

The Code of Colorado Regulations Goes Global

by Candy Herring

Researching Colorado's administrative law is much simpler than it once was. The Colorado Secretary of State has created a Web portal¹ that significantly improves the ability to view current and previous versions of the Code of Colorado Regulations (Code or CCR), as well as the Colorado Register (Register) and all other relevant documents that are submitted during the rule-making process.

The Code and Register have existed in print since 1978.² From their inception, the Colorado Secretary of State contracted with a private publisher³ to produce these publications. It wasn't until the spring of 2002—when the print publisher announced it did not plan to renew the contract—that the Secretary of State gave serious thought to placing the publication online. This prompted legislation in the form of House Bill (HB) 02-1203,⁴ to amend the Administrative Procedure Act⁵ to require electronic publication.

The Secretary of State convened an advisory board comprised of a diverse group of constituents to begin articulating what the online system ought to do. Early in the drafting process, it became clear that the site would have to serve numerous constituents coming to the system with different needs. Furthermore, the system would have to be adaptable enough to host data from several government agencies with different styles and approaches to writing rules. Finally, the site had to make the promulgation process transparent and comprehensible so the general public could use it. With these parameters in mind, construction was begun on a Web portal that would:

- provide the public with online access to the Code and Register
- allow agencies to file rule-making documents electronically
- accommodate the disparate numbering systems of the various agencies
- provide the Colorado Attorney General (AG) a Web interface to view rule filings and create AG Rule Opinions
- allow the Colorado Secretary of State and the Office of Legislative Legal Services (OLSS)⁶ to receive electronic filings and related data

- create a log of filings that is accessible to all users, including the public
- enable fast and efficient research.

After more than two years of development by a contractor and significant modifications by the Secretary of State's in-house information technology staff, the online CCR became reality. In January 2006, agencies began filing rule-making documents online, called "eFiling." Before the end of the year, the Code and Register were made available to the public. The new website has many remarkable features; among the most creative and useful are the CCR eDocket and updating (or "versioning") of new rules. This article will explain each of these features in more detail, as well as the e-mail notification feature available for the Register.

eDocket—Log of Rule Filings

The CCR portal allows easy access to the rule-making process and related documents through an innovative feature called eDocket.⁷ eDocket is a centralized source for all relevant materials regarding each rule filing. This is where a user may go to learn the title and substance of a rule, its purpose and objective, the agency proposing it, and the agency's contact information. eDocket is fully automated so that users can view the data immediately after filings occur.

How Agencies Use eFiling

To use eDocket successfully, users first should understand how Colorado rule-making agencies use eFiling. Rules are created or amended in response to legislation, industry recommendation, or public input. The permanent rule-making process takes more than three months to complete, beginning with the eFiling of a notice of rule-making. A month or more elapses before the agency holds the announced public hearing regarding the rules specified in the notice.⁸ Once the hearing has occurred and the amendments or new rules have been adopted, the agency eFiles a request for an AG Rule Opinion. When the request is submitted, an e-mail alerts the AG's Office that a filing has occurred.

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The AG's customized Web interface includes a template for the Rule Opinion that is pre-populated with data the agency supplied when filing the request. Within twenty days of the adoption date, the Rule Opinion is issued and the rules are eFiled with the Secretary of State and the OLSS. As with the AG's Office, the OLLS can download and print all the documents needed to review compliance with a rule's governing statutes. Every step in the rule-filing process has been Web-enabled.

How to Use eDocket

To use eDocket, users must select the "eDocket" link at the bottom of the CCR home page.⁹ Once the link is selected, users have the option of searching all agency filings, searching just the filings of an individual agency, or searching for documents relating to a particular tracking number.¹⁰ After the search criteria is submitted, the results screen displays one or more rows of data, each stating the tracking number, state agency, CCR number, and dates that each event in the process occurred. For even more information about the filing, the user can click on a tracking number to view the "Details Page." The Details Page provides all of the data entered by the agency filer and links to all documents submitted, essentially taking the user through the entire rule-making process, from the notice of public hearing through the date the rules go into effect.

Consider the following example: During a special session in the summer of 2006, the legislature passed HB 06S-1023, dealing with restrictions on public benefits.¹¹ This necessitated the adoption of

administrative rules to establish the requirements regarding the acceptable forms of identification needed to obtain a Colorado driver's license or identification card. A user who is interested in researching the evolution of the new requirements and allowable forms of identification for obtaining a driver's license could go to the CCR website and select the "eDocket" link. To view the rule-making documents related to this issue, the user would select "Division of Motor Vehicles" from the "Agency" drop-down list. The governor approved HB 06S-1023 on July 31, 2006.¹² Therefore, the user could enter that date (using the mm/dd/yyyy format) in the "Start Date Filed" field to submit a query of the rules database. Skimming through the results set of the rule titles reveals that the rules related to this issue were codified as 1 CCR 204-13. Clicking on the tracking number hyperlinks will display a record of all the information provided by the agency and all the documents and adopted rules filed with the Secretary of State.

Rule History and Versioning

If the date range of the rule-making action is unknown, the user can research the topic by viewing the history of the rule. This is done by clicking on the "CCR indexed numerically" link¹³ on the CCR home page to browse to the rule text. On the following pages, the user selects the department, the agency of interest, the CCR section of interest, and finally, the rule section of interest. The text of the rule now displays on the screen. Above the rule text, the word "History" appears in bold. This is a hyperlink that opens the Rule History window. By opening this window, users have access

to prior and future versions of rules.¹⁴ Every time a rule is updated, the rule is “versioned.” In other words, a new version of the rule is created. As a result, users can view entire CCR sections as they existed on a specific date. The version number is linked to the version of the rule as it existed on the date listed in the “Effective Date” column. The tracking number is a link that takes the user to the same Details Page that is viewable from eDocket.

