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Introduction

The *Colorado Register* is published pursuant to C.R.S. 24-4-103(11) and is the sole official publication for state agency notices of rule-making, proposed rules, attorney general's opinions relating to such rules, and adopted rules. The register may also include other public notices including annual departmental regulatory agendas submitted by principal departments to the secretary of state.

"Rule" means the whole or any part of every agency statement of general applicability and future effect implementing, interpreting, or declaring law or policy or setting forth the procedure or practice requirements of any agency. "Rule" includes "regulation". C.R.S. 24-4-102(15). Adopted rules are effective twenty days after the publication date of this issue unless otherwise specified.

The *Colorado Register* is published by the office of the Colorado Secretary of State twice monthly on the tenth and the twenty-fifth. Notices of rule-making and adopted rules that are filed from the first through the fifteenth are published on the twenty-fifth of the same month, and those that are filed from the sixteenth through the last day of the month are published on the tenth of the following month. All filings are submitted through the secretary of state's electronic filing system.

For questions regarding the content and application of a particular rule, please contact the state agency responsible for promulgating the rule. For questions about this publication, please contact the Administrative Rules Program at rules@sos.state.co.us.

Notice of Proposed Rulemaking

Tracking number

2017-00046

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing**Date**

03/08/2017

Time

09:00 AM

Location

1375 Sherman St., Room 127, Denver, CO 80261

Subjects and issues involved

The purpose of this rule is to clarify the requirements for claiming the rural health care preceptor income tax credit.

Statutory authority

The statutory basis for this rule is § 39-21-112(1) and § 39-26-538, C.R.S.

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RURAL PRIMARY HEALTH CARE PRECEPTOR CREDIT

RULE 39-22-538

Basis and Purpose

The basis for this rule is § 39-21-112(1) and § 39-26-538, C.R.S. The purpose of this rule is to clarify the requirements for claiming the rural health care preceptor income tax credit.

- (1) **General Rule.** Beginning January 1, 2017 and for as long as the credit remains effective, up to 200 primary health care preceptors per year are eligible to claim a non-refundable income tax credit of \$1,000 for a preceptorship provided by him or her to an eligible graduate student during the applicable income tax year for which the credit is claimed. The credit must be claimed by an individual and cannot be claimed at an entity level.
- (2) **Definitions.** For definitions of terms used in this rule, see § 39-26-538, C.R.S.
- (3) **Preceptorship.** A primary health care preceptor is eligible for this credit if he or she provides an uncompensated program of personalized instruction, training, and supervision in a rural or frontier area of Colorado for a total of four weeks or more per calendar year to an eligible Colorado graduate student to enable the student to obtain his or her professional degree *and* receives notification from the Department that he or she is eligible to claim the credit as described in paragraph (4) of this rule.
 - (a) *Uncompensated Program of Instruction.* A primary health care preceptor is not eligible for this credit if he or she receives any form of compensation for providing a preceptorship. This includes, but is not limited to, any compensation from grants or nonprofits, additional compensation provided by the preceptor's employer, or any compensation provided by the Colorado institution of higher education.
 - (i) Free continuing education courses provided to all faculty of an institution of higher education, including part-time faculty and preceptors, are not considered compensation for providing a preceptorship because the continuing education courses are provided to all faculty.
 - (b) *Eligible Colorado Graduate Student.* A primary health care preceptor must have the same graduate student under their instruction for a total of four weeks per calendar year to be eligible for the credit. A preceptor may have more than one student under their instruction during each preceptorship or may provide more than one preceptorship during the calendar year, but will only be eligible for one \$1,000 credit per calendar year.
- (4) **Claiming the Credit.**
 - (a) Only 200 primary health care preceptors are entitled to claim this credit each tax year. In order to claim this credit, the preceptor must:
 - (i) Receive certification that the preceptor satisfied all requirements to receive the credit from the institution for which the preceptor teaches, whether it is an institution of higher education or a hospital, clinic, or other medical facility, or from the regional AHEC office with jurisdiction over the area in which the preceptorship took place.

- (ii) Send an electronic copy of the completed certification to the Department by email to dor_preceptor@state.co.us.
 - (iii) If the preceptor receives notification from the Department that the credit has been issued to him or her, file a Colorado income tax return and claim the credit on his or her return.
 - (b) Up to 200 credits will be issued each tax year in chronological order based on the timestamp of the email the Department receives from the preceptor, which must include an electronic copy of the completed certification.
 - (c) The Department will send notification once a month to preceptors that their credit has been either issued or denied.
- (5) **Protest.** A preceptor cannot protest the denial of a credit based on the chronological order the certification was received by the Department. If a preceptor wishes to protest the denial of the credit, the preceptor must claim the credit on his or her return, which will be denied, and the preceptor may protest the denial of such credit after the Department denies the credit claimed on the tax return.

Notice of Proposed Rulemaking

Tracking number

2017-00047

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-4

Rule title

SALES AND USE TAX

Rulemaking Hearing**Date**

03/08/2017

Time

09:00 AM

Location

1375 Sherman St., Room 127, Denver, CO 80261

Subjects and issues involved

The purpose of this rule is to establish procedures and requirements for the testing and certification of electronic address databases and to establish the criteria retailers must meet to be held harmless for tax underpayments resulting from the use of a certified database.

Statutory authority

39-21-112, 39-26-105.3, and 39-26-204.5, C.R.S.

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ELECTRONIC ADDRESS DATABASES

RULE 39-26-105.3

Basis and Purpose

The basis for this rule is §§ 39-21-112, 39-26-105.3, and 39-26-204.5, C.R.S. The purpose of this rule is to establish procedures and requirements for the testing and certification of electronic address databases and to establish the criteria retailers must meet to be held harmless for tax underpayments resulting from use of a certified database.

(1) **Definitions.** As used in this rule, unless context otherwise requires:

- (a) "Database" means a system that specifies the taxing jurisdictions that have the authority to impose a tax on purchases made at each address in Colorado. A "System" may consist of one or more software applications and/or other electronic processes.
- (b) "Department" means the Department of Revenue.
- (c) "Local Tax Jurisdiction" includes every governmental entity and special district located within Colorado, other than the State of Colorado, that has the authority to levy a sales and/or use tax
- (d) "Provider" means a person, company, or other entity that owns and/or operates a Database.
- (e) "Verifier" means a person, company, or entity designated by the Department to conduct testing of Databases and verify that said Databases satisfy the requirements of § 39-26-105.3, C.R.S. and this rule. In such case that the Department directly conducts testing and verification, the term "Verifier" means the Department.

(2) **Procedure for Certification.**

- (a) A Provider may request the Department certify its Database by submitting an application in accordance with Department instructions. The Department may request information in support of an application including, but not limited to, the Provider's name (including trade name) and address; the name, address, telephone number, and email address of the person representing the Provider to whom the Department shall direct communications; and sufficient information so as to specifically identify the Database and System, including any version number or similar designation.
- (b) Upon receipt of an application and any additional information the Department requests, the Department shall direct the Verifier to initiate the testing process prescribed in subsection (3) of this rule. If the Database satisfies the requirements set forth in § 39-26-105.3, C.R.S. and this rule, the Department shall issue written certification to the Provider stating that the Database is certified subject to the limitations and conditions set forth in § 39-26-105.3, C.R.S. and this rule.
- (c) *Effective Date / Expiration Date.* The certification shall be effective for three years, beginning with the date the Department issues notice of certification. The certification shall expire automatically three years from the effective date. A Provider may, prior to the expiration of certification, apply for recertification. The process for recertification shall be the same as the process for initial certification.

- (d) *List of Certified Databases.* For each Database that has been certified pursuant to this rule, the Department shall list on its web-site:
 - (i) the Provider's name, website address, and contact information;
 - (ii) the Database and System receiving certification;
 - (iii) the effective date of the certification; and
 - (iv) the expiration date for the certification or, in the case of revocation under subsection (5) of this rule, the date such revocation is effective.
- (e) *Regulations Subject to Modification.* The Department may amend this rule. Any Provider owning and/or operating a certified Database may be required to comply with any additional requirements included in the amended rule including, but not limited to retesting pursuant to any revised testing requirements.

(3) **Testing and Verification.**

- (a) Upon the direction of the Department as described in paragraph (2)(b) of this rule, the Verifier shall commence the testing and verification process as set forth in this subsection (3). In execution of the testing and verification process the Verifier shall:
 - (i) create a test sample and answer key for use in evaluating the accuracy of the Provider's Database;
 - (ii) transmit the test sample electronically to the applying Provider;
 - (iii) receive the Database responses for the test sample from the Provider; and
 - (iv) evaluate the submitted responses for accuracy and produce a report.
- (b) *Creation of Test Sample.* The Verifier shall create the test sample in accordance with all requirements of this paragraph (b).
 - (i) The test sample shall consist of not less than 2000 physical addresses located in Colorado. The addresses in the test sample shall be selected at random from the full population of business addresses in with active sales tax licenses according to Department records. The Department shall review and confirm the statistical validity of the test sample prior to the administration of the test. The determination of the statistical validity of the test sample shall be within the sole discretion of the Department.
 - (ii) The Verifier may supplement the test with additional addresses. The Verifier may solicit such supplemental addresses from Local Tax Jurisdictions.
 - (iii) In addition to the test sample, the Verifier shall create a key that specifies all state and local jurisdictions authorized to impose a tax on purchases made at each address included in the test sample. Such key must be created using information from Department records and, where deemed necessary by the Verifier, may be further verified with local treasurer and assessor records.
 - (iv) The Verifier shall provide the test sample and the accompanying key to each Local Tax Jurisdiction. The Local Tax Jurisdiction shall have 30 days to verify the

accuracy of the key and dispute any information contained therein. If the Local Tax Jurisdiction disputes any of the information contained in the key, such dispute will be resolved by reference to the applicable treasurer or assessor records.

- (c) The Verifier shall transmit an electronic copy of the test sample to the applying Provider. Using its Database, the Provider shall, with respect to purchases made at each address included in the test sample, identify all jurisdictions with the authority to impose a tax. The Provider shall submit, in the form and within the time prescribed by the Verifier, a list of all jurisdictions so identified with respect to each address in the test sample.
- (d) Upon receipt of the Provider's submission, the Verifier shall evaluate it for accuracy and prepare a report detailing the Verifier's findings.
 - (i) A Provider's response for each address in the test sample shall be deemed correct only if it properly identifies all jurisdictions with the authority to impose a tax on purchases made at the address, including the state and all Local Tax Jurisdictions.
 - (ii) The Verifier will communicate to the Provider each response the Verifier determines is incorrect, the jurisdiction that was omitted or incorrectly identified in the response, and the correct jurisdictions for the address. The Provider may challenge the Verifier's determination of incorrectness with respect to any address. In the event of a challenge, the Verifier shall contact the relevant Local Tax Jurisdiction(s) to verify the jurisdictions authorized to impose a tax on purchases made at the address. Disputes between or among Local Tax Jurisdictions regarding the location of an address shall be resolved by said jurisdictions.
 - (iii) After evaluating the Database's responses and resolving any challenges made by the Provider, the Verifier shall prepare a report detailing the test and the test results, and provide the report to the Department. The report such information as the Department requires, which may include, but is not limited to: the Verifier's name and contact information; the Provider's name and contact information; information sufficient to identify the Database and System tested, including any version number or similar designation; the date(s) testing was conducted; the test sample and key; and the test results.
- (4) **Certification Criteria.** A Database must satisfy the certification criteria set forth below in order to receive and retain certification.
 - (a) *Accuracy.* A Database must produce correct and complete responses for at least 95% of the addresses included in the test sample in order to receive certification.
 - (b) *Access for Local Tax Jurisdictions Verification.* The Department shall notify Local Tax Jurisdictions when certification has been granted for a Database. Upon certification, any Provider that owns or operates a certified Database must allow each Local Tax Jurisdiction readily accessible means of determining whether the Database correctly specifies the jurisdictions with the authority to impose a tax at a given address. The Provider shall work cooperatively with the Department and Local Tax Jurisdictions to facilitate checking of individual addresses or groups of addresses against the Database.
 - (c) *Prompt Updating of Information.* A Provider shall have in place a process for regularly updating its Database and promptly correcting any errors and omissions. Updates must be made at least quarterly, and the Provider must make reasonable efforts to include in

each update the correction of any error or omission about which it received notification in the ninety days preceding the update. The Provider must correct any error or omission in the Database about which it receives notification no later than 120 days following the notification. If a Local Tax Jurisdiction determines that the Database does not completely and correctly identify the jurisdictions authorized to impose a tax at a given address, the Local Tax Jurisdiction may notify the Department of the error or omission. The Department shall promptly notify the Provider of any error or omission that it or any Local Tax Jurisdiction finds with respect to the Database.

- (d) *Version Designation - Record Retention.* The Provider of any certified Database must retain a complete copy of each iteration of the Database for no less than four years from the date that such iteration was replaced by an updated version.
 - (e) *Requirement to Recertify Prior to Expiration.* If the Department identifies numerous errors or omissions in the Database prior to the expiration of the certification, the Department may require the Provider to complete a recertification process. The recertification process shall consist of the testing and verification process outlined in subsection (3) of this rule.
- (5) **Denial or Revocation of Certification.**- The Department may deny a request for certification or revoke the certification of a Database for just cause. The Department may reassess at any time whether the Database should continue to be certified.
- (a) "Just cause" for denial or revocation of certification shall include, without limitation, that:
 - (i) the Database is not in compliance with requirements established by § 39-26-105.3 and this rule;
 - (ii) the Provider's application contains a material misstatement(s);
 - (iii) the Database fails, during the testing process, to produce complete and correct responses for at least 95% of the addresses in the test sample;
 - (iv) the Provider fails to maintain the accuracy of the Database; or
 - (v) the Provider failed to properly and timely notify its users, pursuant to paragraph (d) of this subsection (5), of a prior revocation of certification.
 - (b) Any denial or revocation of certification shall be made in accordance with § 24-4-104, C.R.S.
 - (c) In the event of revocation, the Department shall, in accordance with subparagraph (iv) of paragraph (a) of subsection (2) of this rule, update its website to reflect the effective date of the revocation and the date on which such update was made.
 - (d) In the event of revocation, the Provider shall provide prompt and effective notice to users of its Database that it has been decertified. Such notification shall be made no later than five business days after the Provider receives notice of revocation from the Department.
- (6) **Verifiers.**
- (a) *Designation.* The Department has the authority to designate one or more persons, companies, or entities to serve as Verifiers. The designations shall be based on the sole and exclusive judgment of the Department regarding the person's, company's, or entity's expertise, experience, and performance of duties set forth herein. The Department has

the authority to withdraw its designation of a Verifier at any time if, in the Department's sole and exclusive judgment, the Verifier should not be so designated.

- (b) *Fee of Verifier.* The Verifier may charge a Provider a reasonable fee, in light of its costs and reasonable profit, for work performed in connection with this rule. In no event is the Department responsible to the Verifier or Provider for payment of such fee.

(7) **Retailers Held Harmless.**

- (a) A retailer that properly uses and demonstrably relies upon a certified Database to determine the jurisdiction(s) to which tax is due shall be held harmless for any underpayment of tax, charge, or fee liability that results solely from an error or omission in the Database. In order to be held harmless under §§ 39-26-105.3 and 204.5, C.R.S. and this rule with respect to any particular sale, a retailer must collect, retain, and produce, upon request, documentation sufficient to demonstrate proper use of and reliance on a certified Database at the time of the sale.
 - (i) *Proper Use.* A retailer shall be held harmless only when an underpayment of tax results solely from an error or omission in a certified Database. If a retailer queries a certified Database for an address that is either incomplete or contain errors, any underpayment with respect thereto shall not be deemed the result solely of an error or omission in the Database. In such case, the retailer that improperly used the Database shall not be held harmless for any underpayment of tax, charge, or fee.
 - (ii) *Demonstrable Reliance.*
 - (A) If a retailer contracts with a Provider of a certified Database for a “hosted” or “on premise” solution that integrates Database utilization into the retailer's billing system, the contract in effect at the time of the sale will demonstrate the retailer's reliance on the certified Database with respect to the sale.
 - (B) If a retailer has no such contract for integrated Database utilization, but instead accesses the Database remotely for occasional use, the retailer must collect and retain documentation sufficient to demonstrate such use. Such documentation must reflect the physical address in question, the jurisdiction(s) identified by the Database for the address, and the date that such information was accessed. A screen print of the Database response will be sufficient to document reliance so long as the screen print reflects the address, the jurisdiction(s), and the date of use.
- (b) *Held Harmless.* If a retailer is held harmless under §§ 39-26-105.3 or 204.5, C.R.S. and this rule, the retailer will not be held liable for any underpayment of tax, charge, or fee liability that results solely from an error or omission in a certified Database. In the event that an assessment is issued for such an underpayment, the Department shall, upon receipt of sufficient documentation to demonstrate both proper use and reliance, adjust its records to cancel such assessment.
- (c) *Effect of Revocation or Expiration of Certification.* A taxpayer shall not be held harmless for use of a Database after the expiration or revocation of certification. Unless the taxpayer is also the Database Provider, a revocation of certification shall not affect the right of the taxpayer to be held harmless, pursuant to §§ 39-26-105.3 or 204.5, C.R.S. and this rule, for sales and use tax liabilities for transactions that occurred prior to the effective date of the revocation. However, a retailer who is also the Database Provider

shall not be held harmless for sales or use taxes incurred prior to the effective date of the revocation if the Department determines that the Provider has knowingly or recklessly disregarded the requirements of this rule.

Cross Reference(s):

1. § 39-26-204.5, C.R.S.
2. § 24-4-104, C.R.S.

Notice of Proposed Rulemaking

Tracking number

2017-00048

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-4

Rule title

SALES AND USE TAX

Rulemaking Hearing

Date

03/08/2017

Time

09:00 AM

Location

1375 Sherman St., Room 127, Denver, CO 80261

Subjects and issues involved

The Department proposes to repeal rule 39-26-713(2)(d) because the rule only cross references another rule.

Statutory authority

§39-21-112(1) and §39-26-713, C.R.S.

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REGULATION ~~39-26-713.2(D)~~

(Refer to Regulations ~~26-704.1~~ and ~~26-718.1(a)~~)

Notice of Proposed Rulemaking

Tracking number

2017-00050

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-4

Rule title

SALES AND USE TAX

Rulemaking Hearing**Date**

03/08/2017

Time

09:00 AM

Location

1375 Sherman St., Room 127, Denver, CO 80261

Subjects and issues involved

The Department proposes to repeal rule 39-26-715.1(a)(II) because HB 16-1457 codified this rule on the sales and use tax exemption for the sale, storage, use, or consumption of fuel for residential use in statute.

Statutory authority

§39-21-112(1) and §39-26-715, C.R.S.

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~~REGULATION 39-26-715.1(A)(II)~~

~~The tax imposed by C.R.S. 1973, 39-26-106 shall be collected on the sale of gas and electricity, except in the case of exemption provided in this regulation.~~

~~Gas and electricity when sold for residential use are exempt from sales tax. The term "residential use" has the following meaning: the use of gas or electricity by the individual customer exclusively for domestic purposes such as lighting, refrigeration, cooking, water heating, space heating and air conditioning, in a private home or individual living unit served through a single meter or a master metered multi-unit apartment, condominium, townhouse or mobile/trailer home used exclusively for domestic purposes. Residential use includes service to building appurtenant to the residence including garages, barns, and other minor buildings for use of the residents served through the residential meter.~~

~~Users in a private home or individual living unit, such as apartments, condominiums, townhouses and mobile trailer homes, who are served through a single meter and whose rate has been classified by P.U.C. statute or regulation as residential are automatically exempt.~~

~~Users in multi-unit apartments, mobile trailer home parks or condominium and townhouse associations who are billed through a master meter and are taking service under a commercial rate may nevertheless qualify for this exemption providing gas or electricity is used for residential use as defined herein.~~

~~Sales of butane, propane, fuel oils, coal, coke or wood are exempt from state sales tax when used for residential use as defined above.~~

Notice of Proposed Rulemaking

Tracking number

2017-00049

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-4

Rule title

SALES AND USE TAX

Rulemaking Hearing**Date**

03/08/2017

Time

09:00 AM

Location

1375 Sherman St., Room 127, Denver, CO 80261

Subjects and issues involved

The Department proposes to repeal rule 39-26-713(2)(e) because the rule only cross references another rule.

Statutory authority

§39-21-112(1) and §39-26-713, C.R.S.

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REGULATION 39-26-713.2(E)

(Refer to Regulation 26-102(20).)

Notice of Proposed Rulemaking

Tracking number

2017-00057

Department

200 - Department of Revenue

Agency

204 - Division of Motor Vehicles

CCR number

1 CCR 204-1

Rule title

MOTOR VEHICLE OFFICIAL INSPECTION STATIONS

Rulemaking Hearing**Date**

03/02/2017

Time

11:00 AM

Location

1881 Pierce Street, Lakewood, CO 80214. Rm 110 (Board/Commission)

Subjects and issues involved

The purpose of this promulgation is to address and amend the rule based on OLLS concerns regarding the current status.

Statutory authority

The statutory basis for this rule are sections 42-4-301 through 42-4-316.5, C.R.S.

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DEPARTMENT OF REVENUE

Division of Motor Vehicles

MOTOR VEHICLE OFFICIAL INSPECTION STATIONS

1 CCR 204-1

RULE 2 EMISSIONS INSPECTION

Basis: The statutory bases for this rule are sections 42-4-301 through 42-4-316.5, C.R.S.

Purpose: The purpose of this rule is to establish the licensing requirements and enforcement standards for the Emissions Inspection Program, and set out processes for violations, sanctions and administrative hearings. This rule does not apply to the “basic program” as such stations are no longer in operation.

1.0 DEFINITIONS

- 1.1 Additional definitions and substantive regulations are found in the Air Quality Control Commission’s Regulation 11, 5 CCR 1001-13.
- 1.2 “Analyzer Lockout”: A temporary interruption of emissions testing caused by malfunctioning equipment or failure of an equipment audit.
- 1.3 “AQCC”: Means the Colorado Air Quality Control Commission. The AQCC is the rulemaking body responsible for Regulation 11; 5 CCR 1001-13.
- 1.4 “Certification of Emissions Control” or “CEC”: Either a Certification of Emissions Compliance or a Certification of Emissions Waiver issued to the owner of a vehicle to indicate the status of inspection requirement compliance of the vehicle.
- 1.5 “Compliance Document”: A document consisting of the vehicle inspection data and the Certification of Emission Control.
- 1.6 “Department”: The Colorado Department of Revenue.
- 1.7 “Division”: The Air Pollution Control Division of the Colorado Department of Public Health and Environment.
- 1.8 “Emissions Extension”: Authorization for a Colorado-registered vehicle temporarily located and operated outside of Colorado to renew registration.
- 1.9 “Executive Director”: The executive director of the Colorado Department of Revenue or designee responsible for the enforcement and licensing functions of the emissions program.
- 1.10 “Inoperable”: Major structural damage or catastrophic mechanical failures that prevent a vehicle from being emissions tested.
- 1.11 “Inspector Number”: The numeric identifier issued by the Department to every licensed emissions inspector.
- 1.12 “Inspection Station”: A business entity ~~or remote sensing equipment~~ that is licensed to perform vehicle emissions inspections within the emissions program area.
- 1.13 “Letter of Qualification”: A letter issued by the Division indicating that an applicant has passed the written qualification test to become a licensed inspector or renew an inspector license.

- 1.14 "Normal Business Hours": Monday through Friday, 8:00 a.m. through 5:00 p.m., with the exception of national holidays. Expanded hours may be required by contract.
- 1.15 "Regulation 11": The regulation adopted by the AQCC governing the motor vehicle emissions inspection program for the control of air contaminant emissions from motor vehicles.
- 1.16 "Reinspection" (After-Repairs Test): A subsequent inspection performed after a vehicle has failed the initial inspection and been repaired.
- ~~1.16~~1.17 "RSD Site": A location approved by the Division for performing remote sensing operations.
- ~~1.17~~1.18 "RSD Unit": A remote sensing device that ~~is certified by the Division and has been issued a license by the Department~~detects and records vehicle emissions.
- ~~1.18~~1.19 "VIN Verification (DR 2698)": A form issued by the Department to record vehicle information obtained from a physical inspection of a vehicle.
- ~~1.19~~1.20 "Vehicle Identification Number" or "VIN": A unique number assigned by a vehicle manufacturer or State that identifies a given vehicle.
- ~~1.20~~1.21 "Vehicle Inspection Report" or "VIR": A document issued to the owner or operator of a motor vehicle that indicates the vehicle's emissions status.
- ~~1.21~~1.22 "Waiver/Hardship Waiver": A VIR issued by the Department indicating that the emissions from the vehicle do not comply with applicable emissions standards after inspection, adjustments, and emissions related repairs in accordance with section 42-4-310, C.R.S.

2.0 GENERAL LICENSING REQUIREMENTS

- 2.1 Application for station and inspector emissions licenses must be made on forms issued by the Department.
- 2.2 All licensees must comply with applicable Colorado state statutes, Regulation 11, and Department rules.
- 2.3 Licensees shall conduct only those inspections authorized by the type of license held.
- 2.4 Fees collected for license applications and renewals are non-refundable.
- 2.5 Inspection stations or inspectors must not perform an emissions test under an expired license.
- 2.6 Only a business or individual holding a valid emissions testing license issued by the Department may issue a VIR.
- 2.7 Licenses obtained by misrepresentation or false statements to the Department will be revoked.
- 2.8 No individual or business shall represent or allow itself to be represented as a licensed emissions inspector or licensed emissions inspection station unless it has a valid license issued by the Department.
- 2.9 Each licensee must maintain a current, valid mailing address with the Department.
- 2.10 Licensees must cooperate with the Department during the conduct of audits, investigations, and complaint resolution.
- 2.11 All fines assessed by the Department for violations of statutes, rules and regulations, or procedures, must be paid within the time period specified by the Department. The Department may revoke a license and take other action to collect unpaid fines.

- 2.12 The Department may deny a license application from an individual or business if the individual, or any individual with an ownership interest in the business, has had an emissions program license revoked or suspended by the Department.
- 2.13 License renewal applications received after the expiration date will be subject to the requirements for a new license, including the fee.

3.0 STATION LICENSES AND RSD SITES

- 3.1 Inspection station licenses are available in the following categories: inspection-only facility, fleet inspection station, and enhanced inspection center, RSD site, and RSD unit.
- 3.2 Inspection station licenses are valid for 24 months beginning on the date issued and expiring at midnight twenty-four months later.
- 3.3 Inspection stations may only perform the functions allowed under the type of license issued.
- 3.4 Inspection station licenses are valid only at the location for which they are issued.
- ~~3.5 All RSD sites must be approved by the Division and licensed by the Department prior to providing services.~~
- ~~3.6 RSD Site licenses are issued for the lesser of 12 months or until the expiration of the use permit for that specific location.~~
- ~~3.7 RSD units can operate only at licensed sites.~~
- ~~3.8 Obtaining RSD site licenses is the sole responsibility of the RSD contractor. Document and site packets must contain site setup photos with a sketch of all equipment setup locations and dimensions by reference to a permanent benchmark. RSD sites must be set up and operated in a safe and prudent manner.~~
- ~~3.93.5~~ Transfer or sale of a licensee's business or any other change in ownership must be reported to the Department and requires a new license application and associated fees.
- ~~3.103.6~~ Inspection station licenses may not be transferred, loaned, or used by any individual or business other than the individual or business identified on the application.
- ~~3.113.7~~ All inspection stations must be and remain registered and in good standing with the Secretary of State.
- ~~3.123.8~~ Inspection stations must employ or contract with at least one licensed emissions inspector.
- 3.9 A licensee found to have violated local safety, occupancy, zoning, use, business and sales tax licensing laws, local ordinances, or other regulations may be suspended or revoked.
- 3.10 All RSD sites must be pre-approved by the Division.
- 3.11 Application for RSD site approvals must contain site setup photos with a sketch of all equipment setup locations and dimensions by reference to a permanent benchmark. RSD sites must be set up and operated in a safe and prudent manner.

4.0 INSPECTOR LICENSES

- ~~4.1 Emissions inspector licenses are available in the following categories: inspection-only, fleet, and remote sensing.~~
- ~~4.24.1~~ An emissions inspector who is employed by more than one inspection station must obtain an

inspector license with each employer. An emissions inspector who is employed by one employer with multiple inspection stations is only required to hold one license.

4.34.2 As a condition of licensure, applicants for emissions inspector licenses must comply with all regulations adopted by the AQCC and demonstrate the ability to perform a proper inspection.

4.44.3 Applicants must be employed by an inspection station [or the contractor](#).

4.54.4 Applicants must possess a current letter of qualification from the Division when applying for an emissions inspector license or license renewal.

4.64.5 ~~Fleet or inspection-only facility~~ Inspectors who change employers must have their license transferred by the Department to the new place of employment prior to performing emissions tests.

~~4.7 Inspector qualifications do not transfer between license categories.~~

4.84.6 The Department may require a licensed emissions inspector to demonstrate proficiency in any elements of emissions testing at any time. Failure to demonstrate proficiency is cause for license suspension or revocation.

5.0 INSPECTION STATION OPERATIONS

5.1 No inspection station shall perform an emissions inspection unless it has the facilities and equipment required to safely and correctly perform all elements of an emissions inspection.

5.2 Inspection stations must have all the tools, reference manuals, and diagnostic equipment required by Regulation 11 on the licensed premises and in proper working order when open for business.

5.3 Inspection stations must have at least one licensed emissions inspector on the premises when open for business.

5.4 Inspection stations that serve the public must be open for business during normal business hours and as required by contract.

5.5 Inspection stations must have records available for inspection by Department personnel at all times during normal business hours.

5.6 Inspection stations must be capable of receiving U.S. mail.

5.7 Owners, operators, and employees of enhanced inspection centers and inspection-only facilities must not repair, service, sell parts, or sell or lease motor vehicles and must not refer customers to particular providers of motor vehicle repair services.

5.8 Each inspection station must pay the Department the appropriate fees for all VIRs issued for passing inspections. An inspection station whose license is cancelled, suspended, or revoked remains liable for any fees owed the Department.

5.9 Inspection stations, other than fleet inspection stations, must post licenses in a location visible to the public and subject to approval by the Department.

5.10 Fleet inspection stations may only perform emission inspections on vehicles in their fleet.

5.11 Signs:

5.11.1 All inspection stations must post a sign designating the licensed premises as an official emissions testing location.

- 5.11.2 Enhanced inspection centers and inspection-only facilities must post a sign stating that only inspections are available and no repairs or adjustments can be performed.
- 5.11.3 All inspection stations must post the fee charged for an emissions inspection.
- 5.11.4 All inspection stations that perform VIN inspections must post the VIN inspection fee.
- 5.11.5 All inspection stations must post all signs issued by the Department.
- 5.11.6 All signs must be placed in a conspicuous location on the licensed premises, visible to the public, and are subject to approval by the Department.
- 5.12 All inspections must be performed only at the licensed inspection station location.
- 5.13 A motor vehicle may be rejected by an emissions inspector if the vehicle is unsafe to test or cannot physically be inspected. The inspector must provide to the vehicle owner, in writing, a description of the vehicle to include VIN, make, model, and year; the location of the inspection station; the reason(s) for the rejection; date of the rejection; and the inspector who rejected the vehicle.
- 5.14 Enhanced inspection centers must provide a Department approved brochure and program information pamphlet to each customer upon completion of the inspection when a vehicle fails the inspection.
- 5.15 Inspection stations must possess current Department rules, Regulation 11, and related sections from Colorado Revised Statutes.
- 5.16 Inspection stations must have on the licensed premises an emissions control systems application guide approved by the Department, which contains a quick reference for emissions control systems and their uses on specific make, model, and year vehicles, either in printed or electronic medium.
- 5.17 Inspection stations must have on the premises a current Oxygen Sensor Guide obtained from any Division technical center or purchased from another source.
- 5.18 Inspection stations must secure all controlled documents in lockable storage.
- 5.19 No addition or modification can be made to an analyzer unless pre-approved by the Division or the Department.
- 5.20 No person shall, or attempt to, tamper with or circumvent any system or function of an analyzer.
- 5.21 Inspection station owners and operators must prevent tampering, circumvention, and unauthorized use of analyzers.
- 5.22 Analyzer lockout conditions can only be removed by authorized service personnel or representatives of the Department or Division.
- 5.23 The license of an inspection station that no longer meets licensing requirements may be revoked, suspended, or denied renewal.
- 5.24 RSD Operations:
 - 5.24.1 The Department must be notified in writing, e-mail or other electronic means of all ~~licensed~~ RSD ~~unit testing~~ schedules and locations prior to testing. RSD units must not test at any time or location other than those for which the Department has been notified.
 - 5.24.2 RSD results must be reported to the Department no later than 11:59 p.m. on the last day of the month or as otherwise agreed by the Department and the contractor.

6.0 DISTRIBUTION OF COMPLIANCE DOCUMENTS

- 6.1 Licensees must ensure that all compliance documents issued are complete, accurate, and legible.
- 6.2 Upon completion of an inspection, the VIR must be given to the customer along with all original documents (i.e. registration, failed VIRs, etc.).
- 6.3 Inspectors must explain to the customer the purpose of the VIR, including the results of the inspection.
- 6.4 If a vehicle fails the inspection, the inspector must:
 - 6.4.1 Issue the VIR;
 - 6.4.2 Advise the customer of the failure;
 - 6.4.3 Provide a repair information pamphlet;
 - 6.4.4 Explain that the vehicle is eligible for a free reinspection at any enhanced inspection center if the vehicle is returned within ten calendar days. If the inspection was completed at an inspection-only facility, the vehicle must be returned to the facility where the original inspection was performed for the free reinspection.
- 6.5 If a vehicle inspection cannot be completed, the inspector must:
 - 6.5.1 Issue the VIR;
 - 6.5.2 Explain to the customer that the inspection could not be completed and the reasons therefore;
 - 6.5.3 The fee for an incomplete inspection need not be refunded unless caused by the inspection station or the inspector.
- 6.6 Compliance documents that are damaged during the printing process must be reprinted using the analyzer reprint procedure.

