

**DRAFT RULES
PATTERN OF EMPLOYER NON-RESPONSE**

7.4 PATTERN OF FAILING TO RESPOND

7.4.1 Statutory References: 8-79-102(5)(a), C.R.S.

7.4.2 DEFINITIONS

.1 TIMELY. THE TERM “TIMELY”, AS USED IN THIS SECTION, SHALL REFER TO THOSE ACTS BY AN EMPLOYER WHICH ARE COMPLETED WITHIN THE TIME PERIOD PERMITTED BY LAW.

.2 ADEQUATE. THE TERM “ADEQUATE”, AS USED IN THIS SECTION, SHALL REFER TO THAT INFORMATION PROVIDED BY AN EMPLOYER WHICH IS SUFFICIENT TO SUPPORT A DETERMINATION ON THE ISSUE FOR WHICH THE DIVISION REQUESTED THE INFORMATION.

7.4.3 PATTERN OF FAILING TO RESPOND. A “PATTERN OF FAILING TO RESPOND TIMELY OR ADEQUATELY” AS REFERENCED UNDER §8-79-102(5)(A)(II) C.R.S. REFERS TO A REPEATED, DOCUMENTED FAILURE ON THE PART OF THE EMPLOYER OR THE AGENT OF THE EMPLOYER TO RESPOND TIMELY OR ADEQUATELY TO REQUESTS FOR INFORMATION FROM THE DIVISION, TAKING INTO CONSIDERATION THE NUMBER OF INSTANCES OF FAILURE IN RELATION TO THE TOTAL VOLUME OF REQUESTS. THE DETERMINATION OF WHETHER SUCH A PATTERN HAS BEEN SHOWN SHALL BE AT THE DISCRETION OF THE DIVISION EXCEPT THAT:

.1 AN EMPLOYER OR ITS AGENT SHALL NOT BE DETERMINED TO HAVE ENGAGED IN A “PATTERN OF FAILING TO RESPOND TIMELY OR ADEQUATELY” IF THE NUMBER OF SUCH FAILURES DURING THE YEAR PRIOR TO SUCH REQUEST IS FEWER THAN TWO OR LESS THAN TWO PERCENT OF SUCH REQUESTS, WHICHEVER IS GREATER.

7.4.4 APPEALS. DETERMINATIONS BY THE DIVISION UNDER THIS SECTION SHALL BE SUBJECT TO APPEAL IN THE SAME MANNER AS OTHER DETERMINATIONS OF THE DIVISION WITH RESPECT TO THE CHARGING OF EMPLOYER ACCOUNTS.