Continuing with our example, after browsing to the rule text and clicking on the “History” link, the user can see that 1 CCR 204-13 came into existence on February 27, 2007. Version 1, which was filed under tracking number 2007-00199, remained in effect until version 2, which was filed under tracking number 2007-00596, became effective on May 28, 2007; and the list continues. Selecting the version number displays the rules that were in effect on the corresponding effective date through the effective date of the next version. Note that rule-making that has been completed appears in this Rule History window and on eDocket, whereas rule-making in progress can be viewed only from eDocket.

When browsing to view rules, the user may select and view a specific section of the rule or, after selecting a section, display the entire rule by choosing the link at the top right of the page. Editor’s Notes, found at the end of each CCR section, track rule history; however, these notations date back only to May 1, 2007. For amendments before that date, use the “History” link or the Editor’s Notes on the title pages of the print version of the Code.

E-mail Notification and the Colorado Register

For those interested in tracking rule-making in progress, the Web application publishes the Register and the associated e-mail notification once a month. Users can subscribe to the e-mail notification service to get alerts about specific rule-making activities.¹⁵ A link to the e-mail registration page is provided at the top of the Colorado Register home page.¹⁶ After selecting the link, users must enter their e-mail address and then select the agencies of interest. Each month, on the day the Register is published, e-mail alerts are sent to subscribers when notices and adopted rules in their area of interest are published in the Register.

On the tenth of each month, a new link appears on the Register’s home page, announcing recent changes. By selecting the link, users can view recent adoptions of permanent and emergency rules, notices of rule-making, and a calendar of rule-making hearings. For both permanent and emergency rules, a link displays for each file the agency submitted, stating the rule title and the date that the rule goes into effect. In both the “Notice of Rulemaking” and the “Calendar of Hearings” sections, the user can view the hearing notice, proposed rules (if filed), and other additional information that was provided. The first electronic Colorado Register issues, published in 2006, are viewable from the “Register Index” link on the Register’s home page, and both previous and ongoing issues will continue to be made available to the public. There are no plans to set a limit on how long the archived issues will be retained.

Conclusion

The Secretary of State’s office is continually looking for ways to improve the Web portal.¹⁷ Work currently is underway to improve how documents are stored in the database and presented online. Future enhancements will include an interface to view scanned title pages (and possibly archived rule text), search engine improvements, and a PDF interface for printing rules. The Secretary of

State is committed to ongoing improvement of the functionality of the online Code to make the site more research-friendly and to make rule-making more accessible and transparent to the citizens of Colorado.

General information about the rule-making process, including the Administrative Procedure Act and flowcharts demonstrating both the rule-making process and the electronic filing process, can be accessed from the “Rulemaking Information” link located on the navigation bar on the CCR home page. The website also provides a basic search engine. The Administrative Rules staff is available weekdays during normal business hours to answer questions and help users find the information they need.¹⁸

Notes

1. The Web portal is available at www.sos.state.co.us/CCR/Welcome.do.

2. The Secretary of State supports the continued publication of the Code of Colorado Regulations (Code or CCR) in print through a licensing agreement with LexisNexis.[®] However, as of July 1, 2007, the online Code and Colorado Register (Register) became the “official” version of the administrative rules per CRS § 24-4-103(11)(b). For more information regarding the print publication of the Code, *see* bookstore.lexis.com/bookstore/product/57279.html.

3. The original publisher of the Code was Public Record Corp., which was bought by the *Los Angeles Daily Journal* in 1995 and renamed the *Colorado Journal*. In 2002, the *Colorado Journal* declined to renew the publishing contract and published its last issue in July 2002. Weil Publishing, located in Augusta, Maine, signed a five-year contract with the Colorado Secretary of State in June 2002. Three years later, Weil was bought by LexisNexis.[®]

which continues to publish the Code and Register in print. As of July 1, 2007, the print version no longer carries the designation as the “official” publication of Colorado’s administrative Code and Register.

4. The full text of House Bill (HB) 02-1203 is available at the Colorado General Assembly website, www.leg.state.co.us.

5. CRS §§ 24-4-101 *et seq.*

6. For additional information on the Office of Legislative Legal Services, visit www.state.co.us/gov_dir/leg_dir/olls.

7. *See* www.sos.state.co.us/CCR/eDocketCriteria.do.

8. This is partially dependent on whether the agency’s governing statute imposes further requirements.

9. *See* www.sos.state.co.us/CCR/Welcome.do.

10. Unique tracking numbers automatically are assigned to each rule filing and follow the filing through the entire online electronic rule-making process.

11. Codified at CRS §§ 24-76.5-101 *et seq.*

12. The full text of HB 06S-1023 is available at the Colorado General Assembly website, www.leg.state.co.us.

13. Users who are unfamiliar with the CCR numbering system instead may want to select the “CCR indexed alphabetically by Department/Agency” link.

14. Future versions are accessible if amendments have been inserted ahead of their effective date.

15. *See* www.sos.state.co.us/CCR/EmailSubscription.do.

16. *See* www.sos.state.co.us/CCR/RegisterHome.do.

17. Send suggestions regarding improvements to candy.herring@sos.state.co.us.

18. The Administrative Rules staff is available Monday through Friday, from 8:30 a.m. to 5:00 p.m. E-mail rules@sos.state.co.us, or call (303) 894-2200, ext. 6418. ■