7.0 VERIFICATION OF VEHICLE IDENTIFICATION NUMBER (Form DR 2698)

- 7.1 Licensed emissions inspectors employed by emissions testing inspection stations may perform a VIN inspection for no more than the posted fee.
- 7.2 A [VIN Verification form \(DR 2698\)](#) with any alteration or missing ~~entries~~ entry is invalid.
- 7.3 Vehicles with altered, illegible, multiple or missing vehicle identification numbers (VIN) must be directed to the Colorado State Patrol for verification.
- 7.4 An inspection station under suspension by order of the Department must not perform VIN inspections.

8.0 SECURITY AND RETENTION OF DOCUMENTS

- 8.1 All records related to the emissions program must be maintained by the licensee until retrieved or ordered for destruction by the Department.
- 8.2 All unused controlled documents must be kept in lockable storage and be available only to licensed emissions inspectors or other personnel authorized by the Department.

- 8.3 Missing or stolen documents must be reported to the Department within 24 hours of discovery.
- 8.4 Inspection stations may only issue vehicle inspection report forms obtained from the Department or its authorized agent.
- 8.5 Every damaged vehicle inspection report must be retained until the next audit by the Department.

9.0 USE OF INSPECTOR NUMBER AND SECURITY CODES

- 9.1 Each licensed emissions inspector will be assigned a confidential code to gain access to the analyzer.
- 9.2 Access codes and inspector numbers will be added and deleted by Department or Division personnel.
- 9.3 An access code must be used only by the licensee to whom it was assigned. Sharing of access codes is prohibited and is grounds for sanctions.
- 9.4 An emissions inspector number printed on a VIR is an electronic signature and is deemed certification by the licensee assigned that number that the licensee conducted the emissions test accurately and completely.
- 9.5 Emissions inspectors must report any unauthorized use of an access code to the Department within 24 hours of discovery.
- 9.6 Emissions inspectors are responsible for all VIRs bearing their numbers.
- 9.7 The inspector number must be part of the RSD data record.
- 9.8 Inspectors are responsible for any violation or fraudulent inspection which occurs using his or her inspector number. RSD inspectors are responsible for all data records bearing their numbers.

10.0 AUDITS

- 10.1 The Department monitors the activities of all licensed inspection stations and inspectors through ongoing site inspections, audits, investigations, consumer complaints, data analysis, performance observation, and other quality assurance methods.
- 10.2 The Department may conduct on-site audits at any time during posted business hours.
- 10.3 Inspection records, equipment, and licensed personnel must be available on site to the Department during posted business hours.
- 10.4 A notice of audit determination will be provided to the inspection station upon completion of the audit.
- 10.5 In the event of a lane equipment audit failure, the equipment must be recalibrated and rechecked. If the recalibration does not address the problem, the analyzer will be locked out until repairs are made and the equipment passes an audit.
- 10.6 The Department may conduct an audit of a RSD unit at any time while the unit is set up and operational at an approved site.
 - 10.6.1 The contractor must provide the Department with daily notification of the status and location of each RSD unit.
 - 10.6.2 The Department may require that a daily service log be maintained on each specific unit, and available for inspection by the Department auditors at each approved site.

- 10.6.3 All RSD sites must maintain current ~~permit, licensing, and~~ approval documentation for each operable site, available for inspection at the time and place of the Department roadside audits.
- 10.6.4 The Department may require a current Accepted Test Protocol (ATP) document for any RSD unit that has been out of service for a period over 30 days, or if any period of time is unaccounted for in the service log.
- 10.6.5 A notice of audit determination will be provided upon completion of the audit.
- 10.6.6 In the event of an audit failure or an incomplete audit, the associated inspection data will be identified and suspended from processing until the Division can determine the status of the RSD unit and the data in question.
 - 10.6.6.1A unit that passes the Division's evaluation may be placed back into service and the associated data approved for processing.
 - 10.6.6.2A unit that fails the Division's evaluation will not be placed back into service until repairs are made and approved by the Division. The associated data will be deemed invalid and ineligible for processing.

11.0 VIOLATIONS AND SANCTIONS

- 11.1 The Department may summarily suspend a license pursuant to section 24-4-104(4)(a), C.R.S.
- 11.2 The Department may suspend or revoke a license pursuant to section 24-4-104(3)(a), C.R.S.
- 11.3 The Department may suspend or revoke the license of a licensee convicted as defined in section 42-1-102(19) C.R.S., of a misdemeanor under the Colorado Air Pollution Prevention and Control Act, section 25-7-122.1, C.R.S., convicted under section 42-4-313, C.R.S., or of a licensee that has violated the Motor Vehicle Repair Act, section 42-9-101, et. seq., C.R.S.
- 11.4 The Department may suspend or revoke the license of a licensee who impedes the Department's ability to oversee, audit, or investigate matters under the Emissions Inspection Program, including behavior that is threatening, disruptive, or abusive.
- 11.5 The Department may conduct a monthly performance review with contractors. Any violation discovered may result in sanctions.
- 11.6 A licensee who receives notice pursuant to subsection 11.3 may within 30 days after the date of the notice:
 - 11.6.1 Submit a written response setting forth data, views, and arguments with respect to the facts or conduct; or,
 - 11.6.2 Comply with all lawful requirements or submit a plan acceptable to the Department to bring the licensee into compliance with all lawful requirements.
- 11.7 The Department may institute a proceeding to suspend or revoke a license pursuant to subsection 11.3 if the Department determines that the licensee failed to:
 - 11.7.1 Submit a written response pursuant to subsection 11.6, or that the response does not rebut the evidence of such facts or conduct; or,
 - 11.7.2 Comply with all lawful requirements or the plan submitted by the licensee is not acceptable to the Department.
- 11.8 Such proceeding shall be instituted by filing a Notice to Set and Order to Show Cause with the Hearings Division as set forth in Rule 12.1.

- 11.9 Any Notice from the Department, required pursuant to this rule, will be served personally or mailed via first class mail addressed to the last address furnished to the Department by the licensee.

12.0 ADMINISTRATIVE HEARINGS

- 12.1 Except as otherwise provided in section 42-4-312, C.R.S., all enforcement actions will proceed in accordance with the "State Administrative Procedure Act", article 4 of Title 24, C.R.S.

13.0 EMISSIONS EXTENSIONS (Form DR 2376)

- 13.1 A vehicle owner may apply for an emissions extension when a vehicle registered in Colorado is temporarily out of state at the time the registration renewal is due.
- 13.2 A vehicle owner applying for an emissions extension must provide the following:
- 13.2.1 If the vehicle is in a US city, county, state or Canada where emissions testing is required, proof of a passing emissions test. The extension is valid for the lesser of one emissions inspection cycle or until the vehicle returns to Colorado.
 - 13.2.2 If the vehicle is in a US city, county, state, or Canada where emissions testing is not required, a VIN verification completed by a local law enforcement agency is required. Form DR 2698 is available at Colorado.gov for this purpose, or the local law enforcement agency's VIN verification form is acceptable, provided the information collected is equivalent to that on the DR 2698. The extension is valid for the lesser of one year or until the vehicle returns to Colorado.
 - 13.2.3 If the vehicle is in Mexico, proof of current insurance from Mexico. The extension is valid for the lesser of one year or until the vehicle returns to Colorado.
 - 13.2.4 If the vehicle is in a country other than Canada or Mexico, export papers. The extension is valid for the lesser of one year or until the vehicle returns to Colorado.
- 13.3 Upon return to Colorado, the owner of a vehicle granted an emissions extension must obtain a Certification of Emissions Control on the vehicle within fifteen days.

14.0 SALE OF INOPERABLE VEHICLES (Form DR 2023)

- 14.1 Only vehicles with major structural or catastrophic engine, transmission, or final drive, differential, or transfer case mechanical failures meet the requirements to be sold as inoperable or otherwise cannot be tested.
- 14.2 Vehicles where the primary mechanical failure is a failed emissions test will not be considered inoperable for purposes of sale without a Certification of Emissions Control.
- 14.3 Vehicles where the primary mechanical failure is missing or modified emissions components such as catalytic converters, oxygen sensors, air injection systems, exhaust gas recirculation (EGR) systems, or modified computer programming will not be considered inoperable for purposes of sale without a Certification of Emissions Control.

Notice of Proposed Rulemaking

Tracking number

2017-00045

Department

200 - Department of Revenue

Agency

207 - Division of Gaming - Rules promulgated by Gaming Commission

CCR number

1 CCR 207-1

Rule title

GAMING REGULATIONS

Rulemaking Hearing**Date**

03/16/2017

Time

09:30 AM

Location

17301 W. Colfax Ave., Suite 135, Golden, CO 80401

Subjects and issues involved

Amendments to Rule 8 Rules of Blackjack to promulgate rules for a new game, Match The Dealer Blackjack. Amendments to Rule 10 Rules for Poker to promulgate rules for a new game, 3 Card Draw Poker and to add this game to the list of approved games. Amendments to Rule 21 Rules for Blackjack-Poker Combination Games to promulgate rules for a new game, Buffalo Blackjack Bonus 2.

Statutory authority

Sections 12-47.1-201, C.R.S., 12-47.1-203, C.R.S., 12-47.1-302, C.R.S., 12-47.1-816, C.R.S., and 12-47.1-818, C.R.S.

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BASIS AND PURPOSE FOR RULE 8

The purpose of Rule 8 is to establish playing rules for blackjack and procedures for conducting blackjack games in compliance with section 12-47.1-302 (2). The statutory basis for Rule 8 is found in sections 12-47.1-201, C.R.S., 12-47.1-203, C.R.S., 12-47.1-302, C.R.S., 12-47.1-816, C.R.S., and 12-47.1-818, C.R.S.

RULE 8 RULES OF BLACKJACK

47.1-834.24 THE PLAY - MATCH THE DEALER BLACKJACK.

MATCH THE DEALER BLACKJACK IS A PATENTED BLACKJACK VARIATION GAME, THE RIGHTS TO WHICH ARE OWNED BY MASQUE PUBLISHING OF HIGHLANDS RANCH, COLORADO AND WHICH MAY BE TRANSFERRED OR ASSIGNED. MATCH THE DEALER BLACKJACK MUST BE PLAYED ACCORDING TO THE FOLLOWING RULES:

- (1) MATCH THE DEALER BLACKJACK MAY BE PLAYED ONLY ON TABLES DISPLAYING THE MATCH THE DEALER BLACKJACK LAYOUT. AT THE DISCRETION OF THE LICENSEE, THE GAME SHALL BE PLAYED USING TWO, FOUR, FIVE, SIX OR EIGHT DECKS OF STANDARD 52 PLAYING CARDS.
- (2) AT THE SAME TIME A PLAYER MAKES HIS/HER STANDARD BLACKJACK WAGER, THE PLAYER HAS AN OPPORTUNITY TO MAKE AN ADDITIONAL OPTIONAL WAGER IN AN EVEN DOLLAR AMOUNT, KNOWN AS THE MATCH THE DEALER WAGER. THERE ARE TWO DIFFERENT MATCH THE DEALER WAGERS: MATCH THE DEALER UP CARD WAGER AND MATCH THE DEALER DOWN CARD WAGER. AT THE DISCRETION OF THE RETAIL LICENSEE, ONLY THE MATCH THE DEALER UP CARD WAGER MAY BE OFFERED. IF THE MATCH THE DEALER DOWN CARD WAGER IS OFFERED, THEN BOTH WAGERS MUST BE OFFERED. ON THIS GAME, A PLAYER MUST MAKE BOTH WAGERS WHEN CHOOSING TO MAKE THE ADDITIONAL OPTIONAL WAGERS. ALL BETS WILL BE IN AN AMOUNT BETWEEN THE TABLE MINIMUM AND THE TABLE MAXIMUM, AS POSTED AT THE TABLE, UP TO THE \$100 MAXIMUM WAGER LIMIT DETERMINED BY THE HOUSE AND IN ACCORDANCE WITH APPLICABLE LAW.
 - (A) IF CASINO RULES ALLOW, A PLAYER MAY PLAY MULTIPLE HANDS.
 - (B) A PLAYER PLAYING MULTIPLE HANDS MAY PLACE A MATCH THE DEALER WAGER(S) ON NONE, ONE, OR ALL OF HIS/HER HANDS.
 - (C) PLAYERS MAY ALSO PLACE DEALER TIP WAGERS ON THEIR MATCH THE DEALER WAGER(S) BY PLACING THE DEALER TIP IN FRONT OF THEIR MATCH THE DEALER WAGER(S). IF SUCH TIP WAGERS ARE ACCEPTED, WINNING TIP WAGERS MUST BE PAID AT THE SAME ODDS AS THE PLAYER'S WINNING WAGERS. THE RETAIL LICENSEE MAY REQUIRE TIP WAGERS TO BE IN AN EVEN DOLLAR AMOUNT, AND MAY LIMIT THE MAXIMUM AMOUNT OF SUCH TIP WAGERS.
- (3) THE DEALER THEN FOLLOWS HOUSE PROCEDURES FOR DEALING BLACKJACK.
- (4) ONCE EACH PLAYER HAS RECEIVED TWO CARDS, THE DEALER SETTLES ALL MATCH THE DEALER UP CARD (IF OFFERED) WAGERS ACCORDING TO HOUSE PROCEDURES. IF ONE OR BOTH OF A PLAYER'S ORIGINAL TWO CARDS EXACTLY MATCH THE DEALER'S UP CARD IN RANK, WINNING WAGERS ARE PAID ACCORDING TO THE POSTED PAY TABLE.
- (5) IF THE RETAIL LICENSEE OFFERS THE MATCH THE DEALER DOWN CARD WAGER, THE DEALER WILL SETTLE THIS WAGER AFTER COMPLETING THE DEALER'S HAND AND AS HE/SHE IS SETTling THE PLAYER'S WAGERS ON THE STANDARD GAME. THE DEALER WILL CHECK TO SEE IF EITHER OF THE PLAYER'S ORIGINAL TWO CARDS EXACTLY MATCH THE DEALER'S DOWN CARD IN RANK. WINNING WAGERS ARE PAID ACCORDING TO THE POSTED PAY TABLE.

(A) IF A PLAYER HAS BUSTED HIS/HER HAND, THE DEALER WILL REMOVE ALL THE CARDS THE PLAYER DREW, LEAVING ONLY THE PLAYER'S ORIGINAL TWO CARDS. THE DEALER WILL THEN TUCK THESE TWO CARDS UNDERNEATH THE PLAYER'S MATCH THE DEALER DOWN CARD WAGER AND WILL SETTLE THIS WAGER AS HE/SHE IS RESOLVING ALL PLAYERS' STANDARD BLACKJACK WAGERS.

(i) IF A PLAYER'S FIRST TWO CARDS ARE A PAIR AND THAT PLAYER DECIDES TO SPLIT THEM AND ONE OF THE SUBSEQUENT HANDS RESULTS IN A BUST, THE DEALER WILL REMOVE ALL CARDS BUT THE ONE ORIGINAL CARD. THE DEALER WILL THEN TUCK THIS ONE CARD UNDERNEATH THE PLAYER'S MATCH THE DEALER WAGER.

(B) ALTERNATIVELY AND AT THE DISCRETION OF THE RETAIL LICENSEE, THE DEALER, AFTER EXPOSING HIS/HER DOWN CARD AND BEFORE COMPLETING HIS/HER HAND, CAN SETTLE ALL MATCH THE DEALER DOWN WAGERS.

(6) PAY TABLE:

DECKS	UNSUITED MATCH PAYOUT		SUITED MATCH PAYOUT		UNSUITED/SUITED PAYOUT
	1 CARD MATCH	2 CARD MATCH	1 CARD MATCH	2 CARD MATCH	1 UNSUITED AND 1 SUITED MATCH
2 DECK	4 TO 1	8 TO 1	19 TO 1	N/A	23 TO 1
4 DECK	4 TO 1	8 TO 1	12 TO 1	24 TO 1	16 TO 1
5 DECK	3 TO 1	6 TO 1	15 TO 1	30 TO 1	18 TO 1
6 DECK	4 TO 1	8 TO 1	11 TO 1	22 TO 1	15 TO 1
8 DECK	3 TO 1	6 TO 1	14 TO 1	28 TO 1	17 TO 1

BASIS AND PURPOSE FOR RULE 10

The purpose of Rule 10 is to establish playing rules for authorized types of poker and management procedures for conducting poker games in compliance with section 12-47.1-302 (2), C.R.S. The statutory basis for Rule 10 is found in sections 12-47.1-201, C.R.S., 12-47.1-203, C.R.S., 12-47.1-302, C.R.S., 12-47.1-816, C.R.S., and 12-47.1-818, C.R.S.

RULE 10 RULES FOR POKER

47.1-1003 Types of poker authorized.

(53) 2 Card Poker; and

(54) Flushes Gone Wild; AND

(55) 3 CARD DRAW POKER.

47.1-1017.61 THE PLAY – 3 CARD DRAW POKER.

3 CARD DRAW POKER IS A POKER VARIATION GAME, THE RIGHTS TO WHICH ARE OWNED BY SCORE GAMING, LLC, OF HENDERSON, NEVADA AND WHICH MAY BE TRANSFERRED OR ASSIGNED. 3 CARD DRAW POKER SHALL BE DEALT AND PLAYED FOLLOWING THE STANDARD RULES OF POKER EXCEPT AS DESCRIBED BELOW:

- (1) 3 CARD DRAW POKER MAY ONLY BE PLAYED ON TABLES UTILIZING A 3 CARD DRAW POKER STYLE TABLE LAYOUT. A SINGLE DECK OF FIFTY-TWO (52) CARDS WILL BE USED WHEREBY BOTH JOKERS WILL BE REMOVED AND NOT USED IN THE PLAY OF 3 CARD DRAW POKER. THE DEALER WILL SHUFFLE THE DECK BEFORE EACH ROUND OF PLAY, EITHER BY HAND OR BY AUTOMATIC SHUFFLER. AFTER ALL CARDS ARE SHUFFLED, THE GAME IS THEN DEALT BY HAND OR AUTOMATED SHUFFLER.
 - (2) 3 CARD DRAW POKER INCLUDES A MANDATORY ANTE WAGER, AN OPTIONAL FIRST 3 BONUS WAGER THAT IS PLACED AT THE SAME TIME AS THE ANTE WAGER, AND AN OPTIONAL IN TO WIN/DRAW WAGER WHICH IS PLACED AFTER THE PLAYER INSPECTS HIS/HER INITIAL HAND. EACH WAGER IS PLACED ON THE RESPECTIVE SPOT CLEARLY LABELED ON THE 3 CARD DRAW POKER LAYOUT AS: ANTE, FIRST 3 BONUS, IN TO WIN/DRAW. ALL BETS WILL BE IN AN AMOUNT BETWEEN THE TABLE MINIMUM AND THE TABLE MAXIMUM, AS POSTED AT THE TABLE, UP TO THE \$100 MAXIMUM WAGER LIMIT DETERMINED BY THE HOUSE AND IN ACCORDANCE WITH APPLICABLE LAW.
 - (3) TO RECEIVE CARDS, A PLAYER MUST MAKE AT LEAST AN ANTE WAGER. ONCE ALL WAGERS ARE PLACED, BEGINNING WITH THE PLAYER ON THE DEALER'S IMMEDIATE LEFT AND MOVING CLOCKWISE AROUND THE TABLE, EACH PLAYER RECEIVES 3 CARDS FACE-DOWN WHILE THE DEALER RECEIVES 4 CARDS FACE-DOWN. ALTERNATIVELY, PER HOUSE RULES, THE DEALER MAY DEAL ONE CARD AT A TIME (ALL FACE DOWN), STARTING WITH THE PLAYER ON THE DEALER'S IMMEDIATE LEFT AND MOVING CLOCKWISE AROUND THE TABLE UNTIL ALL PLAYERS HAVE RECEIVED A CARD. THE DEALER WILL THEN DEAL ONE CARD TO HIM/HERSELF. THE DEALER WILL REPEAT THIS PROCEDURE UNTIL ALL PLAYERS HAVE THREE CARDS, AND THE DEALER HAS THREE CARDS. THE DEALER WILL THEN DEAL THE FINAL FOURTH CARD TO HIM/HERSELF.
- NOTE:** IF USING A SHUFFLE MACHINE, ALL PLAYERS AND THE DEALER WILL RECEIVE 3 CARDS AND THE DEALER WILL DEAL THE TOP CARD FROM THE STUB (LEFTOVER CARDS NOT DEALT FROM THE MACHINE) TO HIM/HERSELF TO GIVE THE DEALER A TOTAL OF 4 CARDS. THE DEALER WILL KEEP THE STUB IN HIS/HER HAND TO DELIVER ANY FURTHER CARDS PER THE RULES BELOW.
- (4) AN INCORRECT NUMBER OF CARDS DEALT TO ANY PLAYER CONSTITUTES A DEAD HAND FOR THAT PLAYER ONLY AND THE PLAYER RETAINS ANY BETS PLACED. AN INCORRECT NUMBER OF CARDS DEALT TO THE DEALER CONSTITUTES A MISDEAL FOR THE HAND, AND ALL PLAYERS RETAIN ANY BETS PLACED. IF A PLAYER'S CARD FALLS FROM THE TABLE, THAT PLAYER'S HAND IS DEAD AND ANY BETS PLACED ARE VOID.
 - (5) PLAYERS MAY NOT SHARE THE COMPOSITION OF THEIR CARDS WITH OTHER PLAYERS. IN THE EVENT A PLAYER HAS SHARED THE COMPOSITION OF HIS/HER HAND WITH ANOTHER PLAYER(S), THE HOUSE IN ITS DISCRETION MAY VOID THAT PLAYER(S) WAGER(S) FOR ANY PLAYER(S) WHO HAS SHARED THE COMPOSITION OF ANOTHER PLAYER'S HAND.
 - (6) AT THE DISCRETION OF THE LICENSEE, A PLAYER MAY PLAY A MAXIMUM OF TWO (2) HANDS WITH EACH INDIVIDUAL HAND DEFINED AS ONE SET OF THREE (3) CARDS AND THE OPTION TO DRAW ONE MORE CARD PER THE RULES DESCRIBED BELOW.

SHOULD THE PLAYER ELECT TO PLAY TWO HANDS, THE PLAYER MUST BET AN EQUAL AMOUNT ON THE ANTE WAGER ON EACH HAND.

ADDITIONALLY, THE PLAYER MUST COMPLETE THE PLAY OF THE FIRST HAND DEFINED AS THE HAND CLOSEST TO THE DEALER'S LEFT, BEFORE INSPECTING THE CARDS IN THE PLAYER'S SECOND HAND.

SHOULD THE PLAYER INSPECT THE CARDS IN HIS/HER SECOND HAND BEFORE COMPLETING THE PLAY OF HIS/HER FIRST HAND, THE HOUSE IN ITS DISCRETION MAY VOID THAT PLAYER'S WAGER(S) ON ANY AND ALL HANDS.

(7) ONCE ALL HANDS HAVE BEEN DEALT, THE PLAYER WILL NOW HAVE ONE OF 3 OPTIONS TO PLAY HIS/HER HAND:

(A) FOLD AND AUTOMATICALLY LOSE HIS/HER ANTE WAGER AS PER THE FOLLOWING:

IF THE PLAYER HAS NOT PLACED THE OPTIONAL FIRST 3 BONUS WAGER, THE PLAYER WILL SURRENDER HIS/HER CARDS, PLACING THEM FACE DOWN ON THE TABLE. THE DEALER WILL COLLECT THE PLAYER'S ANTE WAGER AND CARDS, PLACING THEM IN THE DISCARD RACK.

IF THE PLAYER HAS PLACED THE OPTIONAL FIRST 3 BONUS WAGER, THE PLAYER WILL SURRENDER HIS/HER CARDS PLACING THEM FACE DOWN ON THE TABLE. THE DEALER WILL COLLECT THE PLAYER'S ANTE WAGER AND PLACE THE PLAYER'S CARDS UNDER THE FIRST 3 BONUS WAGER AND THEN RESOLVE THE FIRST 3 BONUS WAGER PER PARAGRAPH 13 BELOW.

OR:

(B) PLAY THEIR ORIGINAL 3 CARDS AGAINST THE DEALER BY MAKING AN IN To Win/Draw WAGER AT AN AMOUNT EQUAL TO HIS/HER ANTE WAGER ON THE DESIGNATED SPOT ON THE LAYOUT LABELED "IN To Win/Draw". THE PLAYER WILL PLACE HIS/HER ORIGINAL 3 CARDS FACE DOWN ON THE TABLE, TUCKING THEM UNDERNEATH THE IN To Win Draw/WAGER WAGERING SPOT;

OR:

(C) DRAW A CARD BY MAKING A DRAW WAGER, AT AN AMOUNT EQUAL TO HIS/HER ANTE WAGER ON THE DESIGNATED SPOT ON THE LAYOUT LABELED "IN To Win/Draw". THE PLAYER WILL TUCK THE 2 CARDS HE/SHE WOULD LIKE TO KEEP FACE DOWN UNDERNEATH THE IN To Win/Draw WAGER. THE PLAYER WILL DISCARD THE UNDESIRE CARD PLACING IT FACE DOWN. THE DEALER WILL COLLECT THE DISCARD AND PLACE IT IN THE DISCARD RACK AS WELL AS DELIVER THE NEXT CARD FROM THE TOP OF THE DECK FACE DOWN TO THE PLAYER, TUCKING THE CARD UNDER THE PLAYER'S FIRST 3 BONUS WAGER IF PLACED, OTHERWISE UNDER THE ANTE WAGER. THE PLAYER WILL NOT BE ABLE TO INSPECT THE NEW CARD. THIS PROCEDURE IS NECESSARY FOR THE DEALER TO RESOLVE THE FIRST 3 BONUS WAGER, AND WILL ALWAYS BE FOLLOWED WHETHER OR NOT THE PLAYER PLACED THE FIRST 3 BONUS WAGER.

(8) ONCE ALL PLAYERS HAVE ACTED ON THEIR HANDS, THE DEALER WILL REVEAL HIS/HER 4 CARDS AND MAKE THE BEST POSSIBLE 3 CARD POKER HAND PER STANDARD 3 CARD POKER RANKINGS REPRESENTED FROM LOWEST TO HIGHEST AS: HIGH CARD, PAIR, FLUSH, STRAIGHT, THREE OF A KIND, STRAIGHT FLUSH, MINI-ROYAL DEFINED AS A SUITED Q, K, A.

(9) THE DEALER WILL IDENTIFY THE BEST 3 CARD HAND BY KEEPING THESE 3 CARDS VERTICAL/UP AND DOWN, AND TURN THE FOURTH UNUSED CARD HORIZONTAL/SIDEWAYS.

(10) THE DEALER'S HAND ALWAYS QUALIFIES, I.E. THE DEALER WILL ALWAYS PLAY HIS/HER HAND REGARDLESS OF THE COMPOSITION.

(11) THE DEALER WILL THEN COMPARE HIS/HER HAND TO THE PLAYER'S HAND AND RESOLVE THE PLAYER'S WAGERS PER STANDARD 3 CARD POKER RANKINGS. ALL WAGERS WILL BE RESOLVED BEGINNING WITH THE PLAYER ON THE DEALER'S IMMEDIATE RIGHT AND THEN WILL PROCEED COUNTERCLOCKWISE, ADDRESSING EACH PLAYER IN TURN UNTIL ALL WAGERS ARE RESOLVED PER THE FOLLOWING:

(A) THE PLAYER WILL WIN HIS/HER ANTE WAGER AND IN To Win/Draw WAGER IF HIS/HER HAND BEATS THE DEALER'S HAND AND BE PAID AT A RATIO OF 1:1 ON BOTH WAGERS.

(b) THE PLAYER WILL LOSE HIS/HER ANTE WAGER AND IN To Win/Draw WAGER IF THE DEALER'S HAND BEATS HIS/HER HAND.

(c) THE PLAYER WILL PUSH HIS/HER ANTE WAGER AND IN To Win/Draw WAGER IF THE DEALER'S HAND TIES HIS/HER HAND.

(12) IRRESPECTIVE OF WHETHER THE PLAYER WINS, LOSES, OR TIES THE DEALER'S HAND, HE/SHE WILL BE PAID AN IN To Win/Draw BONUS ACCORDING TO THE FOLLOWING TABLE:

IN To Win/Draw Bonus	
STRAIGHT	1 TO 1
TRIPS/THREE OF A KIND	5 TO 1
STRAIGHT FLUSH	10 TO 1
MINI ROYAL	20 TO 1

(13) AT THE SAME TIME, THE DEALER WILL RESOLVE THE OPTIONAL FIRST 3 BONUS WAGER ACCORDING TO ONE OF THE FOLLOWING PAY TABLES LISTED BELOW. THE FIRST 3 BONUS WAGER WILL ONLY PAY ON THE PLAYER'S FIRST 3 CARDS, THEREFORE:

(a) IF THE PLAYER HAS MADE AN IN To Win/Draw WAGER, HE/SHE WILL HAVE RETAINED THE ORIGINAL FIRST 3 CARDS AND THE DEALER WILL INSPECT THESE CARDS TO DETERMINE IF THEY HAVE WON THE FIRST 3 BONUS WAGER.

(b) IF THE PLAYER MADE A Draw WAGER THE DEALER WILL INSPECT THE REMAINING 2 CARDS FROM THE ORIGINAL 3 CARD HAND. THE ONLY POSSIBLE HAND THE PLAYER COULD HAVE THAT WOULD QUALIFY TO WIN THE FIRST 3 BONUS WAGER IS A PAIR, WHICH WILL PAY 1:1. OTHERWISE THE PLAYER WILL LOSE THE FIRST 3 BONUS WAGER.

(c) FOR EXAMPLE, IF THE PLAYER PLACED THE FIRST 3 BONUS WAGER AND HAD AN ORIGINAL 3 CARD HAND COMPOSED OF A:

(i) 6, 7, AND 10 AND THE PLAYER CHOSE TO DRAW REMOVING ONE CARD; THE PLAYER COULD NOT HAVE A PAIR AND WOULD LOSE THE FIRST 3 BONUS WAGER.

(ii) 10, 10, 8 AND THE PLAYER ELECTED TO DRAW REMOVING THE 8, AND PLACED THE PAIR OF 10'S UNDER HIS/HER IN To Win/Draw WAGER, THE PLAYER WOULD HAVE A PAIR FROM THE FIRST 3 CARDS AND WOULD BE PAID 1:1 FOR THE PAIR.

(14) AFTER ALL WAGERS ARE RESOLVED, THE DEALER WILL COLLECT ALL CARDS AND A NEW ROUND MAY BEGIN.

HOUSE RULES/TIPS:

(1) AT THE DISCRETION OF THE RETAIL LICENSEE, PLAYERS WHO HAVE PLACED WAGERS ON THE ANTE WAGER ALONE OR THE ANTE WAGER AND THE FIRST 3 BONUS WAGER SPOTS, MAY BE PERMITTED TO PLACE TIP BETS FOR THE DEALER ON THE ANTE WAGER SPOT IF THEY ONLY PLACED THE ANTE WAGER, AND THE ANTE WAGER AND/OR THE FIRST 3 BONUS WAGER IF THE PLAYER PLACED BOTH WAGERS.

IF THE PLAYER PLACED A TIP ON THE ANTE WAGER AND DECIDES TO MAKE AN IN To Win/Draw WAGER DURING THE COURSE OF REGULAR PLAY OF HIS/HER HAND, THE PLAYER MAY ALSO PLACE A TIP WAGER FOR

THE DEALER ON THE IN TO WIN/DRAW WAGER THAT IS OF EQUAL VALUE TO THE TIP WAGER PLACED ON THE ANTE WAGER.

FOR EXAMPLE: IF A PLAYER PLACED AN ANTE WAGER AND ALSO PLACED A TIP FOR THE DEALER OF \$1 ON THE ANTE WAGER, AND THE PLAYER CHOSE TO MAKE AN IN TO WIN/DRAW WAGER, AND WANTED TO ALSO PLACE A TIP ON THE IN TO WIN/DRAW WAGER FOR THE DEALER, THE TIP AMOUNT WILL EQUAL \$1.

PLAYERS MAY NOT MAKE TIP WAGERS ON THE IN TO WIN/DRAW WAGERS IF THEY DID NOT MAKE A TIP WAGER ON THE ANTE WAGER.

- (2) IF SUCH TIP WAGERS ARE ACCEPTED, WINNING WAGERS MUST BE PAID AT THE SAME ODDS AS THE PLAYER'S WINNING WAGERS. THE RETAIL LICENSEE MAY REQUIRE TIP WAGERS TO BE IN AN EVEN DOLLAR AMOUNT, AND MAY LIMIT THE MAXIMUM AMOUNT OF SUCH TIP WAGERS.

PAY SCHEDULES: FIRST 3 BONUS WAGER

HAND	PAY SCHEDULE 1	PAY SCHEDULE 2	PAY SCHEDULE 3
PAIR	1:1	1:1	1:1
FLUSH	3:1	3:1	3:1
STRAIGHT	6:1	6:1	7:1
THREE OF A KIND/TRIPS	30:1	30:1	30:1
STRAIGHT FLUSH	50:1	60:1	40:1
MINI ROYAL	200:1	100:1	150:1

BASIS AND PURPOSE FOR RULE 21

The purpose of Rule 21 is to establish playing rules for authorized types of games which combine the play of blackjack with the play of poker, and management procedures for conducting blackjack-poker combination games in compliance with section 12-47.1-302 (2). The statutory basis for Rule 21 is found in sections 12-47.1-201, C.R.S., 12-47.1-302, C.R.S., 12-47.1-816, C.R.S., and 12-47.1-818, C.R.S.

Amended 8/14/16

RULE 21 RULES FOR BLACKJACK-POKER COMBINATION GAMES

47.1-2113 THE PLAY - BUFFALO BLACKJACK BONUS 2.

