerning the rule proposal;
- b. the timing of the new information or alternative proposal and the hearing;
- c. the complexity of the issues being presented;
- d. the degree to which the proponent of the rule and the interested persons involved in the rulemaking hearing are or expect to be in agreement on the substantive issues; and
- e. whether any statutory or programmatic requirements exist regarding the need for Board action.

### Section 3.03 Oral Comments at Rulemaking Hearing

- 3.03.1 The Board encourages the general public to participate in rulemaking hearings by commenting on proposed rules or alternate proposals. The Board will generally afford any interested person an opportunity to submit data, views, and arguments orally at the hearing, but, where appropriate, may require that such data, views, and arguments be submitted in writing in advance of the rulemaking hearing as reflected in the notice of proposed rulemaking or by order of the Board.
- 3.03.2 The Board will generally set aside a portion of the rulemaking hearing to hear comments and testimony from the general public. The Hearing Chair always has the right to limit or prohibit the oral testimony of the general public or interested persons at the rulemaking hearing. Organized groups of individuals are urged to identify one spokesperson. Speakers should be as concise as possible, and avoid repeating comments previously made by others.
- 3.03.3 The Board and/or Hearing Chair may limit or prohibit the introduction of new substantive oral information concerning a proposed rule or alternative proposal at the rulemaking hearing. When determining whether to consider new substantive oral information the Board may consider:
  - a. whether the commenter has been given an opportunity to be involved with the development of the original rule proposal and/or discussions concerning the rule proposal;
  - b. the timing of the new information or alternative proposal and the hearing;
  - c. the complexity of the issues being presented;
  - d. the degree to which the proponent of the rule and the interested persons involved in the rulemaking hearing are or expect to be in agreement on the substantive issues; and
  - e. whether any statutory or programmatic requirements exist regarding the need for Board action.

### **Regulation IV. Miscellaneous**

**RESERVED.**

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**Editor's Notes****History**

Entire rule eff. 11/30/2012.