BUFFALO BLACKJACK BONUS 2 IS A TRADEMARKED BLACKJACK AND POKER VARIATION GAME, THE RIGHTS TO WHICH ARE OWNED BY GALAXY GAMING, INC., OF LAS VEGAS, NEVADA AND WHICH MAY BE TRANSFERRED OR ASSIGNED. BUFFALO BLACKJACK BONUS 2 SHALL BE DEALT AND PLAYED FOLLOWING THE STANDARD RULES OF BLACKJACK, EXCEPT AS FOLLOWS:

- (1) BUFFALO BLACKJACK BONUS 2 MAY BE PLAYED ONLY ON TABLES UTILIZING A BUFFALO STYLE TABLE LAYOUT. THE GAME SHALL BE PLAYED USING SIX STANDARD 52 CARD DECKS AND IS DEALT FROM A DEALING SHOE.
- (2) AT THE SAME TIME A PLAYER MAKES HIS/HER STANDARD BLACKJACK WAGER, THE PLAYER HAS AN OPPORTUNITY TO MAKE AN ADDITIONAL, OPTIONAL 21+3 WAGER, IN AN EVEN DOLLAR AMOUNT. THE MINIMUM AND MAXIMUM AMOUNTS OF 21+3 WAGER PERMITTED SHALL BE POSTED ON TABLE SIGNAGE AND CANNOT BE MORE THAN THE ORIGINAL BLACKJACK WAGER.
- (3) AT THE DISCRETION OF THE RETAIL LICENSEE, PLAYERS WHO HAVE PLACED 21+3 WAGERS AND HAVE ALREADY PLACED A DEALER TOKE ON THE BLACKJACK WAGER, MAY BE PERMITTED TO PLACE TIP BETS FOR THE DEALER ON THAT 21+3 BET. IF SUCH TIP WAGERS ARE ACCEPTED, WINNING 21+3 WAGERS MUST BE PAID AT THE SAME ODDS AS THE PLAYER'S WINNING WAGERS. THE RETAIL LICENSEE MAY REQUIRE TIP WAGERS TO BE IN AN EVEN DOLLAR AMOUNT, AND MAY LIMIT THE MAXIMUM AMOUNT OF SUCH TIP WAGERS.
- (4) ONCE THE DEALER HAS DEALT TWO CARDS TO EACH PLAYER AND TWO CARDS TO THEMSELVES (1 UP, 1 DOWN), THE DEALER MUST DETERMINE IF ANY PLAYERS WHO HAVE MADE THE 21+3 WAGER HAVE ACHIEVED A WINNING 21+3 HAND. THE 21+3 WAGER IS BASED ON A 3 CARD HAND USING THE DEALER'S ONE (1) UP CARD AND THE PLAYER'S TWO (2) INITIAL CARDS TO FORM A 3 CARD POKER HAND. A PLAYER WILL ONLY BE AWARDED FOR ONE WINNING EVENT, ALTHOUGH HIS/HER 3 CARD HAND MAY CONTAIN MORE THAN ONE WINNING EVENT (FOR EXAMPLE: A SUITED THREE OF A KIND).

WINNING HAND RANKINGS

STRAIGHT FLUSH: THREE CARDS IN SEQUENCE AND THE SAME SUIT

THREE OF A KIND : THREE CARDS OF THE SAME RANK

STRAIGHT: THREE CARDS IN SEQUENCE (ACE CAN BE USED TO ACHIEVE AN ACE, 2, 3 STRAIGHT OR ACE, KING, QUEEN STRAIGHT)

FLUSH: THREE CARDS OF THE SAME SUIT

- (5) BEGINNING FROM THE DEALER'S RIGHT TO LEFT, IN COUNTERCLOCKWISE ROTATION, THE DEALER TAKES ALL LOSING 21+3 WAGERS AND PAYS ALL WINNING 21+3 WAGERS. ALL WINNING HANDS ARE PAID ACCORDING TO THE APPROVED POSTED PAY TABLE. ALL PAYOUTS AND ORIGINAL 21+3 WAGERS SHOULD BE REMOVED FROM THE BETTING AREA ONCE THE PLAYER(S) HAVE BEEN PAID.
 - (A) IN THE EVENT THE DEALER'S UP CARD IS AN ACE, THE DEALER WILL RECONCILE ALL 21+3 WAGERS PRIOR TO ASKING FOR INSURANCE OR CHECKING HIS/HER HAND FOR A BLACKJACK.
- (6) AFTER ALL 21+3 WAGERS HAVE BEEN RECONCILED, REGULAR BLACKJACK DEALING PROCEDURES RESUME.
- (7) ONCE ALL PLAYERS HAVE ACTED ON THEIR HANDS, BUT PRIOR TO THE DEALER ACTING ON HIS/HER HAND, PLAYERS HAVE THE OPTION OF PLACING A SECOND ADDITIONAL OPTIONAL WAGER, OTHERWISE KNOWN AS "BUST BONUS." THIS WAGER MUST BE MADE IN AN EVEN DOLLAR AMOUNT AND MAY BE MADE ONLY BY PLAYERS WHO STILL HAVE AN ACTIVE HAND (I.E. THE PLAYER DID NOT BUST HIS/HER HAND). THE MINIMUM AND MAXIMUM AMOUNTS OF THE OPTIONAL BUST BONUS WAGERS PERMITTED SHALL BE POSTED ON THE TABLE SIGNAGE.

- (8) THE DEALER THEN ACTS ON HIS/HER HAND AS DESCRIBED IN THE STANDARD BLACKJACK RULES.
- (9) AS WAGERS ON THE STANDARD GAME OF BLACKJACK ARE SETTLED, THE DEALER SHALL ALSO SETTLE THE BUST BONUS WAGERS ACCORDING TO THE PAY TABLES, SELECTED AT THE DISCRETION OF THE RETAIL LICENSEE. THE PAY TABLE IN USE SHALL APPEAR ON THE TABLE LAYOUT OR ON SIGNAGE AT THE TABLE.
- (10) DEALER TIP WAGERS MAY BE MADE ON BOTH THE 21+3 AND BUST BONUS WAGER, AS WELL AS THE BLACKJACK PRIMARY WAGER.

21+3 PAYTABLE:

OUTCOME	PAY TABLE A	PAY TABLE B
STRAIGHT FLUSH	9 TO 1	30 TO 1
THREE OF A KIND	9 TO 1	20 TO 1
STRAIGHT	9 TO 1	10 TO 1
FLUSH	9 TO 1	5 TO 1

BUST BONUS PAYTABLE:

UP CARD	BUST, OFF SUIT	BUST, SUITED
ACE	3	50
2	1	25
3	1	15
4	1	10
5	1	5
6	1	3
7	2	15
8	2	10
9	2	20
10	2	20
888*	25	75
*SPECIAL BONUS PAID TO PLAYER WHEN THE DEALER BUSTS WITH THREE CARDS VALUED AT 8 EACH.		

Notice of Proposed Rulemaking

Tracking number

2017-00039

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-4

Rule title

DETERMINATION OF INDIGENCY AND ESTABLISHING POLICY ON SCHOOL FEES

Rulemaking Hearing**Date**

03/08/2017

Time

01:00 PM

Location

Colorado Department of Education, State Board Room 101

Subjects and issues involved

Section 24-4-103.3, C.R.S. requires each state agency to review each of its rules for effectiveness and efficiency. The result of this review is a recommendation to repeal, amend, or leave the rule as is. Based on CDE's Administrative Rule Review, it is recommended that the State Board repeal 1 CCR 301-4 as the rules are no longer necessary.

Statutory authority

Section 24-4-103.3, C.R.S.

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DEPARTMENT OF EDUCATION

Colorado State Board of Education

DETERMINATION OF INDIGENCY AND ESTABLISHING POLICY ON SCHOOL FEES

1 CCR 301-4

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

2202-R-301.0 Definition

301.01 ~~INDIGENT~~—"Indigent" for purposes of 22-32-109(u) and 22-32-107 is defined as any child who is eligible for a free or reduced price lunch under the National Income Poverty Guidelines.

2202-R-302.0 Notices of Fees

302.01 ~~FEE SCHEDULE~~—In every district in which fees are charged under the authority of C.R.S. 1973, 22-32-117, each child or his parent shall be provided with a written schedule listing the items covered by the fee and the portion of the fee assigned to that cost.

302.02 ~~FEE POLICY~~—Each fee schedule shall contain a statement of the definition of indigent and the national Income Poverty Guidelines, together with any additional local district policy providing waiver of fees for students unable to pay for voluntary programs.

302.03 ~~ELIGIBILITY PROCEDURE~~—The fee schedule shall state the procedure whereby indigent students or students otherwise qualified for waiver of fees may apply for such waiver.

302.04 ~~BOARD PROCEDURE~~—The procedure established by the local board for application for waiver of fees shall insure that pupils qualifying for waiver may receive it without unnecessary embarrassment or public exposure of their need.

2202-R-303.0 Abolishing of Fees

303.01 ~~Each school district shall submit an annual report to the State Board of Education indicating to what degree the local board has adopted the recommendations of the State Board of Education, as contained in the Guidelines for School Fees, along with any plan adopted for phasing out fees.~~

Editor's Notes

History

Notice of Proposed Rulemaking

Tracking number

2017-00040

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-30

Rule title

RULES FOR THE ADMINISTRATION OF THE SECOND CHANCE PILOT PROGRAM

Rulemaking Hearing**Date**

03/08/2017

Time

01:30 PM

Location

Colorado Department of Education, State Board Room 101

Subjects and issues involved

Section 24-4-103.3, C.R.S. requires each state agency to review each of its rules for effectiveness and efficiency. The result of this review is a recommendation to repeal, amend, or leave the rule as is. Based on CDE's Administrative Rule Review, it is recommended that the State Board repeal 1 CCR 301-30 as the rules are no longer necessary.

Statutory authority

Section 24-4-103.3, C.R.S.

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DEPARTMENT OF EDUCATION

Colorado State Board of Education

(RULES FOR THE) ADMINISTRATION OF THE SECOND CHANCE PILOT PROGRAM

1 CCR 301-30

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

2252-R-1.00 Basis and Purpose.

adopted, except for Section 3.03, on January 9, 1986.

The Colorado Department of Education is directed to promulgate Rules and Regulations for the implementation of Second Chance Pilot Programs for children who do not succeed in their resident school system pursuant to 22-52-106 CRS. These rules will become effective July 1, 1986. The legislative intent is to provide a variety of educational opportunities for children who do not succeed; provide for increased parental involvement in the educational process; and provide opportunities for educators to use their skills, talents, and creativity in developing Second Chance Pilot Programs. The intent of the Rules and Regulations is to set forth eligibility criteria for students and schools; procedures to be followed by participating schools and the Department of Education; and to define the process in which disputes which may arise will be resolved.

~~1.00 (1) **Basis and Purpose for Amendment:** The statutory authority for the amendment to 2252-R-5.01 (4) of these Rules, adopted by the State Board of Education on October 9, 1986, is found in 22-2-107 (1)(c), 22-52-106, and 22-52-104 (2), C.R.S.~~

~~The purpose of this amendment is to clarify the requirements for distribution of moneys between school districts or eligible schools under the Second Chance Program as prescribed in 2252-R-5.01 (1). The change is needed to comply with the intent of 22-52-104 (2), C.R.S., which sets forth the requirements for the transfer of eighty-five percent of the districts of residence's authorized revenue base per pupil of attendance entitlement to the school district or eligible school enrolling the student, or the actual educational cost of the program provided, whichever is less. The statute requires that of the portion of the moneys remaining to the school district of residence, the school district shall transmit two-thirds to the Department of Education and retain the remaining one-third for implementation of its requirements under the Second Chance Program. This refers only to those students coming from outside of the Second Chance Centers' attendance areas.~~

1.01 Definitions.

~~1.01 (1) **Second Chance**—An educational program for students, between the ages of sixteen and twenty-one, who have dropped out of school before graduating from high school and who have not received either a high school diploma or a General Educational Development (GED) certificate.~~

~~1.01 (2) **Dropout**—For purposes of these rules a dropout is defined as an individual between the ages of 16 and 21, who meets either of the following criteria: (a) has been out of school a minimum of four calendar months prior to applying to participate in Second Chance programs and who is not currently enrolled in a public or private school; or (b) any period less than four calendar months based on certification of the resident district with the concurrence of the receiving school, parents, guardian(s), or other responsible adult when applicable.~~

~~1.01 (3) Eligible Schools—Public schools that: (a) are located in school districts that have a dropout rate above the statewide average; or (b) are located in school districts contiguous to districts in (a) above; or (c) offer vocational, technical, or adult educational programs; or, (d) are operated by boards of cooperative educational services and which meet the requirements of the Rules and Regulations.~~

~~1.01 (4) Resident School District—As determined pursuant to law.~~

~~1.01 (5) Receiving Schools and School Districts (Second Chance Centers)—Any eligible school, as defined above, or district with such schools, that has been approved for a Second Chance Program by the Colorado Department of Education and which is willing to accept enrollees from within its own district as well as from other districts, subject to limitations set forth.~~

~~2252-R-2.00 Eligibility.~~

~~2.01 Students—In order to be eligible to participate in Second Chance a student shall:~~

~~2.01 (1) Be between the ages of 16 and 21.~~

~~2.01 (2) Be a school dropout as defined in 1.01 (2) above.~~

~~2.01 (3) Be recommended or certified by the resident district through a process in which attention is given to:~~

- ~~● Special needs of the student;~~
- ~~● Educational record of the student; and~~
- ~~● Educational opportunities available in resident district.~~

~~2.01 (4) Have concurrence of parent(s), guardian(s), or other responsible adult(s) when applicable.~~

~~2.01 (5) Have continued eligibility which will be contingent on satisfactory progress as determined by the Second Chance Center in which student is enrolled. Such eligibility shall continue until a diploma or GED certificate is attained, or until the end of the school year in which the 21st birthday occurs.~~

~~2.01 (6) Be eligible to reapply for enrollment in a Second Chance Center in subsequent years following dismissal from such a program until the 20th birthday is reached.~~

~~2.02 Schools—Public schools or public school districts in Colorado which meet the criteria as provided in 1.01 (3) above are eligible to apply to operate a Second Chance Program.~~

~~2.03 Eligible schools and districts may apply to the Colorado Department of Education for participation in the Second Chance Program. The application shall contain the following:~~

~~2.03 (1) A request for a designation as a Second Chance Program.~~

~~2.03 (2) A description, together with title, of the Second Chance Program to be provided, including outreach activities, intake or enrollment process, diagnosis procedures, plans for educational program agreements, implementation procedures, and follow-up activities.~~

~~2.03 (3) A description of experimental approaches and alternative programs to be utilized.~~

~~2.03 (4) A description of how educational staff have been provided with opportunities to develop creative programs.~~

~~2.03 (5) A description of how parental involvement is attained.~~

~~2.03 (6) A description of available resources.~~

~~2.03 (7) A brief description of the data and reports to be transmitted, monthly, among participating schools, districts, and the Department of Education on students' attendance and performance.~~

~~2.03 (8) An official signature on behalf of the eligible applicant and identification of a designated contact person.~~

2252-R-3.00 Application Procedures.

~~3.01 Applications from students to participate in a Second Chance Program shall be made to the resident school and shall contain the following minimum information which will be reported to the Department of Education:~~

~~3.01 (1) Student's correct name, age, address.~~

~~3.01 (2) Name and address of last school attended and last grade level in which enrolled.~~

~~3.01 (3) Typed or printed name of applicant and parent(s) if applicable.~~

~~3.01 (4) A request for approval for release of information to the Colorado Department of Education. Failure to provide such a release will not be cause for non-enrollment.~~

~~3.02 Resident School Districts shall process student applications as provided in 3.01 above, approve or reject the applications, and notify applicants of actions taken within one calendar month following receipt of application, and inform rejected applicants of the process to be followed if the decision is appealed and inform rejected applicants in writing of the process to be followed if they wish to appeal the decision.~~

~~3.02 (1) The Resident School District shall counsel students and parents concerning the availability of services the student and family may need.~~

~~3.02 (2) Assist the student in enrolling in an approved Second Chance Program.~~

~~3.02 (3) A student's application for participation in a Second Chance Program cannot be unreasonably denied.~~

~~3.03 The Resident School District shall count the student enrolled in a Second Chance Program in a manner consistent with the Public School Finance Act.~~

~~3.03 (1) The Resident District shall transmit monthly cost to the Second Chance Program where the student is enrolled as prescribed in 2252-R-5.00.~~

~~3.03 (2) Residence as described in this section shall be the official residence of the student at the time application for enrollment in a Second Chance Program is made.~~

~~3.04 The receiving school, district, or board of cooperative services shall provide assistance to resident districts, students, and parents with regard to:~~

~~3.04 (1) Enrollment procedures~~

~~3.04 (2) Available educational opportunities, including programs, training, and work experience options.~~

~~3.04 (3) Limitations on enrollments.~~

~~3.04 (4) Established criteria relating to standards of conduct, achievement, attendance, and other pertinent local policies.~~

~~3.04 (5) Any student who is denied enrollment in a Second Chance Program shall be provided with a copy of the appeals process.~~

~~3.05 The receiving school shall develop, in cooperation with the student, an educational program agreement to be signed by both parties. The agreement shall contain the following minimum information:~~

~~3.05 (1) The goal(s) to be attained by the student.~~

~~3.05 (2) A brief description of the program, coursework, vocational programs leading to a high school diploma or a GED certificate.~~

~~3.05 (3) An estimate of time required in order to attain the specified goal(s).~~

~~3.05 (4) When applicable, an estimate of costs and/or fees accruing to the student.~~

~~3.06 The receiving school shall monitor and report the student's performance and progress, at least monthly, to the resident district.~~

~~3.07 The receiving school shall determine the number of students that can be accommodated in a given program, and, when the number of Second Chance applicants exceeds the number that can be accommodated, establish a lottery system to insure equitable placement of Second Chance students.~~

2252-R-4.00 Colorado Department of Education.

~~The Colorado Department of Education, given the overall responsibility for state level administration of the Second Chance Program, shall have the following specific duties:~~

~~4.01 Gather information on participating schools in order to advertise the Second Chance Program to potentially eligible students.~~

~~4.02 Collect status and performance data from Second Chance Centers on forms prepared by the Department.~~

~~4.03 Provide technical assistance as requested to participating school districts, students, and parents.~~

~~4.04 Report to the General Assembly by January 31, 1987, and annually thereafter.~~

2252-R-5.00 Financial Transactions.

~~5.01 Financial transactions between resident and receiving school(s) (districts) shall be based on the number of students participating in the program with a signed educational program agreement and the authorized revenue base (ARB) per pupil of attendance entitlement in the resident school district. The local revenue base (LRB) shall not be considered in this transaction.~~

- ~~5.01 (1) The actual monthly amount to be paid to the resident school district shall be calculated on a 1/9 of the ARB as calculated by the school financial unit of the Colorado Department of Education or 1/12 as agreed upon by both contracting schools (districts.)~~
- ~~5.01 (2) The Resident District shall count students enrolled in approved Second Chance Programs in its authorized revenue base attendance entitlement as provided in the Public School Finance Act.~~
- ~~5.01 (3) The Resident District shall pay cost up to 85% of its authorized revenue base i.e. 5.01(1), to the receiving district(s) or actual cost whichever is the smaller amount.~~
- ~~5.01 (4) Two thirds (2/3) of that portion of the moneys remaining of the ARB as set in 5.01 (1) per pupil shall be transmitted by the Resident District to the Colorado Department of Education regardless of which method of support is chosen in 5.01 (3). One third (1/3) of the remaining moneys of the ARB shall be retained by the Resident District for the implementation of its own requirements.~~
- ~~5.01 (5) Payment, monthly, shall be based on the report on attendance, performance, and costs as submitted by the Second Chance Center to the School of Residence. This report will be sent by the 15th of the next month, with the School of Residence sending the warrant no later than the 15th of the following month.~~
- ~~5.01 (6) Payment and programs under this plan may be arranged, under terms of an official contract, with boards of cooperative educational services.~~

2252-R-6.00 -- Appeals Process

- ~~6.01 The process for resolving disputes arising between school districts, schools, students, and parents will be consistent with Article 4 of Title 24 CRS.~~
- ~~6.01 (1) The Department of Education will hear appeals on issues concerning the article that addresses student eligibility, student enrollment, finance (ARB), and Second Chance Center approval. The Department will not hear appeals on issues that fall under the legal jurisdictions of the local school district, and or BOCS, such as grades, discipline, and or disputes between student and parent.~~
- ~~6.01 (2) All disputes where appropriate, are expected to be first handled through the local school district appeals or grievance process and shall be considered Step I of the 2252-R-6.00 Appeals Process. If a satisfactory solution is not established or if an appeals process is not possible, the complaining party shall file a complaint within 10 working days, following the local decision and/or issue in dispute in writing to the Assistant Commissioner of Education, Office of Field Service, Colorado Department of Education, Denver, Colorado. The complaint shall state: the party complained against; action that is being complained about; the relief sought; and a request for a hearing. A copy of this complaint must be sent to the party being complained against who shall be given an opportunity to respond to the complaint.~~
- ~~6.01 (3) Upon receipt of a complaint by the Office of Field Services (OFS), an investigation shall be established to determine a solution to the complaint. A report, including the recommended solution shall be delivered to all parties involved no later than 60 days following the receipt of the written complaint. If the complaining party does not find the solution satisfactory, the party should restate its request in writing to the State Board of Education for a hearing on their complaint. This shall be done no later than 10 working days following the receipt of the OFS report.~~

~~6.01 (4) The State Board of Education upon receipt of a written request for a hearing will assign a hearing officer from the Department of Administration to hear this complaint and shall proceed as outlined in the Administrative Procedures Act.~~

Editor's Notes

History

Notice of Proposed Rulemaking

Tracking number

2017-00041

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-55

Rule title

PROPOSED RULES FOR THE IMPLEMENTATION AND FINANCING OF REGIONAL
EDUCATION AND SUPPORT SERVICES

Rulemaking Hearing**Date**

03/08/2017

Time

02:00 PM

Location

Colorado Department of Education, State Board Room 101

Subjects and issues involved

Section 24-4-103.3, C.R.S. requires each state agency to review each of its rules for effectiveness and efficiency. The result of this review is a recommendation to repeal, amend, or leave the rule as is. Based on CDE's Administrative Rule Review, it is recommended that the State Board repeal 1 CCR 301-55 as the rules are no longer necessary.

Statutory authority

Section 24-4-103.3, C.R.S.

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DEPARTMENT OF EDUCATION

Colorado State Board of Education

**PROPOSED RULES FOR THE IMPLEMENTATION AND FINANCING OF REGIONAL EDUCATION-
AND SUPPORT SERVICES**

1 CCR 301-55

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

2205-R-1.00 Statement of Basis and Purpose

The statutory basis for these rules, adopted on July 11, 2002, is found in 22-2-106(1) (a), 22-2-107(1) (c), and 22-5-118(7), C.R.S.

The purposes of the rules for the implementation and financing of regional education and support services include, but are not limited to, providing a planning and funding mechanism that recognizes the role of Colorado Boards of Cooperative Services in assisting participating districts in developing cooperative programs that address:

The enhancement of student achievement and instruction through cooperative research and development, the continuous upgrading of standards and assessment techniques, and the establishment of a regional curriculum center,

Staff development and training programs,

The development of improved communications through such methods as communications technology, distance learning, and media assistance,

The use of Federal and State categorical funds and the distribution and delivery of Federal block grant moneys,

Data processing,

Agreements to act as a regional administrative unit for transportation, cooperative purchasing, food, and other non-instructional support services, as may be appropriate,

Assistance to districts in maintaining accreditation,

Cooperative relationships among Boards of Cooperative Services and member and non-member districts,

The highest possible efficiencies and most economical methods for school districts to deliver education and support services,

Cooperative programs for students who are at risk of suspension or expulsion,

Cooperative programs to help close achievement gaps among groups of students.

The State Board and Department will work with other agencies, including Colorado Boards of Cooperative Services or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out their respective responsibilities relative to standards and assessment, including technical assistance and services in areas described in CRS 22-5-118, C.R.S.

2.00 Definitions

- ~~2.01 (1) "Assessments" means the methods used to collect evidence of what a student knows or is able to do.~~
- ~~2.01 (2) "Boards of Cooperative Services (BOCS or BOCES)" means a regional educational service unit designed to provide support, instructional, administrative, facility, community, or any other services contracted by participating members, as organized pursuant to CRS 22-5-104 and 105, C.R.S.~~
- ~~2.01 (3) "Department" means the Colorado Department of Education created and existing pursuant to 24-1-115, C.R.S.~~
- ~~2.01 (4) "Distance Learning" means the delivery of live instruction to students who are physically located at a distance from the instructor, as well as the taped delivery of instruction at a remote site, such as delayed tape or computer software.~~
- ~~2.01 (5) "Standards/Content Standards" means a compilation of specific statements of what a student should know or be able to do relative to a particular academic area.~~
- ~~2.10 (6) "State Board" means the State Board of Education created pursuant to Section 1 of Article IX of the State Constitution.~~

3.00 Eligibility

- ~~3.01 In order for a BOCS or consortium of BOCS to receive funds under Section 22-5-118, the applicant shall meet the criteria outlined in 22-5-114, C.R.S.~~

4.00 Application Procedures and Criteria

- ~~4.01 An application to receive funds shall be submitted to the Department and shall contain the following:~~

- ~~4.01 (1) The name and address of a BOCS or consortium of BOCS applying;~~
- ~~4.01 (2) The name of school districts and schools participating as well as other cooperating agencies and organizations pursuant to 22-5-118(3)(a), C.R.S.;~~
- ~~4.01 (3) The name of the individual responsible for the final report to the Department;~~
- ~~4.01 (4) The duration of the project;~~
- ~~4.01 (5) The measure(s) the project proposes to address pursuant to 22-5-118 (3) (b) (I-VII), C.R.S.;~~
- ~~4.01 (6) A description of objectives or outcomes of the measure(s);~~
- ~~4.01 (7) Success indicators for the outcome, indicating how the activity will be integrated to improve student achievement;~~
- ~~4.01 (8) Commitment from participating members and other agencies and organizations;~~
- ~~4.01 (9) Implementation procedures;~~
- ~~4.01 (10) Budget for the project;~~

~~4.01 (11) Evidence of productive relationships with Regional Education Services Teams.~~

~~4.02 Evaluation and reporting of accomplishment of project objectives.~~

~~4.02 (1) As part of the process identified in 4.01, each proposal will identify those accountability, evaluation, and reporting measures deemed acceptable to satisfy the intent of the Colorado General Assembly and the State Board.~~

Editor's Notes

History

Notice of Proposed Rulemaking

Tracking number

2017-00042

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-77

Rule title

RULES FOR THE ADMINISTRATION OF THE POSTSECONDARY AND WORKFORCE
READINESS ASSESSMENTS PILOT PROGRAM

Rulemaking Hearing**Date**

03/08/2017

Time

02:30 PM

Location

Colorado Department of Education, State Board Room 101

Subjects and issues involved

Section 24-4-103.3, C.R.S. requires each state agency to review each of its rules for effectiveness and efficiency. The result of this review is a recommendation to repeal, amend, or leave the rule as is. Based on CDE's Administrative Rule Review, it is recommended that the State Board repeal 1 CCR 301-77 as the rules are no longer necessary.

Statutory authority

24-4-103.3, C.R.S

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DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE POSTSECONDARY AND WORKFORCE READINESS ASSESSMENTS PILOT PROGRAM

1 CCR 301-77

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

Authority: Article IX, Section 1, Colorado Constitution; 22-2-106(1)(a) and (c); 22-2-107(1)(c); 22-7-409(1.5); 22-7-1007 of the Colorado Revised Statutes (C.R.S.).

1.00 Statement of Basis and Purpose.

The statutory basis for these rules is found in 22-2-106(1)(a) and (c), State Board Duties; 22-2-107(1)(c), State Board Powers; and 22-7-1007, the Postsecondary and Workforce Readiness Assessments Pilot Program, C.R.S.

The Postsecondary and Workforce Readiness Assessments Pilot Program, 22-7-1007, C.R.S., requires the State Board of Education to promulgate rules pursuant to the "State Administrative Procedure Act", Article 4 of Title 24, C.R.S., for the implementation of the pilot program, including but not limited to: the procedures and time frames by which a local education provider shall notify the Department of Education of its intent to participate in the pilot program; and a description of the process by which the Department shall distribute the moneys to participating local education providers.

2.00 Definitions.

2.00 (1) Assessment: The method used to collect evidence of what a student knows and is able to do and to measure a student's academic progress toward attaining a standard.

2.00 (2) Board of Cooperative Services or BOCES: A Board of Cooperative Services created and operating pursuant to Article 5 of Title 22 that operates one or more public schools.

2.00 (3) Commission: The Colorado Commission on Higher Education created pursuant to section 23-1-102, C.R.S.

2.00 (4) Department: The Department of Education created pursuant to section 24-1-115, C.R.S.

2.00 (5) Institute Charter School: A charter school authorized by the State Charter School Institute pursuant to Part 5 of Article 30.5 of Title 22. An Institute Charter School is an "Institute Charter High School" if it serves any of grades nine through twelve.

2.00 (6) Local Education Provider: A school district, a board of cooperative services, a district charter school, or an institute charter school.

2.00 (7) Pilot Program: The pilot program for administration of postsecondary and workforce planning, preparation, and readiness assessments implemented pursuant to 22-7-1007, C.R.S.

- ~~2.00 (8) Postsecondary and Workforce Planning Assessment: An assessment or battery of assessments administered to students in eighth or ninth grade that, at a minimum, tests in the areas of reading, mathematics, and science, provides guidance regarding a student's level of academic preparation for entry into postsecondary education or the workforce, and is relevant to the student for purposes of postsecondary planning.~~
- ~~2.00 (9) Postsecondary and Workforce Preparation Assessment: An assessment or battery of assessments administered to students in tenth grade that, at a minimum, tests in the areas of reading, mathematics, and science, provides guidance regarding a student's level of academic preparation for entry into postsecondary education or the workforce, and is relevant to college admission determinations.~~
- ~~2.00 (10) Postsecondary and Workforce Readiness: The knowledge and skills that a student should have attained prior to or upon attaining a high school diploma, as adopted by the State Board and the Commission pursuant to Section 22-7-1008, C.R.S.~~
- ~~2.00 (11) Postsecondary and Workforce Readiness Assessment: An assessment or battery of assessments administered to students in eleventh grade that, at a minimum, tests in the areas of reading, mathematics, and science and is relevant to college admission determinations by institutions of higher education throughout the United States.~~
- ~~2.00 (12) Postsecondary and Workforce Readiness Program: A program of study that, prior to or beginning in ninth grade and continuing through twelfth grade, is designed to prepare a student to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.~~
- ~~2.00 (13) Postsecondary Education: All formal public education that requires as a prerequisite the acquisition of a high school diploma or its equivalent. "Postsecondary Education" includes programs resulting in acquisition of a certificate, an associate degree of applied sciences, an associate degree of general studies, an associate degree of arts, or an associate degree of science and all baccalaureate degree programs.~~
- ~~2.00 (14) School District: A school district, other than a junior college district, organized and existing pursuant to law.~~
- ~~2.00 (15) Standard: A clear, measurable, learning target for what a student should know or be able to do relative to a particular instructional area.~~
- ~~2.00 (16) State Board: The State Board of Education created pursuant to Section 1 of Article IX of the State Constitution.~~
- ~~2.00 (17) State Plan: The State Plan required by the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq.~~
- ~~2.00 (18) Unit Record Test Scores: An electronic record of individual student-level scores on standardized assessments.~~

2.01 Implementation Procedures.

Beginning in the 2008-09 academic year, the Department shall implement a pilot program for the purpose of evaluating standards and collecting data regarding student performance on postsecondary and workforce planning, preparation, and readiness assessments from assessment vendors and local education providers that volunteer to participate in the pilot program. The State Board shall take into account the data that are collected when adopting standards for grades nine through twelve, and the State Board and the Commission shall consider data when creating the description of postsecondary and workforce planning, preparation, and readiness assessments that will be administered statewide following completion of the pilot program.

As part of the pilot program, the Department shall survey local education providers concerning the postsecondary and workforce planning, preparation, and readiness assessments, if any, administered by the local education providers within the preceding five years. The Department shall solicit information concerning the local education providers' determination of the effectiveness and relevance of the assessments administered and shall request any data compiled by the local education providers in making their determination.

2.01 (1) **Vendor Participation.** On or before December 15, 2008, the Department shall invite, through a Request for Information process, nationally recognized vendors of postsecondary and workforce planning, preparation, and readiness assessments to participate in the pilot program. In selecting the vendors that will be invited to participate, the Department shall include, but need not be limited to, at least one vendor that provides a system of postsecondary and workforce planning, preparation, and readiness assessments that are aligned to demonstrate a student's academic growth through the ninth, tenth, and eleventh grades.

2.01 (1) (a) Each assessment vendor that chooses to participate in the pilot program shall agree in writing to have the vendor provide to the Department data concerning the administration of the vendor's assessments in other states, including but not limited to unit record test scores. The Department shall apply the data in preparing amendments to the State Plan, as described in Section 22-7-1012 C.R.S., and in adjusting the Longitudinal Growth Model adopted pursuant to section 22-7-604.3 C.R.S., to ensure that the results of each assessment that is included in the pilot program can be used to measure individual student growth toward attaining postsecondary and workforce readiness.

2.01 (2) **Local Education Provider Participation.** The Department shall provide information to local education providers concerning the creation and operation of the pilot program, including, but not limited to a list of the vendors that will be participating and the duties of a local education provider that chooses to participate in the pilot program.

2.01 (2) (a) On or before January 15, 2009 each local education provider choosing to participate in the pilot program shall notify the Department in writing of its intent to participate in the pilot program.

2.01 (3) **Assessment and Reporting Timeframes.** Each local education provider that chooses to participate in the pilot program shall:

2.01 (3) (a) During the spring semester of each academic year beginning in 2009, administer a postsecondary and workforce planning assessment, selected by the local education provider from among the assessments provided by the participating vendors, to students enrolled in the ninth grade. A local education provider may also choose to administer the postsecondary and workforce planning assessment during the fall semester to students enrolled in the eighth grade.

~~2.01 (3) (b) During the spring semester of each academic year beginning in 2009, administer a postsecondary and workforce preparation assessment, selected by the local education provider from among the assessments provided by the participating vendors, to students enrolled in tenth grade;~~

~~2.01 (3) (c) During the spring semester of each academic year beginning in 2009, administer a postsecondary and workforce readiness assessment, selected by the local education provider from among the assessments provided by the participating vendors, to students enrolled in eleventh grade;~~

~~2.01 (3) (d) Develop and implement a process by which the local education provider will share the results received by each student on the postsecondary and workforce planning, preparation, and readiness assessments with the student and the student's parents as soon as possible following the receipt of the results; and~~

~~2.01 (3) (e) Annually, on or before June 1 for spring administration and November 6 for fall administration, ensure the vendor will provide to the Department the results achieved by each student on the postsecondary and workforce planning, preparation, or readiness assessment by the State Assigned Student Identification number.~~

~~2.01 (4) **Distribution of Funding.** The Department shall distribute the moneys to participating local education providers, subject to available appropriations, ensuring to the extent practicable that moneys are distributed to local education providers in areas throughout the state and of varying enrollment size and taking into account the fiscal needs of each participating local education provider and whether the participating local education provider was administering postsecondary and workforce planning, preparation, or readiness assessments prior to implementation of the pilot program. The Department will administer an application process for distributing the available moneys. In order for funding to be approved by the Department, education providers must submit, at a minimum, the following documentation:~~

~~2.01 (4) (a) The number of students who will participate in the pilot program.~~

~~2.01 (4) (b) Document of assurance from the test vendor including: a) cost per student, b) statement of work and c) delivery of individual student data to the Department by June 1 for spring administration and November 6 for fall administration.~~

~~2.01 (4) (c) A draft program budget in compliance with the Department's standard fiscal rules including a budget narrative.~~

~~2.01 (4) (d) Signature page(s).~~

Editor's Notes

History

Entire rule eff. 10/31/2008.

Entire rule eff. 01/30/2009.

Notice of Proposed Rulemaking

Tracking number

2017-00059

Department

400 - Department of Natural Resources

Agency

405 - Colorado Parks and Wildlife (405 Series, Parks)

CCR number

2 CCR 405-1

Rule title

CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS

Rulemaking Hearing**Date**

03/02/2017

Time

08:30 AM

Location

Hunter Education Building, 6060 Broadway, Denver, CO 80216

Subjects and issues involved

CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS - Removal of San Luis State Park regulations.

Statutory authority

see attached

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January 31, 2017

**RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
March 2, 2017**

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **March 2, 2017. The Parks and Wildlife Commission meeting will be held at the offices of Colorado Parks and Wildlife, Hunter Education Building, 6060**

Broadway, Denver, CO 80216. The following regulatory subjects and issues shall be considered pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S.

("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - March 2, 2017, beginning at 8:30 a.m.*

EFFECTIVE DATE OF REGULATIONS approved during the March 2017 Parks and Wildlife Commission meeting: May 1, 2017, unless otherwise noted.

FINAL REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" - 2 CCR 406-2 and those related provisions of Chapter W-0 ("General Provisions" - 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-2

Open for consideration of any necessary corrections or administrative clean-ups to regulations previously adopted by the Parks and Wildlife Commission for the 2017 big game seasons, including, but not limited to, game management unit boundaries, season dates, limited license areas and manner of take provisions for bighorn sheep, mountain goat, deer, elk, pronghorn, moose, bear and mountain lion, and regulations otherwise necessary for implementation of the 2017 big game seasons.

Chapter W-5 - "Small Game and Migratory Game Birds" - 2 CCR 406-5

Open for consideration of annual changes to waterfowl and migratory bird hunting seasons and related provisions, including, but not limited to, season dates, bag and possession limits and manner of take provisions.

**Please reference the Commission agenda, to be posted on or after February 21, 2017, to ensure when each regulatory item will be addressed by the Commission. The agenda will be posted at <http://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx>.*

Chapter W-9 - "Wildlife Properties" - 2 CCR 406-9 and those related provisions of Chapter P-1 ("Parks and Outdoor Recreation Lands" - 2 CCR 405-1) and Chapter W-1 ("Fishing" - 2 CCR 406-1) necessary to accommodate changes to or ensure consistency with Chapter W-9

Open for annual review of the entire chapter, including, but not limited to:

- Establishing regulations for the opening of the new Cerro Summit State Wildlife Area (SWA). These include, but are not limited to, limiting access to hunting and fishing only, establishing winter closure dates as well as open dates for hunting and fishing.
- Removing Chipeta Lake SWA from Chapter W-9 regulations.
- Changing management of San Luis State Park by incorporating the property into San Luis Lake SWA. Charging a \$36 annual access permit at San Luis Lake SWA (in lieu of a park pass or camping fee) to pay for amenities. Holders of current hunting or fishing licenses will not be required to have an access permit.
- Charging a \$36 annual access permit for Lake Deweese SWA. Holders of current hunting or fishing licenses will not be required to have an access permit.
- Modifying the West Rifle Creek SWA shooting range hours to be open from sunrise to sunset.
- Allowing access to the Yarmony Ranch SWA for fishing only. Limiting fishing to artificial flies and lures only with a bag and possession limit of two trout on the Illinois River within the boundaries of the Yarmony Ranch SWA.
- Allowing waterfowl hunting with shotguns or by falconry on the Van Tuyl tract of the Gunnison River SWA, while closing the remainder of the SWA to all hunting.
- Establishing hour restrictions on the Gunnison SWA, prohibiting access from one hour after sunset to one hour before sunrise.
- Allowing motorized, over-the-snow travel to adjacent USFS lands through Sapinero SWA on Forest Service Roads 723 and 724 only.
- Modifying the winter closure dates on Almont Triangle SWA to December 1 through May 15 annually.
- Prohibiting fires at Loma Boat Launch SWA.

CITIZEN PETITIONS:

WILDLIFE REGULATIONS

Final action may be taken on rule-making petitions at any step of the Commission's generally applicable two-step rule-making process.

Chapter W-11- "Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11

At its March meeting, the Colorado Parks and Wildlife Commission will consider two citizen petitions for rulemaking related to Wildlife Parks and Unregulated Wildlife, as follows:

- A citizen petition for rulemaking requesting that the Commission add the two toed sloth to the unregulated wildlife list.
- A citizen petition for rulemaking requesting that the Commission add the eastern gray kangaroo, western gray kangaroo, and agile wallaby to the unregulated wildlife list.

The Commission may accept all or a portion of these petitions for final action, further consideration or otherwise reject the petitions at the March Commission meeting. A copy of

any petition may be obtained by contacting Danielle Isenhardt, Regulations Manager, Colorado Parks and Wildlife at (303) 866-3203 ext. 4625.

DRAFT REGULATIONS

Chapter W-3 - "Furbearers and Small Game, Except Migratory Birds" - 2 CCR 406-3

Open for consideration of annual changes to game bird seasons, excluding turkey, and other small game seasons and related provisions, including season dates, bag and possession limits and manner of take provisions. Specific changes include, but are not limited to, the following:

- Requiring all live (cage, box, or Sneed-design colony) traps to be labeled with the trapper's CID number, except for those traps set for wildlife causing damage.
- Including the area west of I-25 in El Paso County in the extended season section of the state for quail hunting.

Except for the days and time indicated for when the meeting is scheduled to begin, the order indicated for each agenda item is approximate and subject to change when necessary to accommodate the Commission's schedule.

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection and distribution at the Office of the Regulations Manager, Division of Parks and Wildlife, 1313 Sherman St., Denver, Colorado, at least five (5) days prior to the date of hearing. Such copies, however, are only proposals to be submitted to the Commission by the Division of Parks and Wildlife.

Modification of Proposed Rules prior to adoption: subject to the provisions of Section 24-4-103, C.R.S., modification of these proposals may be made by the Division of Parks and Wildlife or the Commission before the Commission promulgates final rules and regulations on the above topics.

Comment deadlines: Comments will be accepted at any time prior to, or as part of the meeting. However, to ensure sufficient time for consideration prior to the meeting, **comments should be provided to the Division of Parks and Wildlife by noon on the following date:**

February 16, 2017, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **February 17, 2016.**

Comments received by the Division after noon on **February 16, 2017,** will be provided to the Commission on the day of the meeting.

Opportunity to submit alternate proposals and provide comment: the Commission will afford all interested persons an opportunity to submit alternate proposals, written data, views or arguments and to present them orally at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be submitted to the Division of Parks and Wildlife at 1313 Sherman St., Denver, CO 80203; or e-mailed to **dnr_cpwwcommission@state.co.us**.

Use of Consent Agenda:

In order to increase the Parks and Wildlife Commission's efficiency and allow more time for consideration of parks and wildlife policy and contested issues, some or all of this regulatory

agenda may be listed for action by the Commission as part of a "Consent Agenda" for this meeting.

The process for placing matters on the Consent Agenda is as follows:

The Director identifies matters where the recommended action follows established policy or precedent, there has been agreement reached or the matter is expected to be uncontested and non-controversial.

Regulatory Matters on the Consent Agenda are noticed for hearing at the same time and in the same manner as other Consent Agenda items. If a member of the Commission requests further consideration of an item on the Consent Agenda, that item will be withdrawn from the Consent Agenda and discussed at the end of the meeting or at the next meeting. The Consent Agenda may be voted on without the necessity of reading individual items. Any Commission member may request clarification from the Director of any matter on the Consent Agenda.

OTHER AGENDA ITEMS: The Parks and Wildlife Commission may consider and make policy, program implementation, and other non-regulatory decisions, which may be of public interest at this meeting. A copy of the complete meeting agenda may be viewed on the Division of Parks and Wildlife's internet home page at <http://cpw.state.co.us>, on or after **February 21, 2017**.

Notice of Proposed Rulemaking

Tracking number

2017-00061

Department

400 - Department of Natural Resources

Agency

406 - Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-0

Rule title

CHAPTER W-0 - GENERAL PROVISIONS

Rulemaking Hearing**Date**

03/02/2017

Time

08:30 AM

Location

Hunter Education Building, 6060 Broadway, Denver, CO 80216

Subjects and issues involved

CHAPTER W-0 - GENERAL PROVISIONS-Open for consideration of any necessary corrections or administrative clean-ups to regulations previously adopted by the Parks and Wildlife Commission for the 2017 big game seasons, including, but not limited to, game management unit boundaries, season dates, limited license areas and manner of take provisions for bighorn sheep, mountain goat, deer, elk, pronghorn, moose, bear and mountain lion, and regulations otherwise necessary for implementation of the 2017 big game seasons.

Statutory authority

see attached

Contact information**Name**

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January 31, 2017

**RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
March 2, 2017**

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("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - March 2, 2017, beginning at 8:30 a.m.*

EFFECTIVE DATE OF REGULATIONS approved during the March 2017 Parks and Wildlife Commission meeting: May 1, 2017, unless otherwise noted.

FINAL REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" - 2 CCR 406-2 and those related provisions of Chapter W-0 ("General Provisions" - 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-2

Open for consideration of any necessary corrections or administrative clean-ups to regulations previously adopted by the Parks and Wildlife Commission for the 2017 big game seasons, including, but not limited to, game management unit boundaries, season dates, limited license areas and manner of take provisions for bighorn sheep, mountain goat, deer, elk, pronghorn, moose, bear and mountain lion, and regulations otherwise necessary for implementation of the 2017 big game seasons.

Chapter W-5 - "Small Game and Migratory Game Birds" - 2 CCR 406-5

Open for consideration of annual changes to waterfowl and migratory bird hunting seasons and related provisions, including, but not limited to, season dates, bag and possession limits and manner of take provisions.

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Chapter W-9 - "Wildlife Properties" - 2 CCR 406-9 and those related provisions of Chapter P-1 ("Parks and Outdoor Recreation Lands" - 2 CCR 405-1) and Chapter W-1 ("Fishing" - 2 CCR 406-1) necessary to accommodate changes to or ensure consistency with Chapter W-9

Open for annual review of the entire chapter, including, but not limited to:

- Establishing regulations for the opening of the new Cerro Summit State Wildlife Area (SWA). These include, but are not limited to, limiting access to hunting and fishing only, establishing winter closure dates as well as open dates for hunting and fishing.
- Removing Chipeta Lake SWA from Chapter W-9 regulations.
- Changing management of San Luis State Park by incorporating the property into San Luis Lake SWA. Charging a \$36 annual access permit at San Luis Lake SWA (in lieu of a park pass or camping fee) to pay for amenities. Holders of current hunting or fishing licenses will not be required to have an access permit.
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- Modifying the West Rifle Creek SWA shooting range hours to be open from sunrise to sunset.
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- Allowing waterfowl hunting with shotguns or by falconry on the Van Tuyl tract of the Gunnison River SWA, while closing the remainder of the SWA to all hunting.
- Establishing hour restrictions on the Gunnison SWA, prohibiting access from one hour after sunset to one hour before sunrise.
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- Prohibiting fires at Loma Boat Launch SWA.

CITIZEN PETITIONS:

WILDLIFE REGULATIONS

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At its March meeting, the Colorado Parks and Wildlife Commission will consider two citizen petitions for rulemaking related to Wildlife Parks and Unregulated Wildlife, as follows:

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DRAFT REGULATIONS

Chapter W-3 - "Furbearers and Small Game, Except Migratory Birds" - 2 CCR 406-3

Open for consideration of annual changes to game bird seasons, excluding turkey, and other small game seasons and related provisions, including season dates, bag and possession limits and manner of take provisions. Specific changes include, but are not limited to, the following:

- Requiring all live (cage, box, or Snead-design colony) traps to be labeled with the trapper's CID number, except for those traps set for wildlife causing damage.
- Including the area west of I-25 in El Paso County in the extended season section of the state for quail hunting.

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Modification of Proposed Rules prior to adoption: subject to the provisions of Section 24-4-103, C.R.S., modification of these proposals may be made by the Division of Parks and Wildlife or the Commission before the Commission promulgates final rules and regulations on the above topics.

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Notice of Proposed Rulemaking

Tracking number

2017-00064

Department

400 - Department of Natural Resources

Agency

406 - Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-1

Rule title

CHAPTER W-1 - FISHING

Rulemaking Hearing**Date**

03/02/2017

Time

08:30 AM

Location

Hunter Education Building, 6060 Broadway, Denver, CO 80216

Subjects and issues involved

CHAPTER W-1 - FISHING - Allowing access to the Yarmony Ranch SWA for fishing only. Limiting fishing to artificial flies and lures only with a bag and possession limit of two trout on the Illinois River within the boundaries of the Yarmony Ranch SWA. Establishing regulations for the opening of the new Cerro Summit State Wildlife Area (SWA). These include, but are not limited to, limiting access to hunting and fishing only, establishing winter closure dates as well as open dates for hunting and fishing.

Statutory authority

See attached

Contact information**Name**

Danielle Isenhardt

Title

Regulations Manager

Telephone

303-866-3203 x 4625

Email

danielle.isenhardt@state.co.us

January 31, 2017

**RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
March 2, 2017**

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FINAL REGULATIONS

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Open for consideration of any necessary corrections or administrative clean-ups to regulations previously adopted by the Parks and Wildlife Commission for the 2017 big game seasons, including, but not limited to, game management unit boundaries, season dates, limited license areas and manner of take provisions for bighorn sheep, mountain goat, deer, elk, pronghorn, moose, bear and mountain lion, and regulations otherwise necessary for implementation of the 2017 big game seasons.

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Notice of Proposed Rulemaking

Tracking number

2017-00060

Department

400 - Department of Natural Resources

Agency

406 - Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-2

Rule title

CHAPTER W-2 - BIG GAME

Rulemaking Hearing**Date**

03/02/2017

Time

08:30 AM

Location

Hunter Education Building, 6060 Broadway, Denver, CO 80216

Subjects and issues involved

Open for consideration of any necessary corrections or administrative clean-ups to regulations previously adopted by the Parks and Wildlife Commission for the 2017 big game seasons, including, but not limited to, game management unit boundaries, season dates, limited license areas and manner of take provisions for bighorn sheep, mountain goat, deer, elk, pronghorn, moose, bear and mountain lion, and regulations otherwise necessary for implementation of the 2017 big game seasons.

Statutory authority

see attached

Contact information**Name**

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Notice of Proposed Rulemaking

Tracking number

2017-00067

Department

400 - Department of Natural Resources

Agency

406 - Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-3

Rule title

CHAPTER W-3 - FURBEARERS AND SMALL GAME EXCEPT MIGRATORY BIRDS

Rulemaking Hearing

Date

03/02/2017

Time

08:30 AM

Location

Hunter Education Building, 6060 Broadway, Denver, CO 80216

Subjects and issues involved

CHAPTER W-3 - FURBEARERS AND SMALL GAME EXCEPT MIGRATORY BIRDS - Open for consideration of annual changes to game bird seasons, excluding turkey, and other small game seasons and related provisions, including season dates, bag and possession limits and manner of take provisions. Specific changes include, but are not limited to, the following:

Requiring all live (cage, box, or Snead-design colony) traps to be labeled with the trappers CID number, except for those traps set for wildlife causing damage. Including the area west of I-25 in El Paso County in the extended season section of the state for quail hunting.

Statutory authority

See Attached

Contact information

Name

Danielle Isenhardt

Title

Regulations Manager

Telephone

303-866-3203 x 4625

Email

danielle.isenhardt@state.co.us

January 31, 2017

**RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
March 2, 2017**

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **March 2, 2017. The Parks and Wildlife Commission meeting will be held at the offices of Colorado Parks and Wildlife, Hunter Education Building, 6060**

Broadway, Denver, CO 80216. The following regulatory subjects and issues shall be considered pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S.

("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - March 2, 2017, beginning at 8:30 a.m.*

EFFECTIVE DATE OF REGULATIONS approved during the March 2017 Parks and Wildlife Commission meeting: May 1, 2017, unless otherwise noted.

FINAL REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" - 2 CCR 406-2 and those related provisions of Chapter W-0 ("General Provisions" - 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-2

Open for consideration of any necessary corrections or administrative clean-ups to regulations previously adopted by the Parks and Wildlife Commission for the 2017 big game seasons, including, but not limited to, game management unit boundaries, season dates, limited license areas and manner of take provisions for bighorn sheep, mountain goat, deer, elk, pronghorn, moose, bear and mountain lion, and regulations otherwise necessary for implementation of the 2017 big game seasons.

Chapter W-5 - "Small Game and Migratory Game Birds" - 2 CCR 406-5

Open for consideration of annual changes to waterfowl and migratory bird hunting seasons and related provisions, including, but not limited to, season dates, bag and possession limits and manner of take provisions.

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Chapter W-9 - "Wildlife Properties" - 2 CCR 406-9 and those related provisions of Chapter P-1 ("Parks and Outdoor Recreation Lands" - 2 CCR 405-1) and Chapter W-1 ("Fishing" - 2 CCR 406-1) necessary to accommodate changes to or ensure consistency with Chapter W-9

Open for annual review of the entire chapter, including, but not limited to:

- Establishing regulations for the opening of the new Cerro Summit State Wildlife Area (SWA). These include, but are not limited to, limiting access to hunting and fishing only, establishing winter closure dates as well as open dates for hunting and fishing.
- Removing Chipeta Lake SWA from Chapter W-9 regulations.
- Changing management of San Luis State Park by incorporating the property into San Luis Lake SWA. Charging a \$36 annual access permit at San Luis Lake SWA (in lieu of a park pass or camping fee) to pay for amenities. Holders of current hunting or fishing licenses will not be required to have an access permit.
- Charging a \$36 annual access permit for Lake Deweese SWA. Holders of current hunting or fishing licenses will not be required to have an access permit.
- Modifying the West Rifle Creek SWA shooting range hours to be open from sunrise to sunset.
- Allowing access to the Yarmony Ranch SWA for fishing only. Limiting fishing to artificial flies and lures only with a bag and possession limit of two trout on the Illinois River within the boundaries of the Yarmony Ranch SWA.
- Allowing waterfowl hunting with shotguns or by falconry on the Van Tuyl tract of the Gunnison River SWA, while closing the remainder of the SWA to all hunting.
- Establishing hour restrictions on the Gunnison SWA, prohibiting access from one hour after sunset to one hour before sunrise.
- Allowing motorized, over-the-snow travel to adjacent USFS lands through Sapinero SWA on Forest Service Roads 723 and 724 only.
- Modifying the winter closure dates on Almont Triangle SWA to December 1 through May 15 annually.
- Prohibiting fires at Loma Boat Launch SWA.

CITIZEN PETITIONS:

WILDLIFE REGULATIONS

Final action may be taken on rule-making petitions at any step of the Commission's generally applicable two-step rule-making process.

Chapter W-11- "Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11

At its March meeting, the Colorado Parks and Wildlife Commission will consider two citizen petitions for rulemaking related to Wildlife Parks and Unregulated Wildlife, as follows:

- A citizen petition for rulemaking requesting that the Commission add the two toed sloth to the unregulated wildlife list.
- A citizen petition for rulemaking requesting that the Commission add the eastern gray kangaroo, western gray kangaroo, and agile wallaby to the unregulated wildlife list.

The Commission may accept all or a portion of these petitions for final action, further consideration or otherwise reject the petitions at the March Commission meeting. A copy of

any petition may be obtained by contacting Danielle Isenhardt, Regulations Manager, Colorado Parks and Wildlife at (303) 866-3203 ext. 4625.

DRAFT REGULATIONS

Chapter W-3 - "Furbearers and Small Game, Except Migratory Birds" - 2 CCR 406-3

Open for consideration of annual changes to game bird seasons, excluding turkey, and other small game seasons and related provisions, including season dates, bag and possession limits and manner of take provisions. Specific changes include, but are not limited to, the following:

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- Including the area west of I-25 in El Paso County in the extended season section of the state for quail hunting.

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Modification of Proposed Rules prior to adoption: subject to the provisions of Section 24-4-103, C.R.S., modification of these proposals may be made by the Division of Parks and Wildlife or the Commission before the Commission promulgates final rules and regulations on the above topics.

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Notice of Proposed Rulemaking

Tracking number

2017-00062

Department

400 - Department of Natural Resources

Agency

406 - Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-5

Rule title

CHAPTER W-5 - MIGRATORY BIRDS

Rulemaking Hearing**Date**

03/02/2017

Time

08:30 AM

Location

Hunter Education Building, 6060 Broadway, Denver, CO 80216

Subjects and issues involved

CHAPTER W-5 - MIGRATORY BIRDS - Open for consideration of annual changes to waterfowl and migratory bird hunting seasons and related provisions, including, but not limited to, season dates, bag and possession limits and manner of take provisions.

Statutory authority

see attachement

Contact information**Name**

Danielle Isenhardt

Title

Regulations Manager

Telephone

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Email

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Open for consideration of any necessary corrections or administrative clean-ups to regulations previously adopted by the Parks and Wildlife Commission for the 2017 big game seasons, including, but not limited to, game management unit boundaries, season dates, limited license areas and manner of take provisions for bighorn sheep, mountain goat, deer, elk, pronghorn, moose, bear and mountain lion, and regulations otherwise necessary for implementation of the 2017 big game seasons.

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Notice of Proposed Rulemaking

Tracking number

2017-00063

Department

400 - Department of Natural Resources

Agency

406 - Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-9

Rule title

CHAPTER W-9 - WILDLIFE PROPERTIES

Rulemaking Hearing**Date**

03/02/2017

Time

08:30 AM

Location

Hunter Education Building, 6060 Broadway, Denver, CO 80216

Subjects and issues involved

CHAPTER W-9 - WILDLIFE PROPERTIES - Open for annual review of entire chapter.

Statutory authority

See attached

Contact information**Name**

Danielle Isenhardt

Title

Regulations Manager

Telephone

303-866-3203 x 4625

Email

danielle.isenhardt@state.co.us

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OTHER AGENDA ITEMS: The Parks and Wildlife Commission may consider and make policy, program implementation, and other non-regulatory decisions, which may be of public interest at this meeting. A copy of the complete meeting agenda may be viewed on the Division of Parks and Wildlife's internet home page at <http://cpw.state.co.us>, on or after **February 21, 2017**.

Notice of Proposed Rulemaking

Tracking number

2017-00065

Department

400 - Department of Natural Resources

Agency

406 - Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-11

Rule title

CHAPTER W-11 - WILDLIFE PARKS AND UNREGULATED WILDLIFE

Rulemaking Hearing**Date**

03/02/2017

Time

08:30 AM

Location

Hunter Education Building, 6060 Broadway, Denver, CO 80216

Subjects and issues involved

CHAPTER W-11 - WILDLIFE PARKS AND UNREGULATED WILDLIFE - A citizen petition for rulemaking requesting that the Commission add the two toed sloth to the unregulated wildlife list.

A citizen petition for rulemaking requesting that the Commission add the eastern gray kangaroo, western gray kangaroo, and agile wallaby to the unregulated wildlife list.

Statutory authority

See Attached

Contact information**Name**

Danielle Isenhardt

Title

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January 31, 2017

**RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
March 2, 2017**

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **March 2, 2017. The Parks and Wildlife Commission meeting will be held at the offices of Colorado Parks and Wildlife, Hunter Education Building, 6060**

Broadway, Denver, CO 80216. The following regulatory subjects and issues shall be considered pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S.

("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - March 2, 2017, beginning at 8:30 a.m.*

EFFECTIVE DATE OF REGULATIONS approved during the March 2017 Parks and Wildlife Commission meeting: May 1, 2017, unless otherwise noted.

FINAL REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" - 2 CCR 406-2 and those related provisions of Chapter W-0 ("General Provisions" - 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-2

Open for consideration of any necessary corrections or administrative clean-ups to regulations previously adopted by the Parks and Wildlife Commission for the 2017 big game seasons, including, but not limited to, game management unit boundaries, season dates, limited license areas and manner of take provisions for bighorn sheep, mountain goat, deer, elk, pronghorn, moose, bear and mountain lion, and regulations otherwise necessary for implementation of the 2017 big game seasons.

Chapter W-5 - "Small Game and Migratory Game Birds" - 2 CCR 406-5

Open for consideration of annual changes to waterfowl and migratory bird hunting seasons and related provisions, including, but not limited to, season dates, bag and possession limits and manner of take provisions.

**Please reference the Commission agenda, to be posted on or after February 21, 2017, to ensure when each regulatory item will be addressed by the Commission. The agenda will be posted at <http://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx>.*

Chapter W-9 - "Wildlife Properties" - 2 CCR 406-9 and those related provisions of Chapter P-1 ("Parks and Outdoor Recreation Lands" - 2 CCR 405-1) and Chapter W-1 ("Fishing" - 2 CCR 406-1) necessary to accommodate changes to or ensure consistency with Chapter W-9

Open for annual review of the entire chapter, including, but not limited to:

- Establishing regulations for the opening of the new Cerro Summit State Wildlife Area (SWA). These include, but are not limited to, limiting access to hunting and fishing only, establishing winter closure dates as well as open dates for hunting and fishing.
- Removing Chipeta Lake SWA from Chapter W-9 regulations.
- Changing management of San Luis State Park by incorporating the property into San Luis Lake SWA. Charging a \$36 annual access permit at San Luis Lake SWA (in lieu of a park pass or camping fee) to pay for amenities. Holders of current hunting or fishing licenses will not be required to have an access permit.
- Charging a \$36 annual access permit for Lake Deweese SWA. Holders of current hunting or fishing licenses will not be required to have an access permit.
- Modifying the West Rifle Creek SWA shooting range hours to be open from sunrise to sunset.
- Allowing access to the Yarmony Ranch SWA for fishing only. Limiting fishing to artificial flies and lures only with a bag and possession limit of two trout on the Illinois River within the boundaries of the Yarmony Ranch SWA.
- Allowing waterfowl hunting with shotguns or by falconry on the Van Tuyl tract of the Gunnison River SWA, while closing the remainder of the SWA to all hunting.
- Establishing hour restrictions on the Gunnison SWA, prohibiting access from one hour after sunset to one hour before sunrise.
- Allowing motorized, over-the-snow travel to adjacent USFS lands through Sapinero SWA on Forest Service Roads 723 and 724 only.
- Modifying the winter closure dates on Almont Triangle SWA to December 1 through May 15 annually.
- Prohibiting fires at Loma Boat Launch SWA.

CITIZEN PETITIONS:

WILDLIFE REGULATIONS

Final action may be taken on rule-making petitions at any step of the Commission's generally applicable two-step rule-making process.

Chapter W-11- "Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11

At its March meeting, the Colorado Parks and Wildlife Commission will consider two citizen petitions for rulemaking related to Wildlife Parks and Unregulated Wildlife, as follows:

- A citizen petition for rulemaking requesting that the Commission add the two toed sloth to the unregulated wildlife list.
- A citizen petition for rulemaking requesting that the Commission add the eastern gray kangaroo, western gray kangaroo, and agile wallaby to the unregulated wildlife list.

The Commission may accept all or a portion of these petitions for final action, further consideration or otherwise reject the petitions at the March Commission meeting. A copy of

any petition may be obtained by contacting Danielle Isenhardt, Regulations Manager, Colorado Parks and Wildlife at (303) 866-3203 ext. 4625.

DRAFT REGULATIONS

Chapter W-3 - "Furbearers and Small Game, Except Migratory Birds" - 2 CCR 406-3

Open for consideration of annual changes to game bird seasons, excluding turkey, and other small game seasons and related provisions, including season dates, bag and possession limits and manner of take provisions. Specific changes include, but are not limited to, the following:

- Requiring all live (cage, box, or Snead-design colony) traps to be labeled with the trapper's CID number, except for those traps set for wildlife causing damage.
- Including the area west of I-25 in El Paso County in the extended season section of the state for quail hunting.

Except for the days and time indicated for when the meeting is scheduled to begin, the order indicated for each agenda item is approximate and subject to change when necessary to accommodate the Commission's schedule.

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection and distribution at the Office of the Regulations Manager, Division of Parks and Wildlife, 1313 Sherman St., Denver, Colorado, at least five (5) days prior to the date of hearing. Such copies, however, are only proposals to be submitted to the Commission by the Division of Parks and Wildlife.

Modification of Proposed Rules prior to adoption: subject to the provisions of Section 24-4-103, C.R.S., modification of these proposals may be made by the Division of Parks and Wildlife or the Commission before the Commission promulgates final rules and regulations on the above topics.

Comment deadlines: Comments will be accepted at any time prior to, or as part of the meeting. However, to ensure sufficient time for consideration prior to the meeting, **comments should be provided to the Division of Parks and Wildlife by noon on the following date:**

February 16, 2017, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **February 17, 2016.**

Comments received by the Division after noon on **February 16, 2017,** will be provided to the Commission on the day of the meeting.

Opportunity to submit alternate proposals and provide comment: the Commission will afford all interested persons an opportunity to submit alternate proposals, written data, views or arguments and to present them orally at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be submitted to the Division of Parks and Wildlife at 1313 Sherman St., Denver, CO 80203; or e-mailed to **dnr_cpwwcommission@state.co.us**.

Use of Consent Agenda:

In order to increase the Parks and Wildlife Commission's efficiency and allow more time for consideration of parks and wildlife policy and contested issues, some or all of this regulatory

agenda may be listed for action by the Commission as part of a "Consent Agenda" for this meeting.

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Notice of Proposed Rulemaking

Tracking number

2017-00066

Department

700 - Department of Regulatory Agencies

Agency

710 - Division of Professions and Occupations - State Electrical Board

CCR number

3 CCR 710-1

Rule title

STATE ELECTRICAL BOARD RULES AND REGULATIONS

Rulemaking Hearing**Date**

03/27/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO

Subjects and issues involved

Adopt the 2017 edition of the National Electric Code, replacing the 2014 edition.

Statutory authority

The Board adopts to publish these rules pursuant to the authority granted to the Board by Section 12-23-104(2)(a), C.R.S.

Contact information**Name**

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Title

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**Division of Professions and Occupations
State Electrical Board**

RULES AND REGULATIONS

JANUARY 30, 2015

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1.0 STATEMENT OF BASIS AND PURPOSE

- 1.1. Following are the adopted changes to the Rules and Regulations of the Colorado State Electrical Board (“the Board”) for general clarification, for efficient management and expeditious procedures of the Board, and for the safeguarding of the general public in compliance with Title 12, Article 23, of the Colorado Revised Statutes.
- 1.2. The Board adopts the following rules pursuant to the authority granted to the Board by § 12-23-104(2)(a), C.R.S. and hereby repeals all previous rules with the same number.
- 1.3. These Rules shall be binding on every person and legal entity authorized to practice, offer to practice, or perform electrical or electrical contracting in Colorado. All licensees and registrants under Title 12, Article 23 of the Colorado Revised Statutes are charged with having knowledge of the existence of these rules and shall be deemed to be familiar with their provisions and to understand the rules. In these Rules, the word "licensee" shall mean any person holding a master electrician license, journeyman electrician license, or residential wireman license. In these Rules, the word “registrant” shall mean any person registered as an electrical apprentice and any person or legal entity registered with the Board as an electrical contractor.

These Rules are severable. If one rule or portion of a rule is found to be invalid, all other rules or portions of rules that can be enforced without the invalid rules shall be enforced and shall remain valid.

2.0 STANDARDS

- 2.1 The Board hereby adopts the National Fire Protection Association standard number 70, hereafter known as the National Electrical Code, 2014 2017 Edition, and as may be amended by the Board. These standards are adopted as the minimum standards governing the planning, laying out, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric light, heat, and power in this state. This rule does not include later amendments to or editions of the National Electrical Code, 2014 2017 Edition. The effective date shall be July 1, 2014 2017.
- 2.2 A copy of the provisions of the National Electrical Code, 2014 2017 edition is available for public inspection during regular business hours at the Board office at the Division of Professions and Occupations, Department of Regulatory Agencies, 1560 Broadway, Suite 1350, Denver, Colorado, 80202, and at any state publications depository library. For further information regarding how this material can be obtained or examined, contact the Program Director for the Board (“Program Director”) at 1560 Broadway, Suite 1350, Denver, Colorado, 80202, (303) 894-2300. The National Electric Code, 2014 2017 Edition, is available directly from the National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy MA 02169-7471, phone 1-800-344-3555. Copies are also available from the NFPA website at NFPA.org, as well as most online and retail book vendors.

3.0 APPRENTICE REGISTRATION AND RECORDKEEPING

3.1 Registration.

- 3.1.1 The Board may require the employer of an electrical apprentice to provide information verifying the apprentice’s record of employment and practical experience, including but not limited to a written attestation from the responsible master electrician verifying that the apprentice has been performing electrical work during any period the apprentice was not registered. Employers of apprentices shall cooperate with any request from the Board pursuant to this rule and furnish such information or assistance as the Board may request.
- 3.1.2 An individual that holds an active residential electrician’s license and is working on a commercial job site must be registered as an apprentice.
- 3.1.3 An employer who fails to timely register an apprentice as required by section 12-23-110.5(3)(a), C.R.S. and this rule shall be subject to disciplinary action pursuant to section 12-23-118, C.R.S.

3.2 **Recordkeeping.** Electrical Contractors shall maintain employment records or work reports for their apprentices in order to provide experience verification. Such records or reports should accurately document the number of hours and months the apprentice performed electrical work as defined by § 12-23-101, C.R.S. and should specifically reflect:

- A. Exact dates of employment;
- B. Number of hours and months of residential electrical experience; and,
- C. Number of hours and months of commercial, industrial, or substantially similar electrical experience.

4.0 APPLICATION FOR LICENSURE

4.1 All applications shall be submitted to the Division of Professions and Occupations in a form and manner approved by the Board.

4.2 Experience.

4.2.1 Applicants cannot verify their own experience.

4.2.2 **General Documentation Requirements.** Applicants shall provide documented written evidence of all in state and out of state experience on experience verification forms prepared and furnished by the Board which shall include all of the following:

- A. Exact dates of employment.
- B. Breakdown of electrical work performed in:
 - 1. Commercial, residential, industrial and/or maintenance/service; and,
 - 2. Increments of hours and months.
- C. Signature of the master electrician for, or a signatory authority of, the electrical contractor or employer.

4.2.3 **Maintenance Experience.** Maintenance experience shall be submitted for evaluation on experience verification forms prepared and furnished by the Board.

4.2.3.1 A maximum of two (2) years experience credit may be granted for work performed under the supervision, and verified by, a Colorado (or equivalent) licensed electrician.

4.2.3.2 A maximum of one (1) year of experience credit may be granted for work not required to be performed under the supervision of a licensed electrician, and verified by the employer.

4.2.4 Foreign Experience.

4.2.4.1 Applicants shall have one (1) year of in-country electrical construction experience and familiarity with the National Electrical Code.

4.2.4.2 A maximum of three (3) years of out-of-country experience may be applied towards credit for a journeyman license.

4.2.4.3 A maximum of four (4) years out-of-country experience may be applied towards credit for a master license.

4.2.4.4 Applicants who have electrical experience from a foreign country for which they wish to receive experience credit are required to submit the documentation accompanied by an English language translation and a certification signed by the translator that must be printed legibly or typed. Such certification must include a statement that the translator is competent to translate the document, and that the translation is true and accurate to the best of the translator's abilities.

4.2.4.4.1 This evaluation will be performed at the applicant's expense and the applicant will be responsible for submitting all the necessary information to the evaluating institution.

4.2.5 **Calculating Years of Experience.** This rule is intended to clarify the term “years” of experience earned as referenced in the statutes and does not negate any other requirement set forth in the Board’s rules or statutes for requirements for licensure.

4.2.5.1 When evaluating experience earned by an applicant pursuant to § 12-23-106, C.R.S., the minimum practice experience required for examination is calculated in “years” as follows:

- A. Residential Wireman – 4000 hours earned in no less than 2 years.
- B. Journeyman Electrician – 8000 hours earned in no less than 4 years.
- C. Master Electrician – 10,000 hours earned in no less than 5 years.

4.3 **Education.**

4.3.1 **Community College Degree.** Applicants that are graduates from an accredited community college shall hold a degree in the electrical field to receive credit pursuant to 12-23-106, C.R.S.

4.3.2 **Trade School.**

4.3.2.1 Apprenticeship training programs are not equivalent to trade schools.

4.3.2.2 A trade school shall meet the following criteria:

A. Provide training in the following areas as it relates to the electrical trade:

- 1. Maintenance and new construction wiring in residential and commercial buildings;
- 2. Basic math related to the electrical industry;
- 3. Basic use of hand tools and materials;
- 4. Basic electrical resistive theory, wire sizing, circuit construction, and troubleshooting;
- 5. Basic to advanced study in motor control, motor theory and maintenance, installation and maintenance of equipment, designing electrical systems, blueprint reading, estimating, and electrical codes;
- 6. Electrical theory and practical application; and,
- 7. OSHA curriculum based safety training.

B. Provide official transcripts noting credit hours.

- 1. Graduate must obtain no less than 165 credit hours.
- 2. Each credit hour shall represent no less than 19 classroom hours.

4.3.3 **Transcripts.** Applicants providing documentation of education must submit an official transcript from the school with the application. The transcript must be provided with the application in an official envelope sealed by the granting institution.

4.3.4 **Foreign Education.**

4.3.4.1 Applicants who have an electrical engineering degree or electrical engineering courses from foreign colleges, universities, or their equivalents for which they wish to receive educational credit are required to have the transcripts evaluated by an electrical engineering department in an accredited university to determine if the curriculum is substantially equivalent.

- 4.3.4.2 This evaluation will be performed at the applicant's expense and the applicant will be responsible for submitting all the necessary information to the evaluating institution.
- 4.3.4.3 Applicants providing documentation of education must submit the evaluation from the evaluating institution with the application.
- 4.3.5 **Other Education Credit.** Applicants for licensure with electrical apprenticeship training, other electrical training, non-accredited electrical education, or other electrical education not addressed in statute or Board Rules may be granted a maximum of one (1) year of experience credit provided the applicant meets and provides the following documentation:
 - A. Course curriculum with the number of classroom hours completed; and,
 - B. Certification of completed hours.
- 4.3.5.1. Credit may be awarded as follows:
 - A. Credit for the successful completion of non-accredited electrical courses or program shall be credited one (1) month of experience for two (2) months of schooling up to a maximum of one (1) year.
 - B. Education without a certificate of completion may replace actual field experience under a licensed master at the rate of one (1) month credit for every six (6) months training or experience up to maximum of one (1) year.

4.4 **Training.**

- 4.4.1 **Apprenticeship Training Requirements.** Persons who, on or after January 1, 2011, either, enter an apprenticeship program or register as an apprentice, must comply with the following requirements. Pursuant to § 12-23-106(2)(a)(III) C.R.S., during the last four (4) years of apprenticeship, an applicant for a journeyman electrician's license shall provide documented written evidence of at least two hundred eighty-eight (288) hours of electrical training conducted in compliance with rules promulgated by the Board.
 - 4.4.1.1 One (1) hour of approved training shall consist of not less than fifty (50) minutes of instruction, presentation, or activity spent in structured education.
 - 4.4.1.2 The 288 hours of approved training is in addition to any stipulated on-the-job training requirement and shall include technical and professional subjects related to the practice of electrical work which the Board deems necessary to safeguard the public. Such subjects include:
 - A. Grounding/bonding;
 - B. National Electrical Code changes;
 - C. Wiring methods;
 - D. Theory/calculations; and,
 - E. A minimum of ten (10) and a maximum of forty (40) hours of OSHA curriculum based safety training.
 - 4.4.1.3 **288 Hours Training Criteria.** To qualify for credit, training activities must be structured educational efforts meeting all of the following criteria:
 - A. Include technical and practical applications which impact criteria listed in Board Rule 4.1.1.1;
 - B. Be current and presented by qualified and technically competent instructors; and,
 - C. Provide certificates of completion or other documentation for the apprentice electrician and maintain records of attendance.

- 4.4.1.4 **No Pre-Approval of 288 Hours Training Activities.** The Board will not pre-approve courses or programs. It is within the discretion of the Board to deny credit for any activity that does not meet the training criteria in Board Rule 4.4.1.2.
- 4.4.1.5 **Acceptable 288 Hours Training Activities.** The Board deems the following types of activities to be acceptable. On-line delivery and participation in Board Rule 4.4.1 may be acceptable if in compliance with these rules, including but not limited to Board Rule 6.4.8
 - A. Not-for-credit academic course;
 - B. For-credit academic course; and,
 - C. Industry training programs.
- 4.4.1.6 **Non-Acceptable 288 Hours Training Activities.** The Board deems the following types of activities not acceptable training for this requirement:
 - A. Serving on federal, state, or municipal boards or commissions;
 - B. Rendering pro bono services;
 - C. Faculty at college, university, or other educational institution shall not receive credit for teaching their regularly-assigned courses beyond the initial class;
 - D. Participation on a public, professional, or technical society board;
 - E. Attendance at licensing or registration board meetings or any other professionally relevant board or committee meeting; and,
 - F. Participating in or attending exhibit poster sessions or trade shows.
- 4.4.1.7 **Recordkeeping.** The applicant shall track and document training hour requirements in a process approved by the Board. The applicant shall retain the documentation for a minimum of three (3) years following completion of the activity. Documentation shall contain, at a minimum the following information:
 - A. Apprentice electrician name;
 - B. Activity type;
 - C. Activity location and date(s);
 - D. Activity title and description of content and objectives;
 - E. Name and contact information of the sponsor or training provider (e.g. organization, institution, association, employer, vendor, or publication);
 - F. Instructor or speaker name(s), as applicable;
 - G. Name and contact information of the monitor, facilitator, or mentor, as applicable;
 - H. Certificate of completion; and,
 - I. Number of classroom hours.
- 4.4.1.8 Training earned under this requirement shall not qualify for any other education, training, or experience credit.

4.5 **License by Endorsement.**

- 4.5.1. Applicants may qualify for licensure by endorsement, providing that the applicant has:
 - A. An active residential wireman's license, journeyman electrician's license, or master electrician's license in another state, respective to the license you are applying for;

- B. Successfully completed a state or federally-approved apprenticeship program, or obtained the required years and type of experience for the comparable license; and,
 - C. Successfully completed a comparable written state electrical examination based on the current edition of the National Electrical Code in effect at the time the application is submitted to the Board.
- 4.5.2 Proof of successful completion of the requirements in 4.5 shall be submitted on the verification forms prepared and furnished by the Board, as part of the application for endorsement.
- 4.5.3 Qualification may be accumulated in multiple states, provided the qualifications meet the requirements of 4.5.1.
- 4.6 **License by Reciprocity.**
- 4.6.1 Conditions for reciprocity. Applicants must:
- 4.6.1.1 Hold, from the licensing state, a journeyman license or a master electrician license, that allows the individual to work as a journeyman electrician, that is current, active, and in good standing;
 - 4.6.1.2 Possess a journeyman electrician's license, or master electrician's license from a state that is a member in good standing of the National Electrical Reciprocal Alliance (NERA), or from any entity or jurisdiction that has a reciprocity agreement with the Board.
- 4.6.2 Applicants will not be granted a reciprocal license where the license in the licensing state was granted by grandfathering without having passed a state-administered examination.
- 4.7 **Military.** Education, training, or service gained in military services outlined in §24-34-102(8.5), C.R.S. to be accepted and applied towards receiving a license, must be substantially equivalent, as determined by the Board, to the qualifications otherwise applicable at the time of receipt of application. It is the applicant's responsibility to provide timely and complete evidence for review and consideration. Satisfactory evidence of such education, training, or service will be assessed on a case by case basis.
- 4.8 **Reconsideration.** An applicant requesting reconsideration of a Board action or requesting a personal interview before the Board, shall submit the request in writing, accompanied by additional information or documentation. This request shall be submitted within forty-five (45) days of the date on which the Board made the decision. Any request filed after forty-five (45) days will not be considered by the Board.
- 4.9 **Temporary Work Permits**
- 4.9.1 Pursuant to § 12-23-110, C.R.S., a temporary work permit may be issued at the time of approval for an examination. The temporary permit will be valid for a period of no more than thirty (30) days after the date of approval or as otherwise limited in § 12-23-110, C.R.S.
- 4.9.2 A temporary work permit shall not be accepted to meet the requirements for obtaining a new electrical contractor registration.
- 4.9.2.1 A temporary master electrician work permit may be issued to a qualified applicant of an existing electrical contractor pursuant to § 12-23-110, C.R.S.
- 4.10 **Application Retention**
- 4.10.1 **Incomplete Applications.** An application for a license by examination or endorsement submitted without all required fees and documentation will be considered incomplete. Incomplete applications will be retained for one (1) year from the date originally submitted, after which applicants shall begin the process again including payment of the application fee.
- 4.10.2 **Approved Applications without Activity.** Effective November 30, 2012, an approved applicant for licensure by examination who does not take the examination within three (3)

years from the date of the original approval date will be required to begin the application process again including payment of the application fee.

- 4.10.3 **Approved Applications with Activity.** Effective November 30, 2012, an approved applicant for licensure by examination who takes the examination but does not pass the examination within five (5) years from the date of the original approval date will be required to begin the application process again including payment of the application fee.

5.0 EXAMINATIONS

- 5.1 The candidate must present positive photo identification in order to be admitted to the examination area.
- 5.2 **Proprietary Information.** The content and answers to examinations and assessments for licensure or renewal administered by the Board are proprietary property. Licensees and registrants shall not disclose, or offer to disclose any portion of the examinations or assessment to others. Licensees and registrants may be subject to disciplinary action by the Board should they disclose, or offer to disclose, sell or otherwise distribute the content and/or answers for any examinations or assessments administered by the Board.
- 5.3 Examination results will be provided in writing to each examinee in a pass or fail format. Results will not be given in any other manner.
- 5.4 Examinations shall not be subject to review by candidates.

6.0 RENEWAL AND REINSTATEMENT

- 6.1 **Renewal.** Board issued licenses and electrical contractor registrations shall be renewed every three (3) years to correspond with the Board's adoption of the National Electrical Code.
- 6.1.1 A licensee or registrant shall have a sixty (60) day grace period to renew such license or registration without the imposition of a disciplinary sanction for practicing on an expired license or registration. During this grace period, a delinquency fee shall be charged for late renewal.
- 6.1.2 A licensee or registrant who does not renew such license or registration within the sixty (60) day grace period shall be deemed as having an expired license or registration and shall be ineligible to practice until such license or registration is reinstated. If the licensee or registrant practices with an expired license or registration, the Board may impose disciplinary actions.
- 6.2 **Reinstatement.** An expired license may be reinstated by submitting a reinstatement application, paying the current reinstatement fee, and meeting the appropriate requirements below.
- 6.2.1 **Expired for Less Than Three (3) Years.** To reinstate a license that has expired for less than three (3) years the licensee must comply with the continuing competency requirements contained in Board Rule 6.4.
- 6.2.1.1 If the licensee's performance on the Continuing Competency Assessment necessitates a Learning Plan pursuant to Board Rule 6.4.6, the holder shall satisfactorily complete the Professional Development Units (PDUs) prior to the expiration of the current Continuing Competency Assessment Cycle.
- 6.2.1.2 Demonstration the licensee has maintained their continuing competency by completion of the PDUs assigned during the assessment cycle immediately preceding application, if any were assigned.
- 6.2.2 **Expired for More Than Three (3) Years.** If the license has been expired for more than three (3) years, pursuant to §24-34-102(8)(d)(II), C.R.S. the licensee must demonstrate competency to practice by any of the following:

- A. Satisfactorily pass the state electrical examination;
 - B. Provide verification of an active license with a state where a reciprocal agreement for an equivalent license exists;
 - C. Provide verification of active licensure in a non-reciprocal state as follows:
 - 1. Verify an active residential wireman's license, journeyman electrician's license, or master electrician's license in non-reciprocal state, respective to the license being reinstated; and,
 - 2. Comply with the continuing competency requirements contained in Board Rule 6.4.
 - a. If the licensee's performance on the Continuing Competency Assessment necessitates a Learning Plan pursuant to Board Rule 6.4.6, the holder shall satisfactorily complete the PDUs prior to the expiration of the current Continuing Competency Assessment Cycle.
 - D. By other means approved by the Board.
- 6.3 An individual who has acquired both a master and a journeyman electrician license by examination issued by the state of Colorado, and who has allowed the journeyman license to expire, and holds an active master license, may reinstate the journeyman license after meeting the requirements of Board Rule 6.0.
- 6.4 **Continuing Competency Requirements.**
- 6.4.1 **Statutory Basis.** Pursuant to § 12-23-106(4)(d)(II), C.R.S., the Board shall adopt rules establishing requirements for continuing competency that a licensee shall demonstrate in order to renew a license on or after January 1, 2011. These rules shall require the licensee to participate in an assessment and a process or procedure that demonstrates whether the licensee obtained the required knowledge and skills to address any areas needing improvement or development through participation in the continuing competency activity.
- 6.4.2 **Basis of Requirements.** As established by the Colorado General Assembly, the regulatory authority of the Board is to establish continuing competency standards that shall include assessment of knowledge and skills required to renew a license, the methods to obtain the required knowledge and skills, and the documentation necessary to demonstrate compliance.
- 6.4.3 **Definitions.**
- 6.4.3.1 *Acceptable Level of Performance:* Acceptable Level of Performance shall be a value assigned by the Board to evaluate a licensee's rating on the Individual Assessment for compliance with the Continuing Competency requirements. Marks below the Acceptable Level of Performance shall indicate one or more areas needing improvement and requiring professional development activity or activities and documentation of required PDUs to demonstrate continuing competency.
- 6.4.3.2 *Core Competencies:* Core Competencies are technical and professional subjects, related to the practice of electrical work, which the Board deems necessary to safeguard the public. Such subjects include:
 - A. Grounding and bonding;
 - B. National Electrical Code changes;
 - C. Wiring methods; and,
 - D. Theory and calculations.
- 6.4.3.3 *Continuing Competency Assessment Cycle:* The Continuing Competency Assessment Cycle shall be a three (3) year period corresponding to the adoption of the National Electrical Code by the Board.

- 6.4.3.4 *Inactive Status:* A licensee is not required to comply with continuing competency requirements to renew a license in inactive status. An individual whose license is in inactive status is prohibited by law from practicing as a licensed electrician.
- 6.4.3.5 *Individual Assessment:* An instrument or process approved by the Board to evaluate the knowledge and/or skills of the licensee in each of the Core Competencies determined by the Board to be essential for practice.
- 6.4.3.6 *National Electrical Code:* The National Electrical Code shall refer to the code for the safe installation of electrical wiring and equipment, as amended, published by the National Fire Protection Association and approved by the American National Standards Institute, or its successor organization.
- 6.4.3.7 *Personal Learning Plan:* The Personal Learning Plan shall be the plan of professional development activities undertaken to demonstrate continuing competency especially in the event of an area identified as needing improvement in one (1) or more Core Competency areas, as evaluated by the licensee's performance on the Individual Assessment in relation to the Acceptable Level of Performance.
- 6.4.3.8 *Professional Development Unit (PDU):* One PDU shall consist of not less than fifty (50) minutes of instruction, presentation, or activity, spent in structured educational efforts intended to increase the licensee's knowledge and competence in Core Competencies identified by the Board.
- 6.4.4 **Requirements.** Licensees shall demonstrate compliance with the continuing competency requirements and documenting professional development units in order to renew a license to perform electrical work in Colorado. Licensees shall complete an Individual Assessment of Core Competencies. Core Competencies shall be identified and defined by the Board. An Acceptable Level of Performance in all four (4) core competencies shall result in the award of twenty-four (24) PDUs. A maximum of twenty-four (24) PDUs shall be required per assessment cycle.
 - 6.4.4.1 Upon the beginning of an assessment cycle, an Individual Assessment must be completed by the licensee, addressing Core Competency areas identified by the Board.
 - 6.4.4.2 A performance rating will be assigned for each licensee in each of the Core Competency areas of the Individual Assessment. A rating below the Acceptable Level of Performance will indicate an area for professional development in a Core Competency area.
 - 6.4.4.3 If a rating at or above the Acceptable Level of Performance is assessed in all Core Competency areas, the licensee will be awarded twenty-four (24) PDUs, as defined in these rules, for his or her demonstrated competency.
 - 6.4.4.4 A Personal Learning Plan in the Board-prescribed format will be required of any licensee earning a rating below the Acceptable Level of Performance on the Individual Assessment.
 - 6.4.4.4.1 In the event of a rating below the Acceptable Level of Performance in one (1) Core Competency area of the Individual Assessment, sixteen (16) PDUs shall be awarded to the licensee and eight (8) PDUs will be required addressing the area of low rated Core Competency.
 - 6.4.4.4.2 In the event of a rating below the Acceptable Level of Performance in two (2) Core Competency areas of the Individual Assessment, eight (8) PDUs shall be awarded to the licensee and sixteen (16) PDUs will be required addressing the low rated Core Competency areas.
 - 6.4.4.4.3 A low assessment will be indicated by a rating below the Acceptable Level of Performance in three (3) or more Core Competency areas of

the Individual Assessment. In this event twenty-four (24) PDUs addressing three (3) areas of Core Competency will be required by the licensee over the corresponding assessment cycle.

6.4.4.4.4 A maximum of twenty-four (24) PDUs shall be required during any single assessment cycle.

6.4.4.4.5 PDU completion in accordance with the Individual Assessment and documentation requirements of the Board will indicate compliance with the continuing competency requirements and shall comprise the elements of the learning plan for each licensee.

6.4.4.4.6 PDUs need not be acquired within Colorado.

6.4.5 **Credit Required for License Renewal.** Licensees shall have acquired PDUs during the period prior to the expiration of each Continuing Competency Assessment Cycle.

6.4.6 **Individual Assessment.** This is an assessment that demonstrates proficiency in core competencies by means of an examination approved by the Board. The Individual Assessment shall be completed by each licensee no later than one hundred fifty (150) days after the adoption of the most recent National Electrical Code. The results of the assessment shall be utilized to identify the need and nature of a Personal Learning Plan for each licensee.

6.4.7 **Learning Plan.** The Personal Learning Plan shall be defined by the licensee's performance on the Individual Assessment. Refer to requirements of Board Rule 6.4.4.4 to determine how many PDUs are needed. The licensee must demonstrate compliance by completing continuing competency activities as defined in Board Rule 6.4.10.

6.4.8 **Continuing Competency Activity Criteria.** To qualify for PDU credit, continuing competency activities must be structured educational efforts meeting all of the following criteria:

- A. Include technical and practical applications which impact Core Competency areas identified by the Board;
- B. Improve, expand or enhance the quality of the licensee's existing technical knowledge; or develop new and relevant professional skills and knowledge;
- C. Have clear purposes and objectives;
- D. Be well-organized and provide evidence of pre-planning;
- E. Be current and presented by qualified and technically competent instructors; and,
- F. Provide certificates of completion or other documentation for the licensee and maintain records of licensee attendance.

6.4.9 **No Pre-Approval of Continuing Competency Activities.** The Board will not pre-approve courses or programs. It is within the discretion of the Board to deny credit for any activity that does not meet the continuing competency criteria in Board Rule 6.4.10 or the definition of a core competency subject in Board Rule 6.4.3.2.

6.4.10 **Acceptable Continuing Competency Activities.** The Board deems the following types of activities to be acceptable. On-line participation in training programs or courses may be acceptable if in compliance with these rules, including but not limited to Board Rule 6.4.8:

- A. Not-for-credit academic course;
- B. For-credit academic course; and,
- C. Industry training programs.

6.4.11 **Non-Acceptable Continuing Competency Activities.** The Board deems the following types of activities are not acceptable:

- A. Serving on federal, state, or municipal boards or commissions;
 - B. Rendering pro bono services;
 - C. Faculty at college, university, or other educational institution shall not receive credit for teaching their regularly-assigned courses beyond the initial class;
 - D. Participation on a public, professional, or technical society board;
 - E. Attendance at licensing or registration board meetings or any other professionally relevant board or committee meeting; or,
 - F. Participating in or attending exhibit poster sessions and tradeshow.
- 6.4.12 **Recordkeeping.** The licensee shall track and document PDUs in a process approved by the Board. The licensee shall retain the documentation for a minimum of seven (7) years and contain, at a minimum, the following information:
- A. Licensee name;
 - B. Activity type;
 - C. Activity location and date(s);
 - D. Activity title and description of content and objectives;
 - E. Name and contact information of the sponsor or Continuing Competency provider (e.g. organization, institution, association, employer, vendor, publication);
 - F. Instructor or speaker name, as applicable;
 - G. Monitor/Facilitator/Mentor name and contact information, as applicable;
 - H. Certificate of Completion;
 - I. Number of classroom hours or PDUs.
- 6.4.13 **Exemptions.** The Board may grant exemptions from the Individual Assessment, development of the Personal Learning Plan and demonstration of Continuing Competency requirements set out in Board Rules 6.4.4 and 6.4.5, for the reasons specified herein. It is within the sole discretion of the Board to decide in particular cases whether good cause has been shown in order to grant exemptions. A licensee shall not be eligible for an exemption under this section for two (2) consecutive renewal periods except in the case of an exemption for military service. In the event a licensee cannot complete continuing competency requirements following an exemption, the license will remain expired until the licensee meets all continuing competency requirements unless the licensee applies to place the license on inactive status. Requests for exemptions must be in writing and provide the following information:
- A. Evidence that during the renewal period prior to the expiration of the license, the licensee was working at a location outside of the country, reasonably preventing completion of the continuing competency requirements;
 - B. Evidence that the licensee was called to Federally funded active duty for more than one hundred twenty days for the purpose of serving in a war, emergency, or contingency during the renewal cycle for which the exemption is requested or within six months following the completion of the service in a war, emergency, or contingency;
 - C. Evidence and written explanation of any other cause citing in as much detail as possible the inability of the licensee to comply with the continuing competency requirements for the renewal period and why the license should remain in active status.
- 6.4.14 **Audits.** The Board may audit documentation of PDUs for verification of compliance with these requirements at any time. The Board may, at its discretion, disallow any continuing competency activity.

6.4.15 Compliance with Continuing Competency Requirements.

- 6.4.15.1 Compliance with the continuing competency requirements, including Individual Assessment, development of a Personal Learning Plan, and demonstration of continuing competency, along with other requirements, must be completed before the last day of the Continuing Competency Assessment Cycle.
- 6.4.15.2 Licensees shall cooperate with the Board to determine compliance with the continuing competency requirements.
- 6.4.15.3 Licensees shall provide all documentation requested for audit within thirty (30) days of the request.

6.4.16 Multiple Licenses. Licensees holding multiple licenses issued by the Board shall complete the continuing competency requirements for the most advanced license they hold including the Individual Assessment, Learning Plan and any PDUs required based on their performance on the Individual Assessment. Completion of the continuing competency requirements for the most advanced license shall satisfy the requirements for all lesser licenses.

6.5 Inactive License Status and Reactivation.

6.5.1 Inactive License. Pursuant to § 12-70-101, C.R.S., any licensee may apply to the Board to transfer his or her license to inactive status. Such application shall be in the form and manner designated by the Board. The holder of an inactive license shall not be required to comply with the continuing competency requirements for renewal so long the license remains inactive.

- 6.5.1.1 Each holder of an inactive license shall renew once every three (3) years with the Board in the same manner as active license holders and pay a fee pursuant to § 12-23-112, C.R.S.
- 6.5.1.2 During such time as a license remains in an inactive status, the licensee shall not perform any acts restricted to active licensed electricians pursuant to § 12-23-118, C.R.S. The Board shall retain jurisdiction over an inactive license for the purposes of disciplinary action pursuant to § 12-23-119, C.R.S.

6.5.2 Reactivation of Inactive License. An inactive license may be reactivated by submitting the proper application, paying the current reactivation fee, and meeting the appropriate requirements below.

- 6.5.2.1 **Inactive for Less Than Three (3) Years.** To reactivate a license that has been inactive for less than three (3) years, the licensee must comply with the continuing competency requirements contained in Board Rule 6.4.
 - 6.5.2.1.1 If the licensee's performance on the Continuing Competency Assessment necessitates a Learning Plan pursuant to Board Rule 6.4.6, the holder shall satisfactorily complete the PDUs prior to the expiration of the current Continuing Competency Assessment Cycle.
 - 6.5.2.1.2 Demonstration the licensee has maintained their continuing competency by completion of the PDUs assigned during the assessment cycle immediately preceding application, if any were assigned.
- 6.5.2.2 **Inactive for More Than Three (3) Years.** Pursuant to § 12-23-106(4)(c), C.R.S., a licensee whose license has been inactive for more than three (3) years must demonstrate competency to practice by any of the following:
 - A. Satisfactorily pass the state electrical examination;
 - B. Provide verification of an active license with a state where a reciprocal agreement for an equivalent license exists;
 - C. Provide verification of active licensure in a non-reciprocal state as follows:

1. Verify an active residential wireman's license, journeyman electrician's license, or master electrician's license in non-reciprocal state, respective to the license you are reinstating; and,
2. Comply with the continuing competency requirements contained in Board Rule 6.4.
- a. If the licensee's performance on the Continuing Competency Assessment necessitates a Learning Plan pursuant to Board Rule 6.4.6, the holder shall satisfactorily complete the PDUs prior to the expiration of the current Continuing Competency Assessment Cycle.

D. By other means approved by the Board.

6.5.3 Practicing with an Inactive License. Practicing electrical work with a license in inactive status shall constitute practice without an active license and, therefore, may be grounds for injunctive or disciplinary action, up to and including revocation.

6.6 Loss of Responsible Master. An electrical contractor who loses the services of the responsible master electrician, for any reason, will be allowed twenty (20) days in which to hire another master electrician. If the electrical contractor has not hired another master electrician during that period, the Board shall place the electrical contractor registration into inactive status until such time that the contractor submits evidence that a master electrician has been hired, and the appropriate fee has been paid.

6.7 Any licensed or registered individual working as an electrician shall be required to carry on their person the appropriate license, temporary work permit, or registration.

6.8 Name and Address Change.

6.8.1 A licensee or registrant shall inform the Board in a clear, explicit, and unambiguous written statement of any name, address, telephone, or email change within thirty (30) days of the change. The Board will not change the licensee or registrant information without explicit written notification from the licensee or registrant. Notification by any manner approved by the Board is acceptable.

6.8.1.1 The Division of Professions and Occupations maintains one (1) contact address for each licensee or registrant, regardless of the number of licenses or registrations the licensee or registrant may hold.

6.8.1.2 Address change requests for some, but not all, communications or for confidential communications only are not accepted.

6.8.2 The Board requires one (1) of the following forms of documentation to change the name or social security number of a licensee or registrant:

6.8.2.1 Marriage license;

6.8.2.2 Divorce decree;

6.8.2.3 Court order; or

6.8.2.4 A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Division of Professions and Occupations.

7.0 PERMITS AND INSPECTIONS

7.1 Wiring permit applications shall be issued in the name of the qualified applicant (see § 12-23-111 (2), C.R.S.) or registered electrical contractor performing the electrical work. The qualified applicant is defined as a homeowner performing work in accordance with statutory requirements.

- 7.2 A permit shall be required for all systems supplying power that may normally be supplied by an electrical utility, such as, but not limited to, solar, wind, hydroelectric and other generated sources. (The Board or its administrative officer may revoke a permit that was issued in error or on the basis of incorrect information supplied by the applicant.)
- 7.3 Any permit issued as a result of fraudulent or incorrect information supplied on the application shall be cancelled.
- 7.4 Any work commencing prior to the purchase of a permit is subject to twice the prescribed permit fee.
- 7.5 **Stop Work Order**
- 7.5.1 **Notice to owner.** Upon notice from the electrical inspector that work on any building or structure is being installed contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work, or posted at the job site and shall state the conditions under which work will be permitted to resume.
- 7.5.2 **Unlawful continuance.** Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by this article.
- 7.6 Additions, alterations or repairs may be made to any electrical system and equipment without requiring the existing electrical system and equipment to comply with all the requirements of the Board standards, provided that the addition, alteration or repair conforms to that required for a new electrical system and equipment, and provided further that no hazard to life, health or safety will be created by such additions, alterations or repairs.
- 7.7 Existing electrical wiring systems may continue to be energized provided that they were lawfully installed and that they present no hazard to life, health or property.
- 7.8 Services to moved buildings shall comply with the standards of the Board for new installations. The existing electrical wiring may be re-energized provided that a registered electrical contractor gives written verification to the Board that the existing electrical installation presents no hazard to life, health or property. Permits and inspections shall be required.
- 7.9 An inspection request will only be accepted from the permit owner or their agent.
- 7.10 An individual requesting an electrical inspection shall provide reasonable access to the inspection area during the normal working hours of the Board office.
- 7.11 Article 110.2, "Approval", in the National Electrical Code, provides that conductors and equipment required or permitted by this code shall be acceptable only when "approved". The Board will accept conductors and equipment that have been tested and approved by a recognized testing agency such as Underwriters Laboratories, Inc., or field-evaluated by a certified Field Evaluation Body (FEB) in accordance with NFPA 790 and 791. FEB certification is to be provided by International Accreditation Service (IAS) or equal. The Board reserves the right of its inspectors to reject any conductors or equipment that in their opinion may be unsafe or injurious to life or property.
- 7.12 **Reinspection Fees.** A reinspection fee may be assessed at the discretion of the inspector for reasons including, but not limited to, the following:
- 7.12.1 The job is not ready for an inspection and an extra trip is required for the inspector (a job with multiple code violations may be considered "not ready" by the inspector).
- 7.12.2 Corrections have not been made to all code violations cited from previous inspection.
- 7.12.3 No access to the job site for reasons including but not limited to; locked gate or door, snow not plowed, no escort into an occupied structure, etc. (inspectors may not enter an occupied residence without an escort at least 18 years or older).

- 7.12.4 Hazardous construction site as determined by the inspector or OSHA guidelines (may include loose dogs, etc.)
- 7.12.5 Address not posted so as to be visible from the street or road.
- 7.12.6 Improper directions to jobsite given on permit or inspection requests.
- 7.13 A reinspection shall not be performed until the reinspection fee has been paid.
- 7.14 A final inspection shall not be performed until a permanent electrical load consistent with the type of structure is connected.
- 7.15 As used in § 12-23-118(1)(c), C.R.S., the term “reasonable time” shall mean thirty (30) calendar days.

8.0 ENFORCEMENT

- 8.1 **Cooperation with Board Investigations.** Licensees and registrants having knowledge of, and/or involvement in, any alleged violation of Title 12, Article 23, and/or Board rules, shall cooperate with any investigation initiated by the Board and timely furnish such information or assistance as may be requested.
- 8.2 **Report Convictions, Judgments, and Administrative Proceedings**
 - 8.2.1 A licensee or registrant, as defined in § 12-23-101(1)(2)(3) and (4), C.R.S., including but not limited to registered electrical apprentices, registered electrical contractors, or licensed electricians (residential wireman, journeyman electricians, or master electricians, herein after known collectively as “electricians”) shall inform the Board, in a manner set forth by the Board, within forty-five (45) days of any of the following occurrences: the conviction of the registrant or licensee of a felony under the laws of any State or of the United States.
 - 8.2.2 A licensee or registrant convicted of a felony under the laws of any State or of the United States is grounds for discipline pursuant to § 12-23-118, C.R.S.
 - 8.2.3 For purposes of this rule, a “conviction” includes:
 - A. A guilty verdict;
 - B. A plea of guilty accepted by the court; or
 - C. A plea of nolo contendere (no contest) accepted by the court.
 - 8.2.4 The notice to the Board shall include the following information:
 - A. The court;
 - B. The jurisdiction;
 - C. The case name;
 - D. The case number; and,
 - E. A description of the matter or copy of the indictment or charges.
 - 8.2.5 The licensee or registrant shall inform the Board of the following information within forty-five (45) days of each such occurrence:
 - A. The imposition of a sentence for a felony conviction; and,
 - B. The completion of all terms of a sentence for a felony conviction.
 - 8.2.6 The licensee or registrant notifying the Board may submit a written statement with any notice under this rule to be included in the registrant or licensee records.
 - 8.2.7 This rule shall apply to any conviction or plea as described in Board Rule 9.2.3.

8.3 Citations.

- 8.3.1 The citation form shall be completed by the state electrical inspector. Citations will be served by certified mail or in person by a state electrical inspector. Completed, served citation forms will be mailed to the Board for review. The Board maintains the discretion to dismiss the citation at any time.
- 8.3.2 The citation form shall direct the recipient to respond in one of the following ways within ten (10) working days after service of the citation:
 - A. Pay the fine; or
 - B. Submit a written request to negotiate a stipulated settlement agreement with the Program Director; or
 - C. Submit a written request for a formal administrative hearing.

8.3.3 Fines.

- 8.3.3.1 If one of the following actions has not been taken by the citation recipient within ten (10) working days following the service of the citation, the recipient shall be deemed to have failed to comply with the citation and the fine shall become a final Board action:
 - A. Full payment of the fine;
 - B. Written request for negotiation of a stipulated settlement agreement; or,
 - C. Written request for a formal administrative hearing.
- 8.3.3.2 In any action to collect a fine, the Board shall seek reasonable attorney fees and costs.

8.3.4 Negotiations.

- 8.3.4.1 A written request and explanation for negotiation of a stipulated settlement agreement shall be submitted to the Program Director or designee and may include information in mitigation of the violation. The date the request for negotiation of a stipulated agreement is received by the Program Director constitutes the submittal date. After reviewing the requested settlement information, the Program Director has the option to authorize the following actions:
 - A. Issue a letter of admonition;
 - B. Dismiss the citation;
 - C. Reduce the fine;
 - D. Arrange a payment schedule;
 - E. Permit a personal appearance before the Board; and/or,
 - F. Refer the matter for a formal administrative hearing.
- 8.3.4.2 Negotiations may terminate for reasons including but not limited to:
 - A. The recipient admits to committing the violation;
 - B. The recipient does not conduct settlement negotiations timely and in writing;
 - C. The recipient does not present reasonable mitigating or extenuating information in writing;
 - D. The Program Director determines the settlement negotiations are not being conducted in good faith or are being conducted for the purpose of delay;
 - E. It appears unlikely the parties will reach a negotiated resolution; and/or,

F. The recipient has prior violations that need to be brought to the Board's attention prior to attempting settlement negotiations.

- 8.3.4.3 A stipulated settlement agreement shall be considered a violation for the purpose of determining the fine amount in subsequent violations. The stipulated settlement agreement may contain an admission of the violation(s). A stipulated settlement agreement shall be signed and dated by both the Program Director or Board chair or designee and the citation recipient. A stipulated settlement agreement shall be approved by the Board in order to become a final agency order.
- 8.3.4.4 A written request from the citation recipient to proceed to a formal hearing may be submitted at any time during settlement negotiations. If the negotiations are subsequently deemed futile, the citation recipient shall be notified that payment of the fine or request a formal administrative hearing shall be submitted within ten (10) calendar days. Written settlement information may be used against the licensee, registrant, applicant or respondent at the hearing when unsuccessful settlement negotiations proceed to a formal hearing.
- 8.3.4.5 When the citation recipient retains an attorney for assistance during stipulated settlement negotiations, the Board or Program Director may request the Attorney General to assist with settlement negotiations.
- 8.3.4.6 **Hearings.** Hearings shall be conducted in accordance with the Administrative Procedure Act. The hearings shall be conducted by an administrative law judge at the Office of Administrative Courts. The citation recipient may be represented by counsel of his or her choosing.
- 8.3.4.6.1 At the formal administrative hearing, the Board may pursue the award of the maximum fine allowed by statute. At the formal administrative hearing, the Board may also pursue the award of any other disciplinary sanctions such as revocation, suspension or probation. The Board shall review the entire citation history of a licensee, as found in the Board's records, in any disciplinary action against a licensee.
- 8.3.4.7 Inspectors shall not negotiate settlements or accept payment of fines.

8.4 **Fine Schedule.** The following is the current fine schedule adopted by the Board pursuant to § 12-23-118(5)(a), C.R.S.

Violation	Statutory Provision	1st Offense	2nd Offense	Subsequent Offense
Engaging in the business, trade, or calling of a journeyman electrician without a license	12-23-105(1)	\$225	\$600	Up to \$2,000 per day
Engaging in the business, trade, or calling of a master electrician without a license	12-23-105(1)	\$300	\$600	Up to \$2,000 per day
Engaging in the business, trade, or calling of a residential wireman without a license	12-23-105(2)	\$150	\$375	Up to \$2,000 per day
Performing electrical work beyond the authorization of a residential wireman license	12-23-105(1)	\$375	\$750	Up to \$2,000 per day
Failure of an electrical contractor to register an apprentice	12-23-110.5(3) 12-23-118(1)(a)	\$225	\$600	Up to \$2,000 per day

Failure of an apprentice to work under the supervision of a licensed electrician	12-23-110.5(1)	\$50	\$200	Up to \$2,000 per day
Employment by an electrical contractor of unlicensed persons doing electrical work	12-23-118(1)(k)	\$300	\$600	Up to \$2,000 per day
Engaging in the business of an electrical contractor without obtaining registration from the Board	12-23-106(5)(a)	\$750	\$1,500	Up to \$2,000 per day
Failure of a licensed electrician to supervise an apprentice	12-23-110.5(1), 12-23-110.5(3)(b) 12-23-118(1)(j)	\$375	\$600	Up to \$2,000 per day
Failure of an electrical contractor to maintain a supervisory ratio of one licensed electrician to three apprentices	12-23-110.5(1)	\$375	\$600	Up to \$2,000 per day
Failure to obtain a permit and/or failure to obtain an inspection	12-23-116 12-23-118(1)(a)	\$375	\$900	Up to \$2,000 per day
Failure to remove a cause for disapproval of any electrical installation within a reasonable time	12-23-118(1)(c)	\$450	\$900	Up to \$2,000 per day
Advertising by a licensee or registrant which is false or misleading	12-23-118(1)(h)	\$375	\$750	Up to \$2,000 per day
Deception, misrepresentation or fraud in obtaining or attempting to obtain a license (includes loaning a license)	12-23-118(1)(i)	\$1,000	\$2,000	Up to \$2,000 per day
Failure to comply with other state or federal law (safety, health, insurance, tax)	12-23-118(1)(p)	\$375	\$750	Up to \$2,000 per day
Other violations of the state electrical statutes, rules, or Board orders.	12-23-118(1)	Up to \$1,000	Up to \$2,000	Up to \$2,000 per day

- 8.5 Compliance. Payment of a fine assessed from a citation does not relieve the receiver of the citation from correcting the situation, installation, statute or code violation noted in the citation.

9.0 DECLARATORY ORDERS

- 9.1 Any person may petition the Board for a declaratory order to terminate controversies or to remove uncertainties as to the applicability to the petitioner of any statutory provision or of any rule or order of the Board.
- 9.2 The Board will determine, in its discretion and without notice to the petitioner, whether to rule upon any such petition. If the Board determines that it will not rule upon such a petition, the Board shall promptly notify the petitioner of its action and state the reasons for such action.
- 9.3 The Board shall consider the following matters, among others in determining whether to rule upon a petition filed pursuant to this rule:
- A. If a rule on the petition will terminate a controversy or remove uncertainties as to the applicability to petitioner of any statutory provision or rule or order of the Board.
 - B. If the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Board or a court involving one or more of the petitioners.

- C. If the petition involves any subject, question or issue that is the subject of a formal or informal matter of investigation currently pending before the Board or a court but not involving any petitioner.
 - D. If the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.
 - E. If the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Rule 57, Colo. R. Civ.P., that will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule or order in question.
- 9.4 A petition filed pursuant to this rule shall set forth the following:
- A. The name and address of the petitioner and whether the petitioner is licensed pursuant to the organic act.
 - B. The statute, rule or order to which the petition relates; and,
 - C. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner.
- 9.5 If the Board determines that it will rule on the petition, the following procedures shall apply:
- A. The Board may rule upon the petition based solely upon the facts presented in the petition. In such a case:
 - 1. Any ruling of the Board will apply only to the extent of the facts presented in the petition and any amendment to the petition.
 - 2. The Board may order the petitioner to file a written brief, memorandum or statement of position.
 - 3. The Board may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
 - 4. The Board may dispose of the petition on the sole basis of the matters set forth in the petition.
 - 5. The Board may request the petitioner to submit additional facts, in writing. In such event, such additional facts will be considered as an amendment to the petition.
 - 6. The Board may take administrative notice of facts pursuant to the Administrative Procedure Act (§ 24-4-105[8], C.R.S.) and may utilize its experience, technical competence and specialized knowledge in the disposition. If the Board rules upon the petition without a hearing, it shall promptly notify the petitioner of its decision.
 - B. The Board may, in its discretion, set the petition for hearing upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The notice to the petitioner setting such hearing shall set forth, to the extent known, the factual or other matters into which the Board intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all of the facts stated in the petition, all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Board to consider.
- 9.6 The parties to any proceeding pursuant to this rule shall be the Board and the petitioner. Any other person may seek leave of the Board to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Board. A petition to intervene shall set forth the same matters as required by section 7.4. Any reference to a “petitioner” in this rule also refers to any person who has been granted leave to intervene by the Board.
- 9.7 A declaratory order or other order disposing of a petition pursuant to this rule shall constitute agency action subject to judicial review pursuant to § 24-4-106, C.R.S.

10.0 STATE ELECTRICAL INSPECTORS

- 10.1 **Applicant.** All applicants for the position of state electrical inspector must possess a current journeyman or master electrician license issued by the State of Colorado.
- 10.2 **Electrician License.** Electrical inspectors must maintain a current Colorado journeyman or master electrician license.

Notice of Proposed Rulemaking

Tracking number

2017-00068

Department

900 - Department of Law

Agency

901 - Peace Officer Standards and Training Board

CCR number

4 CCR 901-1

Rule title

PEACE OFFICER TRAINING PROGRAMS AND PEACE OFFICER CERTIFICATION

Rulemaking Hearing**Date**

03/24/2017

Time

10:00 AM

Location

1300 Broadway, 1st Floor, Denver CO 80203

Subjects and issues involved

Amendments to rules to correct, update and clarify language and eliminate unnecessary language.

Statutory authority

24-31-303(1)(g)

Contact information**Name**

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**COLORADO DEPARTMENT OF LAW
PEACE OFFICER STANDARDS AND TRAINING BOARD**

2017

**RULES CONCERNING VARIANCES, APPEAL PROCESS, REVOCATION
HEARINGS, BASIC, PROVISIONAL AND RESERVE CERTIFICATIONS,
RENEWAL OF CERTIFICATION, FINGERPRINT-BASED CRIMINAL
HISTORY RECORD CHECK, CERTIFICATION AND SKILLS
EXAMINATIONS, CERTIFICATION RECORDS, CERTIFICATION
SUSPENSION AND REVOCATION, BASIC AND RESERVE TRAINING
ACADEMIES AND IN-SERVICE TRAINING PROGRAM.**

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

Pursuant to sections §24-31-303 (1)(g), (l) and (m), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate rules and regulations deemed necessary by such board for the certification of applicants to serve as peace officers or reserve officers in the state, to promulgate rules deemed necessary by such board concerning annual in-service training requirements, and to promulgate rules as the board may deem necessary or proper to carry out the provisions and purposes of article 4 of Title 24.

Amendments are proposed to Rule 7 – Variances, to clarify the process by which individuals may request a variance and appeal a decision, and the steps taken by the POST Director and Board upon receipt of requests.

Amendments are proposed to Rule 8 – Appeal Process for Peace Officer Applicants – Certification Denial as a Result of a Misdemeanor Conviction, to clarify the process by which individuals may appeal denial of POST certification for conviction of pertinent misdemeanors.

Amendments are proposed to Rule 9 – Revocation Hearings for Criminal Conduct, to clarify the process by which an individual may appeal revocation of their POST certification for conviction of any felony and pertinent misdemeanors.

Amendments are proposed to Rule 10 – Basic Peace Officer Certification, to expand the documentation for proof of high school completion, to outline the requirements for officers previously employed in other states, to specify a time limit for validity of skills exams, to clarify expiration circumstances for officers on military deployment, and to remove gender-specific language.

Amendments are proposed to Rule 11 – Provisional Certification, to specify how often provisional certifications may be issued to one individual, specify required forms, clarify status of prior service for Provisional candidates, expand the documentation for proof of high school completion, and to remove gender-specific language.

Amendments are proposed to Rule 12 – Reserve Certification, to expand the documentation for proof of high school completion, and to remove gender-specific language.

Amendments are proposed to Rule 13 – Renewal of Basic Certification, to specify requirements for officers who have worked as officers in other states prior to applying for renewal of their Colorado POST certification, and to remove gender-specific language.

Amendments are proposed to Rule 14 – Fingerprint-Based Criminal History Record Check, to clarify and revise time limit and format by which academy student information must be submitted by academy staff.

Amendments are proposed to Rule 15 – Certification Examination – Basic, Provisional, Renewal, to specify the time limit for validity of skills exams, and to remove gender-specific language.

Amendments are proposed to Rule 16 – Skills Examinations for Provisional and Renewal Applicants, to specify the time limit for validity of skills exams, and to require prepayment and prior POST approval for any individual skills exams with individual SME members after failure of skills exam(s).

Amendments are proposed to Rule 17 – Certification Records, to clarify the annual requirement for each agency to review their roster of certified officers is correct, and to require that all officers have a valid Colorado driver's license or ID.

Amendments are proposed to Rule 18 – Certification, Suspension, and Revocation – Basic, Provisional, Renewal, and Reserves, to specify that reinstatement of a peace officer certification shall be effective immediately upon approval by the POST Board.

Amendments are proposed to Rule 21 – Basic and Reserve Training Academies, to expand the documentation for proof of high school completion.

Amendments are proposed to Rule 28 – In-Service Training Program, to clarify the in-service training requirement minimum training in each perishable skill.

Statutory Basis

The statutory basis for adoption of the proposed rules are §24-31-303(1)(g) C.R.S. §24-31-305(1.7)(c) C.R.S. and §24-31-303(l) C.R.S.

Purpose

The purpose of the amended rules is to provide clarification to persons subject to POST peace officer certification requirements and provide updated information regarding items utilized in these rules.

Contemplated Schedule for Adoption

Rules will likely be adopted on March 24, 2017, with an effective date of May 15, 2017, with the exception of Rule 28, which has an effective date of January 1, 2018.

Listing of Persons and Parties Affected

Peace officers, including those applying for certification and those currently employed as certified peace officers, will be affected by this anticipated rulemaking.

It has been declared by the General Assembly that certification and training standards of peace officers is a matter of statewide concern. The absence of implementing rules to carry out the purpose of the statutes would be contrary to the public health, peace, safety and welfare of the state. For these reasons, it is imperatively necessary that these proposed amendments be adopted.

Rule 7 – Variances

Effective January 31, 2016

Effective May 15, 2017

- (a) The Board may, upon sufficient cause shown, authorize variances to persons who are otherwise required to meet the requirements of these rules.
- (b) To request a variance, an applicant must submit a written petition to the Director, fully explaining all relevant facts. Any person seeking a temporary or permanent variance has the burden of establishing that:
 - (I) The variance is consistent with the basic purposes and policies of § 24-31-301, et seq., C.R.S.; and
 - (II) Strict application of the statutes and rules pertaining to the certification process would present a practical difficulty or unnecessary hardship. Mere inconvenience or expense does not suffice.
- (c) The Director, in his discretion, may determine the merits of the request based upon the applicant's written submissions, or may request additional information, or may hold a meeting.
- (d) Any variance granted under this rule shall be subject to such limitations or conditions as the Director or Board deems necessary in order to conform to the basic purposes and policies of applicable law.

(I) A variance is valid for six (6) months from the date of issue. One variance may be granted at the discretion of the Director per incident.

- (e) If any determination made by the Director pursuant to this rule is not appealed by the applicant within thirty (30) days pursuant to Rule 5(c), such determination shall become final. If a determination is appealed by the applicant, the Board will decide whether to hear the appeal. ***An appeal of the Director's decision must be made in writing and submitted to the POST Director. Upon receipt of the appeal, the POST Director will notify the POST Board members and request a decision be made.*** at its next regular meeting. If at least six (6) Board members do not agree to hear the appeal, the determination of the Director shall be deemed to be summarily affirmed. If at least six (6) members ***If a majority of the POST Board Members*** do agree to hear the appeal, ***a five-member panel of Board members shall hear the appeal*** the Board shall proceed to the merits of the matter. ***The appeal hearing must be held within thirty (30) days from the date the Board agreed to hear the appeal.*** Any summary affirmance or decision on the merits by the Board shall be deemed final agency action. ***The applicant will be notified of the Board's action.***

- (f) In accordance with § 24-31-303(5)(a) and § 24-31-305(1)(a)(III), C.R.S., no person may, through a variance or otherwise, serve as a certified peace officer, as defined in § 16-2.5-102, C.R.S., without having first passed the required certification examination and become certified.

**Rule 8 – Appeal Process for Peace Officer Applicants
– Certification Denial as a Result of a Misdemeanor
Conviction**

Effective ~~March 1, 2006~~ May 15, 2017

- (a) The Board has promulgated these rules to ensure orderly and fair treatment of all POST approved training academy, renewal and provisional peace officer applicants. § 24-31-305, C.R.S., requires the POST Board deny or revoke certification of any person convicted of a felony or particular misdemeanors. For the purpose of this rule, the term ‘conviction’ includes deferred judgments and deferred sentences imposed by a court or judge, until such time as the charges are dismissed. Any Colorado juvenile adjudication shall not be deemed a conviction.
- (b) If an applicant anticipates prior to the denial of certification that he or she will be denied certification on the ground that the applicant has been convicted of any misdemeanor or misdemeanors described in subsection 1.5 of § 24-31-305, C.R.S., the applicant must provide a fingerprint-based criminal history record check, through the submission of a POST fingerprint card to the Colorado Bureau of Investigation (CBI) and the Federal Bureau of Investigation (FBI), and may request an exemption from denial of certification.
- (c) To appeal denial of Colorado certification, an applicant or the chief law enforcement officer, if any, of the potential employing agency must submit a written petition to the POST Director, notifying the Board of such conviction or convictions, and request the Director to grant the applicant an exemption from denial of certification. The petition must fully explain all relevant facts. Any person seeking an exemption of a misdemeanor conviction and consideration of certification has the burden of establishing that:
 - (I) The appeal is consistent with the basic purposes and policies of § 24-31-305, et seq., C.R.S.; and
 - (II) Mitigating circumstances exist that warrant exemption; and
 - (III) A true and accurate copy of the court record with disposition and police offense/case report upon which the conviction resulted is attached to the petition. If the charging agency no longer has a copy of the report, a letter from the agency verifying that fact should be attached.
- (d) The Director, at his discretion, may determine the merits of the request based upon the applicant’s written submissions, or may request additional information.

- (e) Any exemption granted under this rule shall be subject to such limitations or conditions as the Director or Board deems necessary in order to conform to the basic purposes and policies of applicable law.
- (f) After a decision has been made by the POST Director, the applicant has thirty (30) days to appeal the decision to the POST Board. If any determination made by the Director pursuant to this rule is not appealed by the applicant within thirty (30) days pursuant to Rule 5(c), such determination shall become final. If a determination is appealed by the applicant, the Board will decide whether to hear the appeal. ***An appeal of the Director's decision must be made in writing and submitted to the POST Director. Upon receipt of the appeal, the POST Director will notify the POST Board members and request a decision be made.*** ~~If at least six (6) Board members do not agree to hear the appeal, the determination of the Director shall be deemed to be summarily affirmed. If at least six (6) members do~~ ***If a majority of the POST Board members*** agree to hear the appeal, a ~~three~~ ***five***-member panel of Board members shall proceed to ***hear the Board appeal.*** ~~the merits of the matter.~~ ***The appeal hearing must be held within thirty (30) days from the date the Board agreed to hear the appeal.*** Any summary affirmance or decision on the merits by the sub-committee of the Board shall be deemed final agency action. ***The applicant will be notified of the Board's action.***
- (g) In accordance with § 24-31-303(5)(a) and § 24-31-305(1.6)(a)(b), C.R.S., no person may, through an exemption or otherwise, serve as a certified peace officer, as defined in § 16-2.5-102 or § 16-2.5-110, C.R.S., without having first passed the required certification requirements and become certified.

Rule 9 – Revocation Hearings for Criminal Conduct

Effective ~~March 2, 2005~~ **May 15, 2017**

- (a) A Colorado peace officer certification issued pursuant to § 24-31-305, C.R.S., shall be suspended or revoked by the POST Board if the certificate holder has been convicted of a felony, or has been convicted on or after July 1, 2001, of any misdemeanor described in subsection (1.5) of § 24-31-305, C.R.S., or, has otherwise failed to meet the certification requirements established by the Board. For purposes of this rule, the term ‘conviction’ includes any deferred judgments or deferred sentences imposed by a court or judge.
- (b) The certificate holder or the chief law enforcement officer of the agency employing such certificate holder may, within thirty (30) days after the effective date of the conviction of such misdemeanor, petition the Board not to revoke the certificate. The petition must fully explain all relevant facts. The petitioner has the burden of establishing that:
 - (I) The appeal is consistent with the basic purposes and policies of § 24 31-305, et seq., C.R.S.; and
 - (II) Mitigating circumstances exist and that the certificate should not be revoked; and
 - (III) A true and accurate copy of the court record with disposition, and police offense/case report upon which the conviction resulted shall be attached to the petition. If the charging agency no longer has a copy of the report, a letter from the agency verifying that fact should be attached.
- (c) The procedures set forth in Rule 5 shall be utilized with the Director making an initial determination.
- (d) The Director, in his discretion, may determine the merits of the request based upon the applicant's written submissions, or may request additional information.
- (e) A decision by the Director is final unless appealed to the Board within thirty (30) days of the date of such decisions. If a decision is appealed to the Board, the Board will decide whether to hear the appeal. ***An appeal of the Director’s decision must be made in writing and submitted to the POST Director. Upon receipt of the appeal, the POST Director will notify the POST Board members and request a decision be made.*** If at least six (6) Board members do not agree to hear the appeal, the determination of the Director shall be deemed to be summarily affirmed. If

~~at least six (6) members~~ ***If a majority of the POST Board members*** ~~do~~
agree to hear the appeal, a five-member panel of Board members shall
proceed to hear the Board appeal. ***The appeal hearing must be held
within thirty (30) days from the date the Board agreed to hear the
appeal.*** The certificate holder will be notified of the Board's action. This
decision, whether summarily affirmed or decided by the board
subcommittee, shall be deemed final board action. ***The applicant will be
notified of the Board's action.***

Rule 10 – Basic Peace Officer Certification

Effective ~~January 31, 2016~~ **May 15, 2017**

- (a) The POST Board is authorized to issue POST Basic Peace Officer Certification to any applicant who meets the following requirements:
- (I) Possesses and submits a copy of ~~his/her~~ **their** high school diploma, ~~or~~ high school equivalency certificate, **or other evidence of successful completion of high school; and**
 - (II) Possesses and submits a copy of ~~his/her~~ **their** current first aid and cardiopulmonary resuscitation certification, or equivalents; and
 - (III) Truthfully completes and submits the POST Form 1 - *Application for Basic Peace Officer Certification*; and
 - (A) if previously certified as an officer in another state but is ineligible to apply as a provisional applicant, the applicant must be in good standing with the other certifying state and must complete and submit to POST a POST Form 3 – Application for Provisional Certification and a Release of Information Form within thirty (30) days of starting the academy.**
 - (IV) Successfully completes the fingerprint-based criminal history record check required under Rule 14; and
 - (V) If applicable, submits a copy of ~~his/her~~ **their** DD214 showing ~~he/she~~ **they** ~~has~~**ve** not been released or discharged from the Armed Forces of the United States under dishonorable conditions, per § 24-31-301(5), C.R.S.; and
 - (VI) Successfully completes an approved basic training academy, including skills training, and passes the written certification examination within two years of the graduation date; and
 - [Skills testing is valid for two years from the date of completion, after this time has elapsed if full certification was not issued, the applicant must retest on all skills (driving, arrest control and firearms)].**
 - (VII) Submits a copy of ~~his/her~~ **their** academy certificate of completion; and

(VIII) Possesses and submits a copy of ~~his/her~~ **their** current Colorado Driver's License or State-Issued Identification card.

- (b) POST Basic Peace Officer Certification qualifies the person to seek employment and serve as a fully authorized peace officer with any Colorado law enforcement agency recognized in Article 2.5 of Title 16, C.R.S.
- (c) If a basic or reserve certificate holder has not served as a peace officer or reserve peace officer for a total of at least six (6) months during any consecutive three-year period, the certification automatically expires at the end of such three-year period, unless the certificate holder is then serving as a peace officer or reserve peace officer.

(I) If a basic or reserve certificate holder is deployed for military service, the certification automatically expires at the end of a three-year period from the date of certification or the date of separation from a Colorado law enforcement agency. If expired, the basic certificate holder is eligible to complete the certification renewal process. If employed at time of deployment, the certificate holder, at the agency's discretion, may remain on the employment roster and their certification will not expire.

- (d) A certified peace officer who has obtained basic certification may maintain current status as a certified peace officer while serving in a reserve peace officer position, recognized in § 16-2.5-110, C.R.S.
- (e) A certified reserve peace officer seeking regular basic peace officer certification may apply ~~his/her~~ **their** successfully completed skills training, obtained through the reserve peace officer certification program at a POST approved reserve academy, towards basic peace officer certification. Acceptance of the skills training is at the option of the director of the basic peace officer training academy to which the applicant is seeking enrollment.

Rule 11 – Provisional Certification

Effective ~~January 31, 2016~~ **May 15, 2017**

- (a) The Board is authorized to issue a provisional certification letter to any applicant who is authorized to serve as a certified peace officer by any other state or federal jurisdiction, excluding the armed forces, which has established minimum law enforcement training standards that are equivalent to the standards established by Colorado as determined by the POST Director. The provisional applicant must be fully certified within the preceding three years and have served as a certified law enforcement officer ***in a full or part-time status*** in good standing in such other state or federal jurisdiction for more than one year. The applicant must additionally meet all of the following requirements:
 - (I) Possess and submit a copy of ~~his/her~~ ***their*** high school diploma, or high school equivalency certificate, ***or other evidence of successful completion of high school; and;***
 - (II) Possess and submit a copy of ~~his/her~~ ***their*** current first aid and cardiopulmonary resuscitation certification, or equivalents;
 - (III) Truthfully complete and submit the POST Form 3 – *Application for Provisional Certification*, ***and a notarized copy of the Release of Information Form;***
 - (IV) Successfully complete the fingerprint-based criminal history record check required under Rule 14; and
 - (V) Pass the certification examination or, if leaving active out-of-state (the state in which the individual is certified) or federal peace officer employment, pass the certification exam within six (6) months from the date of issuance of the provisional certification.
- (b) A provisional certification letter authorizes the holder to serve as a certified Colorado peace officer for not more than six (6) months. ***A provisional certification letter may only be issued one time per year, per person.***
- (c) The Board shall issue a basic certificate to the holder of a provisional certification letter if such person satisfies any combination of the following skills proficiency requirements, or, if leaving active out-of-state (the state in which the individual is certified) or recognized federal peace officer employment, satisfies any combination of the following skills proficiency requirements within six (6) months from the date of issuance of the provisional certification:

- (I) Successfully completes skills training at a POST-approved basic peace officer training academy;
 - (II) Successfully completes a POST-approved refresher academy, including the arrest control, law enforcement driving, and firearms skills training;
 - (III) Passes a skills examination pursuant to Rule 16 in each of the three (3) skills disciplines at a POST test-out site, or passes all portions of the three (3) skills examinations at a regional test-out site, as documented by an approved skills instructor. Approved skills instructors includes: SME committee members or POST-approved designees who are not members of the applicant's employing agency;
 - (IV) Passes only some portions of the examinations referred to in (III) and the applicant elects to complete prescribed remedial training with respect to those portions not passed and successfully passes the skills test-out examination following the remedial training; or
 - (V) Passes a POST-approved lateral training academy that includes agency-specific academic courses and skills training in arrest control, law enforcement driving and firearms.
- (d) The POST-approved skills instructor must submit the completed *POST Skills Testing Grade Sheet* to POST.
- (e) Persons desiring additional time to complete the basic certification requirements beyond the initial six (6) months provided by the provisional certification letter must petition the Director and demonstrate good cause why such additional time should be granted.

Rule 12 – Reserve Certification

Effective ~~January 31, 2016~~ **May 15, 2017**

- (a) The Board is authorized to issue a reserve certificate to any applicant who meets the following requirements:
 - (I) Possesses and submits a copy of ~~his/her~~ **their** high school diploma, or high school equivalency certificate, **or other evidence of successful completion of high school**; and
 - (II) Possesses and submits a copy of ~~his/her~~ **their** current first aid and cardiopulmonary resuscitation certification, or equivalents; and
 - (III) Truthfully completes and submits the POST Form 2 – *Application for Reserve Certification*; and
 - (IV) Successfully completes the fingerprint-based criminal history record check required under Rule 14; and
 - (V) If applicable, submits a copy of ~~his/her~~ **their** DD214 showing ~~he/she~~ **they** ~~has~~**ve** not been released or discharged from the Armed Forces of the United States under dishonorable conditions, per § 24-31-301(5), C.R.S.; and
 - (VI) Successfully completes an approved reserve academy including skills training within two (2) years of the graduation date; and
 - (VII) Submits a copy of ~~his/her~~ **their** certificate of completion; and
 - (VIII) Possesses and submits a copy of ~~his/her~~ **their** current Colorado driver's license or state-issued identification card.
- (b) Any law enforcement agency assigning duties to a reserve peace officer beyond those included in the approved reserve training shall assume the responsibility for ensuring that such reserve peace officer is adequately trained for such duties.
- (c) A reserve certification shall expire automatically if the certificate holder is not serving and has not served as a reserve peace officer for at least six (6) months within the previous three (3) years.
- (d) Reserve certifications may not be renewed.

- (e) A certified peace officer may maintain current status as a certified peace officer while serving in a reserve peace officer position, recognized in § 16-2.5-110, C.R.S.

Rule 13 – Renewal of Basic Certification

Effective ~~January 31, 2016~~ May 15, 2017

The Board is authorized to renew a basic certificate for any applicant who:

- (a) Has not served as a peace officer or reserve peace officer within the previous three (3) years; and
- (b) Possesses and submits a copy of his/her **their** current first aid and cardiopulmonary resuscitation certification, or equivalents; and
- (c) Truthfully completes and submits the POST Form 4 – *Application for Renewal of Basic Certification*; and

(I) If an applicant has worked in another state as a certified peace officer after being certified in Colorado, they must truthfully complete and submit the POST Form 3 – Application for Provisional Certification, and a notarized copy of the Release of Information Form; and

- (d) Successfully completes the fingerprint-based criminal history record check required under Rule 14; and
- (e) Passes the certification examination pursuant to Rule 15; and
- (f) Satisfies any combination of the following skills proficiency requirements:
 - (I) Successfully completes skills training at a POST approved basic peace officer training academy;
 - (II) Successfully completes a POST approved refresher academy, including the arrest control, law enforcement driving, and firearms skills training;
 - (III) Passes a skills examination pursuant to Rule 16 in each of the three (3) skills disciplines at a POST test-out site, or passes all portions of the three (3) skills examinations at a regional test-out site, as documented by an approved skills instructor. Approved skills instructors include: SME committee members or POST approved designees who are not a member of the applicant's employing agency; or
 - (IV) Passes only some portions of the examinations referred to in (III) and the applicant elects to complete prescribed remedial training with respect to those portions not passed and successfully passes the skills test-out examination following the remedial training.

- (V) ~~If leaving active out of state (the state in which the individual is certified) or federal peace officer employment, within six (6) months from the date of issuance of the provisional certification, pass the written certification exam.~~
- (g) The POST-approved skills instructor must submit the completed *POST Skills Testing Grade Sheet* to POST.
- (h) Individuals renewing their certification must complete physical and psychological examinations pursuant to § 24-31-303(5), C.R.S. prior to becoming employed.

Rule 14 – Fingerprint-Based Criminal History Record Check

*Effective ~~January 31, 2016~~ **May 15, 2017***

- (a) Definitions.
 - (I) The fingerprint-based criminal history record check is a computerized search of a person's fingerprints that have been taken on a POST Applicant Fingerprint Card and processed by the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI) for the purpose of determining a person's eligibility for certification as a peace officer in the State of Colorado.
 - (II) The enrollment date of a training academy is the first day of instruction at an approved basic or reserve training academy. The enrollment date shall be synonymous with the first day of instruction as reflected on the approved academy schedule.
 - (III) As used in this Rule, to enroll in an academy means that a person has applied and been accepted for admission into an academy and is physically present at the academy to receive instruction.
- (b) Eligibility for certification. No person shall be eligible for certification as a Colorado peace officer if he or she has been convicted of a felony or any misdemeanor as referenced in § 24-31-305(1.5), C.R.S., or any misdemeanor in violation of federal law or the law of any state or any local municipal ordinance that is the equivalent of any of the offenses specified in § 24-31-305(1.5), C.R.S.
- (c) Enrollment. Pursuant to § 24-31-304, C.R.S. and POST Rules, all persons seeking to either enroll in a training academy or participate in the testing process as a provisional or renewal applicant shall submit their fingerprints to CBI prior to enrolling in the training academy or prior to participating in the testing process as a provisional or renewal applicant.
- (d) POST Applicant Fingerprint Card.
 - (I) The POST Applicant Fingerprint Card is the only authorized fingerprint card that shall be submitted for the fingerprint-based criminal history record check.
 - (II) The Board recommends that a person's fingerprints be taken on the POST Applicant Fingerprint Card at a law enforcement agency. Any fee that may be charged by the agency for this service is the responsibility of the applicant.

- (III) Payment of a fee to cover the cost of processing the POST Applicant Fingerprint Card must be submitted to CBI with each completed POST Applicant Fingerprint Card. Remittance of this fee to CBI is the responsibility of the applicant.
 - (IV) For provisional and renewal applicants, the POST Applicant Fingerprint Card will be provided by POST. The applicant is responsible for having his or her fingerprints taken and for ensuring that the completed POST Applicant Fingerprint Card and fee are submitted to CBI prior to the applicant's participation in the testing process as a provisional or renewal applicant.
 - (V) For persons seeking to enroll in a basic or reserve training academy, the POST Applicant Fingerprint Card will be provided by the academy. The person's fingerprints shall be taken in accordance with the academy's policies and procedures. The academy is responsible for ensuring that the completed POST Applicant Fingerprint Card and fee are submitted to CBI prior to the person's enrollment in the academy.
 - (VI) Fingerprint returns are valid for one year. Individuals re-enrolling into an academy must be reprinted if the prior prints are older than one year.
- (e) Results from completed criminal history record checks.
- (I) The Board shall be the authorized agency to receive the results from all POST Applicant Fingerprint Cards that have been processed for the state and national fingerprint-based criminal history record checks.
 - (II) All results from the completed criminal history record checks will be provided to the **POST Director**. Notice of subsequent arrests and convictions **resulting in denial of certification** will ~~also~~ be provided to the Board.
- (f) Basic and reserve training academies.
- (I) A training academy shall not enroll any person who has been convicted of an offense that would result in the denial of certification pursuant to § 24-31-305(1.5), C.R.S. The only exception shall be if the Board has granted the person an exemption from denial of enrollment pursuant to § 24-31-304(4)(a), C.R.S. and POST Rule 7, *Variances*.
 - (II) No person shall be enrolled in a training academy unless the person has been fingerprinted on a POST Applicant Fingerprint Card and an

academy has submitted the person's completed POST Applicant Fingerprint Card and fee to CBI prior to enrolling the person in the academy.

- (III) A POST Form 11-E, *Enrollment Advisory Form*, shall be completed on the first day of the academy by both the person enrolled in the academy and the academy director or designee. The completed *Enrollment Advisory Form* shall be maintained at the academy.
 - (IV) The academy director shall ensure that an accurate **and complete** enrollment roster for each academy class is received at POST **electronically** ~~no later than 5:00 p.m. on the first business day following the first day of the academy~~ **by the tenth (10) day after the academy commences**. The enrollment roster will be completed on the template provided by POST to the academy director. ~~Each roster shall contain at minimum the following information:~~
 - (A) ~~Alphabetical list of the full names of all persons enrolled in the academy; and~~
 - (B) ~~Date of birth for each person; and~~
 - (C) ~~Social Security Number for each person~~
 - (D) The enrollment roster **must be fully completed with all personal information, education, military service, etc. and returned to POST staff.** ~~will be submitted to POST for entry into the POST database. After entry, the roster will be returned to the academy director with assigned PID numbers. Within 30 days the roster must be fully completed with all personal information, education, military service, etc. (if not previously provided) and returned to POST staff.~~
 - (V) If the results of a criminal history record check reveal that a person currently enrolled in an academy is prohibited from enrolling pursuant to § 24-31-304(2), C.R.S., the Board or its designated representative(s) shall notify the academy. The academy shall take appropriate measures to immediately dismiss the person from the academy.
- (g) Exemption from denial of enrollment.
- (I) If a person anticipates that he or she will be prohibited from either enrolling in a training academy or participating in the testing process as a provisional or renewal applicant because he or she has been convicted

of any misdemeanor described in § 24-31-305(1.5), C.R.S., the person may submit a request for exemption from denial of enrollment under POST Rule 8, *Appeal Process for Peace Officer Applicants - Certification Denial as a Result of a Misdemeanor Conviction*.

- (II) Only if the person has, in fact, submitted a request for exemption from denial of enrollment under POST Rule 8, *Appeal Process for Peace Officer Applicants - Certification Denial as a Result of a Misdemeanor Conviction*, and the request has been granted by the Board, will the person be permitted to either enroll in a training academy or participate in the testing process as a provisional or renewal applicant.
- (III) No person convicted of a felony may request an exemption from denial of enrollment.

Rule 15 – Certification Examination Basic, Provisional, Renewal

*Effective ~~January 31, 2016~~ **May 15, 2017***

- (a) To be eligible to take the certification examination, an applicant must have completed and submitted to POST, as applicable, either:
 - (I) Form 1 - Application for Basic Peace Officer Certification; or
Form 3 - Application for Provisional Certification; or
Form 4 - Application for Renewal of Basic Certification; and
 - (II) A copy of ~~his/her~~ **their** approved basic training academy diploma, **or other evidence of successful completion of high school; and**; and
 - (III) A copy of ~~his/her~~ **their** high school diploma, or high school equivalency certificate; and
 - (IV) A copy of ~~his/her~~ **their** current first aid and cardiopulmonary resuscitation certification, or equivalents; and
 - (V) A copy of ~~his/her~~ **their** current driver's license or state-issued identification card; and
 - (VI) If applicable, a copy of ~~his/her~~ **their** DD214 showing character of service
 - (VII) A law enforcement agency check, purchase order, certified check, money order, or electronic payment in the prescribed amount.
- (b) Certification examinations will be conducted by POST staff or POST approved designated proctor at academy locations. However, if the number of students sitting for the examination is four (4) or fewer, the students shall be required to take the examination at a location designated by POST
- (c) Refunds of certification examination fees shall not be provided unless the examination is postponed or canceled or under such other exceptional circumstances as determined by the Director. Otherwise, non-refunded fees may be credited to allow the applicant to take the next administration of the certification examination. Further credits or extensions shall not be permitted.
- (d) Any applicant failing perishable skill(s) in the academy has two years from their academy end date to retake and successfully complete the failed skill(s) and successfully complete the POST examination.

(I) Any renewal or provisional applicant failing perishable skill(s) at a refresher academy and or/skill(s) examination has two (2) years from the date they last failed the skill(s) to successfully complete the failed skill(s) at a POST-approved Basic academy.

- (e) An applicant has a maximum of three attempts to pass the POST certification examination. Applicants taking the examination for a second or third time must pay the fee for the additional examination, and such examination shall not be comprised of the same questions that comprised the prior examinations. If an applicant cannot pass the certification examination after three attempts, he or she must retake and successfully complete basic training in accordance with Rule 10.
- (f) Any protest or challenge to an examination or its administration must be made in writing within ten (10) days of the examination. The Director shall issue his decision in writing within twenty (20) working days. The decisions of the Director shall be final, unless appealed to the Board in accordance with Rule 3(b).
- (g) POST sets a passing score that reflects the level of knowledge and skills required for minimally competent performance as an entry-level Peace Officer in the State of Colorado. POST uses national testing standards in setting the passing score which falls on a test score scale that ranges from 0 to 100.

Rule 16 – Skills Examinations for Provisional and Renewal Applicants

Effective ~~January 31, 2016~~ **May 15, 2017**

- (a) To be eligible to take any of the skills examinations, an applicant must complete and submit POST Form 3 – *Application for Provisional Certification* or POST Form 4 – *Application for Renewal of Basic Certification* along with a law enforcement agency check, purchase order, certified check, or money order in the prescribed amount for each examination to be taken (prior to the day of the exam).
- (b) Refunds of skills examination fees shall be provided only if requested more than twenty (20) days prior to the scheduled examination, unless the examination is postponed or canceled, or under such other exceptional circumstances as may be determined by the Director.
- (c) Any applicant failing a skills examination may retake the examination, with the payment of an additional examination fee. ***If the retake of the skill(s) examination will be on an individual basis with an SME the skill(s) examination must be approved by POST prior to the individual test being administered (money received, and instructor confirmation). If the retake with an SME occurs prior to POST receiving payment for the skill(s) examination, certification will not be issued until POST has received payment.*** Any person failing any skill(s) examination three (3) times must successfully complete the skills training for that particular skill in a Colorado POST-approved Basic or Reserve academy before he or she may be certified.
- (d) ***Skills examination scores are valid for two (2) years from the date of the last registered score with POST. If an applicant does not complete the renewal or provisional certification process within two (2) years of taking the skill(s) examination, they must attend and successfully pass another skill(s) examination.***
- (e) Any protest or challenge to an examination or its administration must be made in writing within ten (10) days of the examination. The Director shall issue his decision in writing within twenty (20) working days. The decision of the Director shall be final, unless appealed to the Board in accordance with Rule 3(b).

Rule 17 – Certification Records

*Effective ~~January 31, 2016~~ **May 15, 2017***

- (a) Every POST certificate holder shall keep current his or her name, home address, mailing address, email address, home telephone number, or cell phone number through the POST portal.
- (b) When any person is appointed or separated as a certified peace officer, as per Rules 10, 11 and 12, such agency shall submit an update through the POST portal within fifteen (15) days of such appointment or separation.
- (c) Employment in the state of Colorado as a Basic peace officer, Provisional peace officer, or Reserve peace officer as defined in section § 16-2.5-102, § 24-31-308 and § 16-2.5-110, C.R.S. requires submission of physical and psychological examinations affirmation (Form 6).
- (d) By the 31st of January of each year, each agency shall verify the accuracy of the certified peace officers associated with the law enforcement agency listed on the POST portal by submitting an email to POST. ***By submitting this email each agency is certifying that the agency has confirmed all certified peace officers associated with their law enforcement agency have no convictions that would prevent the individual from being a certified peace officer in Colorado, and that each certified peace officer has a valid Colorado Driver's License or Colorado ID.***

**Rule 18 – Certification, Suspension, and Revocation –
Basic, Provisional, Renewal, and Reserves**

*Effective ~~January 31, 2016~~ **May 15, 2017***

- (a) A suspension temporarily invalidates the subject certification until such time as the defect has been remedied. Any certification shall be suspended by the Board if the holder wrongfully obtained the certificate through misrepresentation, neglect or mistake.
- (b) The Board shall suspend a peace officer's certification if the peace officer fails to comply with the training requirements § 24-31-315, C.R.S. The Board shall reinstate a peace officer's certification that was suspended pursuant to this paragraph (a) upon completion of the training requirements in § 24-31-315, C.R.S.
- (c) A revocation permanently invalidates the subject certification. Any certification shall be revoked by the Board if the holder:
 - (I) Has been convicted of a felony or any misdemeanor as referenced in § 24-31-305(1.5), C.R.S. in any jurisdiction; or
 - (II) Wrongfully obtained certification through fraud or misrepresentation; or
 - (III) Has not met any other requirements imposed by the Board.
- (d) Upon Board approval of reinstatement of a Colorado basic peace officer Certification, the reinstatement will be effective immediately.***

Rule 21 – Basic and Reserve Training Academies

*Effective ~~January 14, 2015~~ **May 15, 2017***

- (a) Academy approval.
 - (I) All aspects of an academy must be in compliance with POST Rules and Program requirements before academy approval will be considered.
 - (II) Only an academy that is approved by the Board may provide training required for certified peace officer status; and
 - (III) Each scheduled academy class of an approved training academy must be approved prior to the start of instruction.
- (b) Continuing academies.
 - (I) A continuing academy is an approved Basic or Reserve academy that conducts and completes at least one approved academy class every three (3) years and operates in compliance with these rules.
 - (II) If a continuing academy does not complete at least one approved academy class in any consecutive three (3) year period, approval of the academy shall expire. An expired academy must reapply for approval as a new academy and be approved prior to providing any academy instruction.
 - (III) Other than as referenced in the preceding paragraph (II), a continuing academy may remain approved until its status is surrendered, suspended or revoked.
 - (IV) The academy director must ensure that the following documents are received at POST at least thirty (30) days, but no more than sixty (60) days, prior to the start of instruction for each scheduled academy class:
 - (A) A completed POST Form 7, *Application for Academy Approval*; and
 - (B) A completed “*Scheduling Request for POST Exam*” form (basic academies only); and
 - (C) A complete and accurate academy schedule with the following information clearly noted on the schedule.

- (1) All courses, dates and times in chronological order for each course, major exams and the name of the primary instructor for each course; and
 - (2) All dates and times when arrest control drill training, night driving and dim light shooting will be instructed; and
 - (3) For arrest control and firearms training, if the schedule shows more than eight (8) hours of instruction in any one day, then the schedule must denote lab or lecture hours, as appropriate; and
 - (4) If multiple courses are listed within the same block of time on the schedule, then either the schedule itself or accompanying documents must specify the amount of time that will be instructed for each course.
 - (V) No later than 5:00 p.m. on the next business day following the first day of each approved academy class, the academy director shall ensure that an accurate enrollment roster is received at POST. See also POST Rule 14, *Fingerprint-Based Criminal History Record Check*.
 - (VI) The academy director shall notify POST prior to the occurrence of any change of the academy's start date or end date, to include cancellation of the academy, as submitted to POST on the Form 7, *Application for Academy Approval*.
 - (VII) Each college academy and private occupational school academy shall establish an advisory committee that consists of law enforcement officials and administrators to assist with providing logistical support and validation of training.
- (c) New academies.
- (I) A new academy is either a basic or reserve academy that has never conducted approved training, or a basic or reserve academy that has not conducted approved training within the previous three (3) years.
 - (II) The academy director of a proposed new academy shall contact POST at least six (6) months prior to the anticipated start date of the new academy to ascertain application procedures and deadlines for submitting documents for new academy approval.

- (III) The following types of academies are considered separate academies that must be individually approved:
 - (A) Basic and reserve academies even if operated by the same agency, organization or academic institution.
 - (B) Academies located either on a satellite campus, or at a different physical location than the primary academy.
 - (IV) The proposed formal name of an academy must neither misrepresent the status of the academy, nor mislead law enforcement or the public.
 - (V) Required documentation that must be submitted for new academy approval includes, but is not limited to, a video in a digital media format approved by POST of all proposed sites where academic instruction and skills training will take place, site safety plans, lesson plans for all academic courses and all skills training programs that are required by the Basic or Reserve Academic Training Program, resumes for all academic instructors, and documentation of qualifications for all skills instructors.
 - (VI) Once a proposed new academy begins the approval process by submitting any of the required documentation listed in the preceding paragraph (V) to POST, the proposed new academy shall have a maximum of twelve (12) months to complete the new academy approval process.
 - (VII) The director of a proposed new academy shall also ensure that the documents required to be submitted by continuing academies, as listed in paragraph (b)(IV) of this Rule, are received at POST at least thirty (30) days, but no more than sixty (60) days, prior to the start of instruction.
 - (VIII) Prior to approval, the proposed new academy must pass an on-site pre-approval inspection conducted by the Board or its designated representative(s).
- (d) Training sites, site safety plans and equipment.
- (I) An academy shall have the following training sites and facilities:
 - (A) For academics: A classroom with adequate heating, cooling, ventilation, lighting, acoustics and space, and a sufficient

number of desks or tables and chairs in the classroom for each trainee; and

- (B) For firearms: A firing range with adequate backstop and berms to ensure the safety of all persons at or near the range, and some type of visual notification (range flag, signs, lights, or other) whenever the range is being utilized for live fire; and
- (C) For driving: A safe driving track for conducting law enforcement driving; and
- (D) For arrest control: An indoor site for instructing arrest control training with sufficient space and mats to ensure trainee safety; and
- (E) For practical exercises and wellness training: Appropriate and safe locations for conducting all practical exercises and wellness lab training.

(II) Approval of training sites.

- (A) All new training sites for academic classroom instruction and skills training must be approved by POST in consultation with the appropriate subject matter expert committee prior to conducting any training at the site.
- (B) Each academy is responsible for obtaining approval for all of its training sites of academic instruction and skills training.
- (C) Academy directors shall ensure that all sites for practical exercises and wellness lab training are safe and that appropriate training can be accomplished at the site to achieve the course objectives or performance outcomes.
- (D) Presumed approval or use of a specific site by one academy does not extend to automatic approval of the site for use by other academies.
- (E) If an approved site is not utilized during any consecutive three (3) year period by any academy for the type of training for which the site was initially approved, then site approval expires. In order to resume training at an expired site, the site must be resubmitted for approval and approved.

- (F) The following items must be submitted to POST in order for approval of a new or expired training site to be considered:
 - (1) Video in a digital media format approved by POST that accurately depicts the site where instruction is to take place; and
 - (2) A detailed description of the site must be included, either as verbal narrative on the video or as a written supplement; and
 - (3) An up-to-date written site safety plan.
- (G) If an approved site has been in continuous use by at least one approved academy for at least the previous three (3) consecutive years and an additional academy seeks approval of the same site, then the director of the additional academy may submit a written request to POST that includes the location and/or description of the site, in lieu of the video, along with an up-to-date written site safety plan.

(III) Site safety plans.

- (A) Each site of skills training and academic or classroom instruction must have an up-to-date and approved written site safety plan present on site during any academy training at the site; and
- (B) Copies of all site safety plans must also be on file at the academy at all times; and
- (C) Each site safety plan shall include procedures for managing medical emergencies, injuries, or accidents that are probable or likely to occur at the site; and
- (D) All academy staff members, instructors and trainees shall be familiar with the content of each site safety plan as it pertains to the nature and scope of their involvement with the academy.

(IV) Equipment.

- (A) An academy shall have and maintain the necessary equipment and instructional aids in sufficient quantities for conducting all aspects of the required academy training program; and

- (B) All training sites and facilities, equipment, books, supplies, materials and the like shall be maintained in good condition.
- (C) The following items shall be present at each training site during any academy training at the site:
 - (1) An effective means of summoning emergency medical assistance; and
 - (2) A first aid kit that contains appropriate supplies to treat medical emergencies or injuries that are likely to be sustained at the site.

(e) Academy directors.

- (I) Qualifications. Each academy shall designate an on-site academy director whose qualifications, based upon education, experience and training, demonstrate his or her ability to manage the academy.
- (II) Compliance. The academy director shall ensure that the academy operates in compliance with all POST Rules.
- (III) Records. The academy director shall be responsible for establishing and maintaining a records management system that includes, but is not limited to, enrollment rosters, POST Form 11-E's, trainee files, trainee manuals, attendance records, lesson plans, source material, instructor files, instructor/course evaluations and site safety plans.
- (IV) Change of director. The academy director or authorized representative of an academy shall notify POST as soon as practicable of any change of academy director or any change of the academy director's electronic mailing address.

(f) Curriculum requirements.

- (I) Academic standards.
 - (A) All training academies shall meet or exceed the required course content and minimum number of hours for each academic course of instruction and for each of the skills programs as required by the Basic Academic Training Program or Reserve Academic Training Program.

(B) Successful completion required.

- (1) Trainees must successfully complete the Basic Academic Training Program or Reserve Academic Training Program with a minimum score of seventy percent (70%); and
- (2) Trainees must successfully complete all skills training as required by the Arrest Control Training Program, Law Enforcement Driving Program and Firearms Training Program.
- (3) If an academy applies a higher standard than what is required by the preceding paragraphs (1) and (2), the higher standard must be described in the Trainee Manual and in the respective skills lesson plans or course materials, as applicable.

(II) Attendance.

- (A) For all hours of all skills training programs, 100% attendance and participation are required except as specified in Rule 24(b)(VII).
- (B) Attendance is required for all hours of all academic classes. Any trainee who is absent for any portion of an academic class shall make up the missed class content in accordance with the academy's rules and regulations.
- (C) Written attendance records are required.
 - (1) For trainees: Written daily attendance records that are accurate and up-to-date shall be kept for all trainees enrolled in all academic classes and all skills training classes.
 - (2) For skills instructors: Written attendance records that are accurate and up-to-date shall be kept for all instructors who teach any portion of a skills training program.
 - (3) For skills training, the format of the attendance records must clearly substantiate that the minimum ratios required by Rule 24, *Skills Training Safety and Skills*

Program Requirements for Basic and Reserve Academies,
have been met.

(III) Lesson plans.

- (A) All basic and reserve training academies shall develop and maintain up-to-date lesson plans that are on file for each academic course of instruction and for each of the skills training programs.
- (B) Each academic and skills lesson plan must include at least the following information, as applicable:
 - (1) Course title as specified in the POST Academic Training Program (Basic or Reserve) or the POST skills training program; and
 - (2) Number of hours for the course required by the POST Academic Training Program and the number of actual course hours that will be instructed; and
 - (3) Learning goals, course objectives and/or performance outcomes for the course; and
 - (4) Method of instruction; and
 - (5) Instructional content of the course that substantiates the stated goals, objectives and/or outcomes of the course; and
 - (6) A copy of any handouts, multimedia and/or PowerPoint presentations that will be used during the instruction; and
 - (7) A list of source material utilized for the course.
- (C) Skills lesson plans must additionally include the program-specific documentation referenced within the applicable POST skills training program.

(IV) Daily schedules.

- (A) For all skills training programs, daily schedules are required that contain the information referenced in each of the skills training programs.

- (B) The format, number of pages and organization of information on the daily schedules shall be at the discretion of the primary skills instructor and/or academy director.

(V) Source material.

- (A) For source material identified as required source material in the current POST Curriculum Bibliography, at least one (1) copy of each of the publications or sources must be maintained at the place of academic instruction. For those sources that are referenced with a website address, providing the trainees with readily available Internet access is acceptable in lieu of maintaining at least one (1) copy of each of the publications or sources.

(VI) Academy examinations.

- (A) All academies shall administer written, oral or practical examinations periodically during each academy in order to measure the attainment of course objectives or performance outcomes as specified in the Basic Academic Training Program or Reserve Academic Training Program.
- (B) The academy director shall prescribe the manner, method of administration, frequency and length of academy examinations.
- (C) The time allotted for academic examinations shall be in addition to the number of Required Minimum Hours for each course as specified in the Basic Academic Training Program or Reserve Academic Training Program.

(VII) Academy certificates of completion.

- (A) The academy director shall issue a certificate of completion to each trainee who successfully completes all requirements of the approved academy within two (2) years of enrollment.
- (B) Only a trainee who has attended and successfully completed all academic classes and all three (3) skills training programs shall be issued an academy certificate of completion.
- (C) Each academy certificate of completion shall contain the following information:

- (1) Trainee's name; and
- (2) Name of the approved academy; and
- (3) Type of academy (Basic or Reserve); and
- (4) Date of academy completion (month, day, year); and
- (5) Total number of hours of the completed academy; and
- (6) Signature of the academy director and/or agency or academic representative.
- (7) Reserve academy certificates of completion shall additionally state whether the total number of academy hours does or does not include the approved law enforcement driving program.

(g) Instructors.

(I) Minimum qualifications.

- (A) Academic instructors shall possess the requisite education, experience and/or training necessary, as determined by the academy director, to competently instruct specific academic courses or blocks of instruction.
- (B) Skills instructors shall meet the minimum qualifications as described in Rule 23, *Academy Skills Instructors*.

(II) Instructor files.

- (A) A file shall be maintained for each instructor who teaches any portion of an academic class or skills training class.
 - (1) For academic instructors, the file must contain a current resume and/or other documentation that substantiates the instructor's qualifications.
 - (2) For skills instructors, the file must contain copies of the relevant certificates of completion referenced in Rule 23, *Academy Skills Instructors*, and/or a copy of the

applicable skills instructor approval letter issued by POST.

- (B) The academy shall maintain current contact information for each instructor.
- (C) Exception. Licensed attorneys from the same office or firm may be included in one instructor file, as long as the file contains the names of all attorneys from that office or firm who provide instruction at the academy.

(III) Instructor/course evaluations.

- (A) Trainees shall complete written evaluations for each instructor and/or course of instruction for all academic courses and skills training programs of the approved academy.
- (B) Either the POST Form 10, *Instructor/Course Evaluation*, or comparable academy forms and/or documents may be used for this purpose.
- (C) The academy director shall determine the most meaningful format and method of administration of the instructor/course evaluations in order to monitor instructor quality and course content and to meet the needs of the individual academy.

(h) Duty to report.

- (I) In addition to any notifications that may be required administratively or under federal, state or local law, it shall be the duty of every academy director or the academy director's designee to report the following events to POST immediately or as soon as practicable after the event:
 - (A) Any death, gunshot wound or serious bodily injury that occurs to any person whose death, gunshot wound or serious bodily injury was either caused by, or may have been caused by, any training or activity associated with the academy; or
 - (B) Any bodily injury that occurs to any person who is not affiliated with the academy, i.e., an innocent bystander, whose bodily injury was either caused by, or may have been caused by, any training or activity associated with the academy.

- (II) Training to cease.
 - (A) In the event of any death or gunshot wound as described in paragraph (h)(I)(A) of this section, all training shall immediately cease at the training site where the death or gunshot wound occurred.
 - (B) Training may resume only after the Board or its designated representative(s) have ensured that the program is operating in compliance with POST Rules.
- (III) Serious bodily injury means those injuries as defined in § 18-1-901(3)(p), C.R.S.
- (IV) Bodily injury means those injuries as defined in § 18-1-901(3)(c), C.R.S.
 - 1. All instructors shall be familiar with the information contained in this Section (h) as it pertains to the nature and scope of their involvement with the academy.
- (i) Academy records requirements.
 - (I) Trainee files. During the academy, a file shall be maintained for each trainee or a systematic filing system must exist that contains at least the following records:
 - (A) Trainee's full legal name and date of birth; and
 - (B) Photocopy of the trainee's high school diploma, ~~or~~ high school equivalency certificate **or other evidence of successful completion of high school**; and
 - (C) Photocopy of the trainee's valid driver's license; and
 - (D) Form 11-E, *Enrollment Advisory Form*.
 - (II) Trainee manual.
 - (A) Each academy shall maintain an up-to-date trainee manual that contains relevant and accurate information. At a minimum, the trainee manual shall contain the academy's rules and regulations, academic requirements, attendance policies and site safety plans.

- (B) Upon entry into the academy, each trainee should be issued a copy of the trainee manual and acknowledge receipt of the manual in writing.
- (III) The following records shall be maintained at the academy and shall be readily available for inspection at any reasonable time by the Board or its designated representative(s).
 - (A) A completed Form 11-E, *Enrollment Advisory Form*, for each trainee enrolled in the academy in progress; and
 - (B) Current trainee manual; and
 - (C) Current lesson plans; and
 - (D) Current source material; and
 - (E) Instructor files for current instructors; and
 - (F) Copies of all site safety plans; and
 - (G) Trainee files for the academy in progress and the previously completed academy; and
 - (H) Attendance records for the academy in progress and the previously completed academy; and
 - (I) Instructor/course evaluations for the academy in progress and the previously completed academy.
- (IV) Academy records must be retained for at least the three (3) year period as referenced in the Uniform Records Retention Act, § 6-17-101, et seq., C.R.S.

Rule 28-In-Service Training Program

*Effective ~~January 31, 2016~~ **January 1, 2018***

The purpose of in-service training is to provide continuing education to certified peace officers to develop their knowledge and/or skills. The annual in-service training program is defined in Colorado Revised Statutes §24-31-303 (l) and states that the POST Board can “promulgate rules deemed necessary by the Board concerning annual in-service training requirements for certified peace officers, including but not limited to evaluation of the training program and processes to ensure substantial compliance by law enforcement agencies and departments.” In-service training is mandatory for certified peace officers who are currently employed in positions requiring certified peace officers as defined in Colorado Revised

Statutes section 16-2.5-102. This includes certified fulltime, part-time and reserve peace officers.

(a) Annual Hour Requirement

The in-service training program requires certified peace officers to complete a minimum of 24 hours of in-service training annually. Of the 24 hours, a minimum of 12 hours shall be perishable skills training as specified below.

(b) Training Period

The training period shall be the calendar year, from January 1 to December 31, of each year. In-service training in excess of 24 hours each year shall not be credited towards any future or prior training period.

(c) Approved Training for POST Credit

The authority and responsibility for training shall be with the chief executive of each law enforcement agency. The chief executive accepts responsibility and liability for the course content and instructor qualification. Legislatively mandated training may also be used for credit towards the training requirement.

The following are examples of training that would qualify for in-service credit:

- (I) Training received during the Basic Academic Training Program (Basic Academy).
- (II) Computer or web-based courses that have been approved by the chief executive officer may be used for in-service credit.

- (III) The viewing of law enforcement related audiovisual material (DVD, video, etc.) or material related to the viewer's position or rank can be used in conjunction with a facilitated discussion or other presentation. This could include roll call or lineup briefings where the session is dedicated to training and not for the purpose of information exchange.
- (IV) For each class hour attended at an accredited college or university in any course related to law enforcement or criminal justice that is required to earn a degree, one hour of in-service credit may be awarded.

(d) Perishable Skills Training

Perishable skills training shall consist of a minimum of 12 hours. ~~The minimum 12 hours must include all three of the perishable skills~~ ***The required 12 hours must include a minimum of one hour of training in each of the three perishable skills*** (Arrest Control, Driving, and Firearms) each calendar year. Examples of perishable skills training could include:

- (I) Firearms-live or simulator exercises and scenarios, firearms fundamentals, use of force training or discussions, classroom training requiring student interaction and/or decision making, classroom discussion on agency policies and/or legal issue.
- (II) Arrest Control-live or simulator exercises and scenarios, classroom discussion followed by interactive scenario events. Arrest control fundamentals, agency policies and/or legal issues.
- (III) Driving-behind-the-wheel or simulator training, classroom discussion regarding judgment/decision making in driving, agency policies and/or legal issues.

(e) Agency Maintenance of Training Records

The chief executive of each agency is responsible for the accurate tracking of training attendance into the POST records management system.

At the end of each calendar year, agencies shall have accurately entered all training for the certified peace officers employed at any time during the year regardless of current employment status. This information shall be entered into the POST records management system.

(I) Waiver of In-Service Requirements

All certified peace officers shall meet the minimum annual hours. However, under circumstances listed below, an agency may request a waiver for a portion of the annual in-service training requirement. Any waiver of the annual training request must be made in writing to the POST Director prior to the end of the calendar year (December 31).

(A) Perishable Skills Waiver

Agency executives may request an exemption from the perishable skills training requirement. This request shall be in writing to the POST Director. This request shall state that either their certified peace officers do not carry firearms, or they infrequently interact with or effect physical arrests, or they do not utilize marked or unmarked emergency vehicles as part of their normal duties.

(B) Partial Year Employment Waiver

The 24 hours of in-service training is required if a certified peace officer is employed for the entire calendar year. Certified peace officers who are employed after the start of the calendar year only need to complete a prorated number of training hours. Therefore, one hour per month of regular training and one hour a month of perishable skills training shall be required. (Example: If a certified peace officer is hired in July, six hours of regular training and six hours of perishable skills training should be completed for that calendar year).

(C) Long Term Disability, Medical Leave or Restricted Duty

If a certified peace officer is unable to complete the in-service annual hours due to long term disability, medical leave or restricted duty, the agency must obtain a letter from a physician stating that participation in any type of training including audiovisual or online training would be detrimental to the officer's health. The letter should define the time that the officer is unable to attend any training. Those granted a waiver will be on a prorated basis for the time stated in the physician's letter. The agency does not need to forward the physician's letter to POST but only reference it in a waiver request.

(D) Military Leave

Those certified peace officers deployed in military service only need to complete a prorated number of training hours.

(II) Compliance

(A) Agencies are required to be in compliance with the in-service program.

(B) POST will send out a preliminary compliance report following each training period. The report will provide the compliance status of each agency and its certified peace officers. Agencies shall have thirty (30) days from the date of the preliminary report to dispute the POST data and provide additional training information. Following the thirty (30) day period, POST will distribute the final compliance reports to all agencies.

(C) Once the final compliance report has been sent to all agencies; an agency seeking to appeal the POST data must do so within thirty (30) days of being notified of failure to comply with Rule 28. Agencies may appeal this by following the process outlined in Rule 5-Hearings. Upon conclusion of all appeal hearings POST will issue a final report indicating whether the agency was found in compliance. If upon the final decision by POST the agency was found not compliant, all POST funding (region grant funds, continuing education funds, and marijuana funds) to that agency will be suspended from July 1st through December 31st of the same calendar year.

(D) The POST Board shall evaluate the program annually following the release of the final compliance reports. Such evaluation will include a review and evaluation of the program. The evaluation may be based on the compliance rate, agency survey and other performance metrics. Agencies shall complete an annual training evaluation survey as part of the substantial compliance measurement by February 1 of each year.

Notice of Proposed Rulemaking

Tracking number

2017-00052

Department

1000 - Department of Public Health and Environment

Agency

1009 - Disease Control and Environmental Epidemiology Division

CCR number

6 CCR 1009-1

Rule title

RULES AND REGULATIONS PERTAINING TO EPIDEMIC AND COMMUNICABLE
DISEASE CONTROL

Rulemaking Hearing**Date**

03/15/2017

Time

10:00 AM

Location

Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive,
South, Denver, CO. 80246

Subjects and issues involved

To consider proposed amendments to the epidemic and communicable disease rule.

Statutory authority

§§25--1.5--102; 25--1--122; 25--4--1401 et seq, and; 25--4--402, 404, and 405, C.R.S

Contact information**Name**

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Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the State Board of Health

From: Lisa Miller, MD, MSPH, Communicable Disease Branch Chief, and Melanie Mattson, STI/HIV/Viral Hepatitis Branch Chief, Disease Control and Environmental Epidemiology Division (DCEED)

Through: Rachel Herlihy, MD, MPH, DCEED Director RH

Date: December 30, 2016

Subject: **Request for Rulemaking Hearing**
Proposed amendments to 6 CCR 1009-1, Rules and Regulations Pertaining to Epidemic and Communicable Disease Control, and repeal of 6 CCR 1009-9, Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and HIV Infection, with a request for the rulemaking hearing to occur in March of 2017

In preparation for a Public Rulemaking Hearing, please find copies of the following documents: Proposed Amendments to 6 CCR 1009-1, Proposed Repeal of 6 CCR 1009-9, Statement of Basis and Purpose and Specific Statutory Authority, Stakeholder Comment, and Regulatory Analysis.

The *Rules and Regulations Pertaining to Epidemic and Communicable Disease Control* name the communicable diseases that are reportable to state or local health departments, in order to protect the public's health. The Rule also details the manner in which these conditions must be reported and includes language about access to pertinent medical records. The proposed rulemaking expands the reportable conditions to include Zika virus and candidemia. The proposal also modifies reporting requirements and timeframes.

Similarly, the *Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and HIV Infection* have listed the manner in which these conditions must be reported to state or local health departments, detailed performance standards for confidential and anonymous publicly-funded human immunodeficiency virus (HIV) testing and counseling projects as well as for CDPHE staff.

Recent legislation (Senate Bill 16-146) updated and modernized the statutes related to sexually transmitted infections to bring them in line with current medical knowledge and practice, as well as to reduce stigma that may be associated with HIV. To align our rules with statute (C.R.S. 25-4-404), the Department is proposing integrating the *Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and HIV Infection*, 6 CCR 1009-9 into *Rules and Regulations Pertaining to Epidemic and Communicable Disease Control*, 6 CCR 1009-1. Thus, the Department proposes repeal of 6 CCR 1009-9. Details regarding this integration are summarized in the Statement of Basis and Purpose and Statutory authority.

The Department has reached out to a wide variety of stakeholders to solicit input regarding the proposed amendments to 6 CCR 1009-1 and repeal of 6 CCR 1009-9 and has modified the proposed changes based on stakeholder feedback. In general, stakeholders are supportive of the proposed amendments and rule repeal. The Department remains fully committed to engaging its stakeholders during the rulemaking process.

In total, these proposed amendments and rule repeal align our rules with statute, continue to bring clarity to the rules and minimize potential confusion among end-users of the rules. As always, the Department will continue to solicit and incorporate stakeholder feedback.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY

for Amendments to
6 CCR 1009-1

Rules and Regulations Pertaining to Epidemic and Communicable Disease Control
and for the Repeal of 6 CCR 1009-9

Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and
HIV Infection

Basis and Purpose.

The *Rules and Regulations Pertaining to Epidemic and Communicable Disease Control* name the communicable diseases that are reportable to state or local health departments, in order to protect the public's health. The Rule also details the manner in which these conditions must be reported and includes language about access to pertinent medical records.

The following changes to the rule are being proposed:

- 1) The Department proposes making Zika virus (ZIKV) reportable by laboratories. ZIKV is an emerging mosquito-borne virus that has spread rapidly across the Americas in 2015 and 2016. Subsequent investigations have demonstrated vertical transmission of ZIKV to the fetus in pregnant women. These in utero infections have been associated with the potential for devastating outcomes including microcephaly and spontaneous abortions. There is also an association with ZIKV infection and post-infectious Guillain-Barré syndrome (GBS). Because of these epidemiological and clinical features, it is important for public health to track this condition in Colorado. In addition, the World Health Organization declared ZIKV disease a Public Health Emergency of International Concern under the International Health Regulations 2005 on February 1, 2016, and the Council of State and Territorial Epidemiologists recommended that all states make this condition reportable on February 26, 2016. This proposed change is reflected in the Table in Appendix A.
- 2) Senate Bill 16-146, known as the STI Modernization bill, combined Parts 4 and 14 in Article 4 of Title 25, the public health laws on sexually transmitted infections (STI) and human immunodeficiency virus (HIV), to make protections and policies apply equally to all STIs, including HIV and relevant forms of viral hepatitis. In keeping with the spirit of this legislation, CDPHE staff worked with stakeholders to recommend repeal of the current HIV rule (6 CCR 1009-9) and incorporate all STIs, including HIV, in the existing communicable disease rule (6 CCR 1009-1). While a majority of these two rules are duplicative, there are a number of specific requirements related to STIs noted in the amended rule, including:
 - Variables statutorily required for STI reports, which expand beyond those for other communicable diseases.
 - Language related to “other persons providing STI-related testing and counseling”, in Regulation 2, to ensure outreach testing activities are included.
 - Requirements related to an anonymous HIV testing option that is statutorily required.
 - Operational standards for HIV testing projects.
 - Language related to disease investigations pertaining to STIs. Based on stakeholder input, this language was added to ensure STI-related investigations were limited to only relevant information.
 - HIV and related conditions have been added to the Table in Appendix A.

3) The Department proposes making candidemia reportable from laboratories that serve residents of the five county Denver metropolitan area (Adams, Arapahoe, Denver, Douglas, and Jefferson). The Denver metro area was chosen as the reporting area to meet requirements of federal funding. Candidemia are bloodstream infections (BSIs) caused by a yeast (a type of fungus) called *Candida*. As one of the most common causes of BSIs in the United States, these infections often result in long hospital stays, high medical costs and poor patient outcomes. Some types of *Candida* are becoming increasingly resistant to antifungal treatments, including echinocandins and fluconazole, leaving few remaining treatment options, which can often be expensive and toxic for patients. Requiring reporting of candidemia will allow the Department to: 1) monitor disease incidence and trends, as other data on candidemia in large populations are scarce, 2) detect the emergence and spread of resistance to antifungal agents, 3) determine the burden of infections caused by antifungal-resistant *Candida* species, 4) understand and describe specific genetic mutations associated with resistance, and 5) identify areas where candidemia prevention and intervention strategies can be focused. This proposed change is reflected in the Table in Appendix A.

4) The Department proposes clarifying language regarding reportable arbovirals (viruses transmitted by arthropods, such as mosquitoes) such that proposed language will require reporting for the entire category of arboviral diseases (antibody panel), and remove language specific to Eastern equine encephalitis, Japanese encephalitis, LaCrosse virus and other California serogroup viruses, St. Louis encephalitis, and Western equine encephalitis. Laboratories run tests for these as a group and call the test an arboviral antibody panel. Because these tests are run in a group and not individually reportable by physicians, the proposed changes will make reporting easier for laboratories. This proposed change is reflected in the Table in Appendix A.

5) The Department proposes clarifying the reporting of Spotted fever rickettsiosis (including Rocky Mountain spotted fever (RMSF) and typhus) by changing the language to “Rickettsiosis (including RMSF and typhus)”. These conditions are currently reportable, but the current rule language implies that typhus is a spotted fever and it is not. In addition, laboratories run a group test for rickettsial species that is called a rickettsial antibody panel. This proposed change is reflected in the Table in Appendix A.

6) The Department proposes changing our reporting timelines. Three new categories would be created - “immediately” (by phone, within 4 hours), “1 working day”, and “4 days”. The “24 hour” category and the “7 day” category would be deleted, except for carnivorous animal bites, which would remain at “24 hours”. The table recognizes that, unless the term “working day” is specified, “days” refers to calendar days. The instructions to report cases suspected to be due to bioterrorism immediately remain unchanged. The proposed changes are designed to better align our reporting timelines with national standards, and to recognize the availability of more efficient electronic reporting. National reporting guidelines are developed by the Council of State and Territorial Epidemiologists and categorize reportable conditions as either “immediately notifiable”, “extremely urgent (within 4 hours)”, “immediately notifiable, urgent (within 24 hours)”, or “routinely notifiable”. This proposed change is reflected in the Table in Appendix A.

7) The Department proposes removing *Cyclospora* from the list of conditions where specimens must be submitted. The Centers for Disease Control and Prevention no longer requires submission of *Cyclospora* isolates. Removing this requirement will align our rule with federal guidelines. However, *Cyclospora* will remain a reportable condition. This proposed change is reflected in the Table in Appendix A.

8) The Department proposes updating the conditions required to be reported “based on the diagnosis or suspected diagnosis of the attending physician or other health care provider, whether or not supporting laboratory data are available”. These conditions are indicated in the Table with a superscript ‘6’. First, we propose correcting an error that occurred when the rule was last modified in

2015. Rubella (acute infection) and hepatitis A are and have been one of these conditions, but the superscript was inadvertently left off in the last update. When reviewing this proposed correction with stakeholders, the Department identified two other conditions that do not need to be reported if suspected, since there is no public health follow up without laboratory confirmation. Thus, the Department proposes removing *Haemophilus influenzae*, and Legionellosis from list of conditions that are required to be reported “based on the diagnosis or suspected diagnosis of the attending physician or other health care provider, whether or not supporting laboratory data are available”. These proposed changes are reflected in the Table in Appendix A.

9) The Department proposes that when bacterial culture isolates or patient clinical material that yields positive findings are required to be submitted to the CDPHE Laboratory Services Division (see Disease Table footnote #3), they be submitted within one business day. Currently, there is no time limitation on the submission. This has resulted in a delay in submission in some cases, and a resulting inability to recover or confirm the suspected pathogen. This can result in the inability to identify persons with outbreak-related infections, or to implement appropriate disease control actions. A free courier service is provided to all hospitals to facilitate delivery of isolates or specimens to the CDPHE laboratory. This proposed change is reflected in the Table in Appendix A.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes: Sections 25-1.5-102; 25-1-122; 25-4-402, 25-4-404, 25-4-405, and 25-4-1401 et seq., C.R.S.

SB 16-146 amended the *HIV Infection and Acquired Immune Deficiency Syndrome* statutes in 2016, resulting in the relocation of sections 25-4-1411, C.R.S. through 25-4-1415 C.R.S., to sections 25-4-1401, C.R.S. through 25-4-1405, C.R.S. However, due to an oversight, the act did not repeal Part 14 as it was previously written. Due to this oversight, the 2015 version of Part 14 that was not relocated by the Act remains in statute. The proposed amendments to the rules are not affected. The rules comport with the requirements delineated in Part 4 and Part 14 of Article 4, Title 25, C.R.S.

SUPPLEMENTAL QUESTIONS**Is this rulemaking due to a change in state statute?**

☒ Yes in part, __SB 16-146__ ; rules are __ __ authorized ☒ required.
☐ No

Is this rulemaking due to a federal statutory or regulatory change?

☐ Yes
☒ No

Does this rule incorporate materials by reference?

☐ Yes
☒ No

Does this rule create or modify fines or fees?

☐ Yes
☒ No

REGULATORY ANALYSIS

for Amendments to
6 CCR 1009-1

Rules and Regulations Pertaining to Epidemic and Communicable Disease Control
and for the Repeal of 6 CCR 1009-9

Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and
HIV Infection

1. A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Classes of persons affected by the proposed rule changes include 1) clinical laboratory personnel; 2) personnel at hospitals responsible for reporting, such as infection preventionists; 3) health care providers; 4) local public health personnel; 5) persons living with a sexually transmitted infection (STI); 6) persons at risk for acquiring a STI; 7) community based organizations; and 5) the general public.

Clinical laboratory personnel will bear some cost of the changes to laboratory reporting, as processes will need to be adjusted for the change in reporting timelines. For laboratories utilizing electronic reporting, this should be a one-time programming change.

Health care providers and other reporters will bear a cost related to some of the new reporting. Zika virus is currently reported as an 'unusual illness.....of public concern' so there is no new cost. For candidemia reporting, there is a cost of reporting additional laboratory information, or changing programming for those laboratories that report electronically.

Local public health, state public health, and the general public will benefit from the proposed changes to the rule. The benefit of these changes include: clearer, updated rules that are more easily interpreted and, therefore, followed; more complete reporting of diseases of public health importance; treating HIV like other communicable diseases, thereby reducing stigma; and reporting on timelines that reflect and utilize electronic reporting. Each of these proposed changes will provide better or more timely data to state and local public health agencies. These agencies, in turn, will be able to use this data to detect, prevent, and treat communicable disease in communities across Colorado, benefitting the general public. While the proposed changes are relevant to current local government operations, the proposed rule does not impose a new state mandate on local government.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Of the proposed changes to this rule, four are clarifications of existing rule or reductions in reporting. These proposed changes positively impact end-users of the rule by making it easier to implement.

Two of the proposed changes are additions to the list of reportable conditions necessitated by changes in conditions of public health concern. Candidemia will require some additional laboratory staff time to report, though if reported electronically this staff time should be minimal. Candidemia isolates or specimens are also *requested*, but not *required*. Zika reporting has been ongoing since 2016, and reports come from commercial laboratories, the CDPHE laboratory, or the Centers for Disease Control and Prevention laboratory. Detailed follow-up information is required for persons with suspected Zika infection in order to confirm the diagnosis and collect additional pertinent information. This burden falls to CDPHE staff, local health department staff, and health care providers. As of December 21, 2016, 52 cases of Zika have been reported.

Laboratories and hospital infection preventionists are the primary reporters of conditions included in the reportable disease table. Changing the timelines for reporting will require efforts to change work processes to meet these new timelines. Of note, for the 22 conditions that were reportable within 24 hours previously, one stayed the same, eight were changed to 'report within one working day', and 13 were changed to 'immediately report', if immediate public health intervention is necessary. Forty-four states currently require 'immediate reporting'. For those eight conditions that are no longer reportable within 24 hours, laboratories and health care providers no longer have to call the Department in the evening and on weekends to report.

Laboratories currently submit required bacterial culture isolates or patient clinical material that yields positive findings. Currently, there is no time limitation on the submission. This has resulted in a delay in submission in some cases, and a resulting inability to recover or confirm the suspected pathogen. This can result in the inability to identify persons with outbreak-related infections, or to implement appropriate disease control actions. A free courier service is provided to all hospitals to facilitate delivery of isolates or specimens to the CDPHE laboratory.

Recent legislation (Senate Bill 16-146) combined the statutes related to sexually transmitted infections (STIs) and human immunodeficiency virus (HIV) to make protections and policies apply equally to all STIs, including HIV. To be consistent with these legislative changes, the Department proposes the repeal of 6 CCR 1009-9, *Rules and regulations pertaining to the reporting, prevention, and control of AIDS, HIV related illness, and HIV infection*. Specific language from this rule will be added to 6 CCR 1009-1 to address STIs, including HIV. This will better align rule and statute and provide greater consistency in reporting for laboratories and healthcare providers. Additionally, the proposed rule will require guidelines and standards for STI prevention providers and Department staff concerning the delivery of client services and public health procedures; thus providing additional assurance of the quality of services delivered to persons living with, or at risk for acquiring a STI.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The costs to the agency for managing reports of Zika and candidemia will be covered by federal grant funding. Any other costs to CDPHE will be minimal and can be absorbed. There is no anticipated effect on state revenues.

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The benefit of these changes include: clearer, updated rules that are more easily interpreted and therefore, followed; and more complete reporting of diseases of public health importance (in the cases of Zika virus and Candidemia). Additionally, the proposed changes will repeal 6 CCR 1009-9, and provide greater consistency in the reporting of all diseases and infections, including STIs. The benefit of these changes is greater congruency between statute and rule, thus, reducing the confusion of having largely duplicative rules related to communicable disease reporting. Additionally, the proposed changes includes updated language that is meant to mirror current, evidence-based practices and reduces stigma related to sexually transmitted infections.

In addition, the Department proposes changing our reporting timelines. Three new categories would be created - "immediately" (by phone, within 4 hours), "1 working day", and "4 days". The "24 hour" category and the "7 day" category would be deleted, except for carnivorous animal bites, which would remain at "24 hours". The table recognizes that, unless the term "working day" is specified, "days" refers to calendar days. The benefit of the proposed changes will be better alignment with national standards and the opportunity to respond more rapidly to urgent public health situations. In addition, the proposal includes new language that encourages electronic laboratory reporting. The adoption of

electronic laboratory reporting will allow these reports to be more efficiently reported. There may be some cost to reporters to change the process of reporting to include the proposed new conditions, or to report at the proposed time intervals.

Inaction would result in a continued lack of clarity in the rules, lack alignment with SB 16-146, and lack of information about newly emerging conditions of public health importance.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Conducting surveillance for communicable diseases of public health significance is a standard procedure of epidemic and communicable disease control. No alternative methods are available to achieve the purposes of the authorizing statutes.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

No alternative methods for achieving the purpose of the proposed rules were considered because the rules utilize the widely accepted, proven public health methodology of surveillance and laboratory investigation. The Department proposes the inclusion of language related to STIs, including HIV to align this rule with statute, and as having a separate rule would be largely duplicative and confusing.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The Department examined the percentage of reports currently reportable within 7 days that were reported more than 4 days after the test result (the new reporting timeline for these tests). For the 6 months from April 1- September 30, 2016, there were 50,778 tests for 7-day reportable conditions analyzed, and 8.1% were reported more than 4 days after the test result. The Department also considered the testimony given in support of SB 16-146 and considered the intent of that legislation when developing the proposed amendments to rule.

STAKEHOLDER COMMENTS

for Amendments to
6 CCR 1009-1

Rules and Regulations Pertaining to Epidemic and Communicable Disease Control
and for the Repeal of 6 CCR 1009-9

Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and
HIV Infection

Early Stakeholder Engagement

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

Healthcare providers, Colorado hospital infection preventionists and lab directors (including those at acute care hospitals), Colorado Hospital Association staff, and local public health communicable disease staff, AIDS Service Organizations, Community Based Organizations, “Mod-Squad” Participants (activists), The Alliance for HIV Care the Prevention (CDPHE/Gov appointed advisory group to the Branch), Colorado Organizations Responding to AIDS - CORA (Lobbying group), State and Local Health Department Staff, Ryan White Part A Planning Council Members, Members of the Positive Women’s Network (PWN), Other individuals interested in STI/HIV/VH related issues and rules, Regional Epidemiologists, Members of the Association for Professionals in Infection Control, Colorado Hospital Association, and Colorado Medical Society.

Targeted outreach was conducted at several points throughout the fall:

- On 10/24/16 a memo was emailed to all hospital infection preventionists at Colorado acute care hospitals, all Lab Directors at acute care hospitals, and all communicable disease contacts at each local health department. The memo outlined the proposed changes, not including those changes related to HIV. In addition, a strike changes version of the Reportable Disease Table was included.
- On 11/2/16, proposed changes (not including HIV changes) were described to Colorado Regional Epidemiologists on a conference call and an opportunity for discussion and questions was provided.
- On 11/18/16, proposed changes (not including HIV) were presented to the members of the Association for Professional in Infection Control (APIC) at their monthly meeting.
- A series of 3 facilitated meetings were held in the fall of 2016 to gather feedback specific to proposed integration of 6 CCR 1009-9 into the communicable disease rule 6 CCR 1009-1.
- On 12/7/16 proposed changes were discussed on a conference call with a group of hospital infection preventionists and hospital laboratorians to review feedback from the APIC meeting on 11/18/16.
- In mid-December, a memo was emailed to all hospital infection preventionists at Colorado acute care hospitals (12/16), all Lab Directors at acute care hospitals (12/16), all communicable disease contacts at each local health department (12/16), infectious disease physicians (12/16), the Colorado Hospital Association (12/16), local health department directors (12/21), HIV/AIDS stakeholders (12/22), and the Colorado Medical Society (12/23). The memo outlined the proposed changes, including those changes related to HIV and changes made to the original proposal as a result of feedback. In addition, a strikethrough version of the rule and a strike changes version of the Reportable Disease Table was included.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior

to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

☒ Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.

☐ Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The Department held conference calls and facilitated meetings with stakeholders to discuss concerns and answer questions. These discussions led to greater understanding of the reporting process as well as greater understanding of the Department's proposed repeal of 6 CCR 1009-9 and integration of HIV regulations into 6 CCR 1009-1. The Department did incorporate stakeholder feedback from these calls and meetings and did adjust some of the proposals included in this proposal based on this feedback. While the Department will continue to engage stakeholders throughout the development of the proposed rules, the Department believes consensus has been achieved.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

The proposed modifications apply to all Colorado providers and laboratories responsible for reporting public health conditions of concern, and thus cover all Coloradoans. It is possible that those without access to diagnostic health care services (due to geography or socioeconomic status) would be less likely to be reported and to be identified as being in need of public health intervention (such as post exposure prophylaxis or outbreak source identification). In some of these situations, public health funding is available to pay for diagnostic testing. Proposed rule modifications promote health equity as they are meant to clarify and streamline the rules so they are more easily understood and applied to all eligible citizens. Additionally, this proposal responds to Senate Bill 16-146, known as STI Modernization that was passed in this last legislative session. This bill combined Parts 4 and 14 in Article 4 of Title 25 (the public health laws on STI and HIV) to make protections and policies apply equally to all sexually transmitted infections, including HIV and relevant forms of viral hepatitis, thus, bringing them in line with current medical knowledge and practice, as well as to reduce stigma that may be associated with HIV. This is a critical component in the advancement of HEEJ in our STI and HIV related programming. There are no environmental justice impacts.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**Disease Control and Environmental Epidemiology Division****RULES AND REGULATIONS PERTAINING TO EPIDEMIC AND COMMUNICABLE DISEASE CONTROL****6 CCR 1009-1**

Adopted by the Board of Health on _____, 2017. Effective _____, 2017.

1

2 Regulation 1. Reportable Diseases

3 For the purpose of these regulations, the diseases named in the Reportable Diseases Table (Appendix A)
4 are declared to be POTENTIALLY dangerous to the public health and shall be reportable in accordance
5 with the provisions of these regulations.

6 *****

8 Manner of Reporting

9 All cases are to be reported with patient's name, date of birth, sex, race, ethnicity, and address
10 (including city and county) and name and address of responsible physician or other health care provider;
11 and such other information as is needed to locate the patient for follow up. In addition, all laboratory
12 information reported shall include specimen accession number. For animal bites by dogs, cats, bats,
13 skunks, foxes, raccoons, coyotes, and other wild carnivores, the name and locating information of the
14 owner of the biting animal shall be reported, if known, by the health care provider. For healthcare-
15 associated infections, except as provided in § 25-3-601, C.R.S., facilities choosing to voluntarily
16 participate in applied public health projects on a project by project basis shall make medical records
17 available for review by the Department upon request within a reasonable time frame. IN ADDITION, FOR
18 SEXUALLY TRANSMITTED INFECTIONS, THE PATIENT'S SEX AT BIRTH, GENDER IDENTITY AND RELEVANT
19 TREATMENT SHALL BE REPORTED. FOR REPORTS FROM A PUBLICALLY FUNDED ANONYMOUS TESTING
20 SITE, AS PROVIDED IN §25-4-411, C.R.S, THE PATIENT'S NAME AND ADDRESS ARE NOT REQUIRED.

21 *****

22 Regulation 2. Reporting by Individuals

23 Where Reporter = 'P' in the Appendix A Reportable Diseases Table, cases of diseases shall be reported
24 by the physician or other health care provider and by other persons either treating or having knowledge
25 of a reportable disease, including, but not limited to coroners, persons in charge of hospitals or other
26 institutions licensed by the Colorado Department of Public Health and Environment, (or their designees),
27 persons in charge of schools (including school nursing staff), ~~and~~-licensed day care centers-OR ANY
28 OTHER PERSON PROVIDING TESTING AND/OR COUNSELING TO A PERSON WITH A SEXUALLY
29 TRANSMITTED INFECTION.

30 Regulation 3. Laboratory Reporting

31 *****

32 All specimens shall be accompanied by the following information: (a) Patient's name, date of birth, sex,
33 race, ethnicity, and address (b) Name and address of responsible physician or other health care provider
34 (c) Name of disease or condition (d) Laboratory information - test name, collection date and specimen

type. LABORATORIES SHOULD MAKE EFFORTS TO REPORT ALL TESTS ELECTRONICALLY WHENEVER POSSIBLE.

Regulation 4 Treatment and Control of Tuberculosis

The emergence of multiple drug-resistant tuberculosis in this country and state dictates a coherent and consistent strategy in order to protect the public health from this grave threat. The underlying principles of disease control expressed in the following rules are as follows: use of the most rapid and modern diagnostic methods by laboratories, rapid reporting, full patient compliance with medical treatment, and prevention of spread of tuberculosis in health care settings. The tuberculosis statute (C.R.S. 25-4-501 et seq.) covers subject matters not included in these regulations.

B. Physicians, health care providers, and health care facilities shall report within 7 CALENDAR days the following tuberculin skin test (TST) or Interferon-Gamma Release Assay (IGRA) result if it occurs in a health care worker, correctional facility worker, or detention facility worker: a positive TST (defined as = 5 mm induration) or positive IGRA test (based on manufacturer's interpretation criteria) if the worker has had prolonged or frequent face-to-face contact with an infectious tuberculosis case.

E. A laboratory may fulfill its requirement to report (in parts C and D of this regulation) by submitting a sputum specimen from the patient to either the State Public Health Laboratory, or for facilities located in Boulder, Broomfield, Denver, Adams, Douglas, Arapahoe, and Jefferson counties, to the Denver Public Health laboratory. The reporting requirement is not fulfilled if the laboratory submits an isolate from a culture to either of the public health laboratories or if the laboratory delays sending the sputum specimen for more than 2 CALENDAR days after collection of the specimen.

H. The Board of Health determines that to prevent the emergence of multiple drug-resistant tuberculosis, it is necessary and appropriate and good medical practice that persons with active tuberculosis disease receive directly observed treatment for their disease. All medical providers and health care organizations are required to provide directly observed therapy for patients with active tuberculosis disease for the full course of therapy, unless a variance for a particular patient from this requirement is approved by the tuberculosis control program of the State Department of Public Health and Environment or Denver Public Health. Directly observed therapy is not required for patients with extrapulmonary tuberculosis disease provided that the presence of pulmonary tuberculosis has been investigated and excluded. In applicable situations, a variance shall be granted in accordance with C.R.S. 25-4-506(3).

Medical providers and health care organizations shall report to the state or local health department within seven CALENDAR days the name of any patient on directly observed therapy who has missed one dose. When requested by medical providers and health care organizations, the state or local health department shall provide directly observed treatment to outpatients with active tuberculosis disease and this shall fulfill the requirement for the medical providers and health care organizations.

77 K.

78 *****

79 (2) The chief medical health officer of a local health agency, with the prior approval of the
80 local board of health and pursuant to the requirements of subparagraph 3 of this
81 paragraph K may require screening be performed for a particular group or population
82 that has been identified as high risk based on the criteria set forth in this paragraph K,
83 but each individual shall be informed of his or her right to be exempt from the screening
84 because of medical or religious reasons. The local health agency should provide at least
85 30 CALENDAR days notice to potentially affected persons, groups, and businesses prior
86 to consideration of the proposed program by the local board of health.

87 (3) Except as provided in subparagraph 6 of this paragraph K, no program approved by a
88 local board of health shall be implemented without the approval of the State Board of
89 Health. Within 30 CALENDAR days of a program having been approved by a local board
90 of health, the local health agency shall submit a copy of the proposed program to the
91 State Board of Health. When considering a proposed local health agency program, the
92 State Board of Health shall provide notice to all parties on its mailing list at least 20
93 CALENDAR days prior to the hearing.

94 *****

95 **Regulation 5. Investigations to Confirm the Diagnosis, Treatment, and Causes of Epidemic and**
96 **Communicable Diseases and to Determine Appropriate Methods of Epidemic and**
97 **Communicable Disease Control**

98 Investigations may be conducted to confirm the diagnosis, treatment, and causes of reportable
99 conditions and shall be considered official duties of the health department or health agency. Such
100 investigations may include, but are not limited to:

101 *****

102 (b) performing follow-up interview(s) with the case or persons knowledgeable about the
103 case to collect INFORMATION pertinent and relevant information about TO the cause(s)
104 of or risk factors for the reportable condition;

105 *****

106 **Regulation 6. Information Sharing**

107 Whenever a local health department or health agency learns of a case of a reportable disease or an
108 epidemic or communicable disease exposure potentially threatening the public health, it shall notify the
109 State Department of Health in a timely manner, usually within the timeframe for reporting in
110 Regulation 1.

111 *****

112 **Regulation 9. Confidentiality**

113 All personal medical records and reports held or viewed by the state or local health department in
114 compliance with these regulations shall be confidential information subject to C.R.S. 25-1-122(4) AND
115 C.R.S. 25-4-406(1). Reasonable efforts shall be made by the department to consult with the attending

RESPONSIBLE physician, OTHER HEALTHCARE PROVIDER, or medical facility caring for the patient prior to any further follow-up by State or local health departments or health agencies.

Regulation 11. Sexually Transmitted Infections

THE COLORADO BOARD OF HEALTH RECOGNIZES THAT NON-SEXUAL TRANSMISSION MAY OCCUR FOR SOME OF THESE INFECTIONS, AND THAT IN INDIVIDUAL CASES, BASED ON CLINICAL AND EPIDEMIOLOGIC INFORMATION, THE RESPONSIBLE PHYSICIAN OR OTHER HEALTHCARE PROVIDER MAY CONCLUDE THE PATIENT'S INFECTION WAS NOT SEXUALLY ACQUIRED.

INFORMATION CONCERNING TESTING, TREATMENT, CAUSES, OR THE PREVENTION OF SEXUALLY TRANSMITTED INFECTIONS SHALL BE SHARED, TO THE MINIMUM EXTENT NECESSARY TO ACHIEVE THE PUBLIC HEALTH PURPOSE, BETWEEN THE APPROPRIATE LOCAL HEALTH DEPARTMENT, STATE DEPARTMENT OF HEALTH, CONTRACTED AGENCY, RYAN WHITE FUNDED AGENCY, OTHER HEALTH AGENCY OR PERSON PROVIDING DIRECT SEXUALLY TRANSMITTED INFECTION RELATED SERVICES AND THE STATE DEPARTMENT OF HEALTH, AS PROVIDED BY C.R.S. 25-4-406(1)(b).

WITH RESPECT TO REGULATION 5, INVESTIGATIONS RELATED TO SEXUALLY TRANSMITTED INFECTIONS WILL BE LIMITED TO THE INFORMATION NECESSARY TO CONFIRM THE DIAGNOSIS, TREATMENT, SOURCE OF INFECTION, AND IDENTIFICATION OF MEASURES THAT MAY BE USED TO PREVENT ADDITIONAL SEXUALLY TRANSMITTED INFECTIONS.

THE DEPARTMENT SHALL DESTROY PERSONAL IDENTIFYING INFORMATION ON ALL PERSONS WITH CD4 OR VIRAL LOAD RESULTS IF INVESTIGATION SUBSEQUENT TO THE REPORT FINDS NO EVIDENCE OF A SEXUALLY TRANSMITTED INFECTION.

C.R.S. 25-4-411 (1)(a) REQUIRES THE STATE DEPARTMENT OF HEALTH TO CONDUCT AN ANONYMOUS COUNSELING AND TESTING PROGRAM FOR PERSONS CONSIDERED TO BE AT HIGH RISK FOR INFECTION WITH HUMAN IMMUNODEFICIENCY VIRUS (HIV). THE PROVISION OF CONFIDENTIAL COUNSELING AND TESTING FOR HIV IS THE PREFERRED SCREENING SERVICE FOR DETECTION OF HIV INFECTION. LOCAL BOARDS OF HEALTH WHO PROVIDE HIV COUNSELING AND TESTING THROUGH A CONTRACTUAL AGREEMENT WITH THE STATE DEPARTMENT OF HEALTH SHALL CONSIDER THE NEED FOR AN ANONYMOUS HIV TESTING OPTION IN THEIR JURISDICTION, UPON PETITION. THE CONSIDERATION OF THIS OPTION MUST PROVIDE AN OPPORTUNITY FOR PUBLIC COMMENT IN A PUBLIC FORUM, INCLUDING ANONYMOUS TESTIMONY PRESENTED IN WRITING OR THROUGH AN ORGANIZATION. LOCAL BOARDS OF HEALTH ELECTING TO PROVIDE CONFIDENTIAL HIV TESTING WITH AN ANONYMOUS OPTION MUST DO SO IN CONJUNCTION WITH PUBLICLY FUNDED HIV TESTING AND COUNSELING PROJECTS.

OPERATIONAL STANDARDS

A. ALL PERSONS PROVIDING HIV TESTING AND COUNSELING AT A PUBLICLY FUNDED HIV TESTING AND COUNSELING PROJECT IN A NON HEALTH-CARE SETTING WILL HAVE COMPLETED AN HIV TESTING AND COUNSELING COURSE APPROVED BY THE STATE DEPARTMENT OF HEALTH.

B. ALL PERSONS PERFORMING PARTNER SERVICES WILL HAVE COMPLETED COURSES CONCERNING INTRODUCTION TO SEXUALLY TRANSMITTED DISEASE INTERVIEWING AND PARTNER NOTIFICATION, AND OTHER RELATED COURSES AS SPECIFIED BY THE STATE DEPARTMENT OF HEALTH.

- C. OF ALL HIV TESTS PERFORMED AT A PUBLICLY FUNDED HIV TESTING AND COUNSELING PROJECT, 99% OF THOSE PERSONS TESTING HIV POSITIVE WILL RECEIVE TEST RESULTS AND APPROPRIATE POST-TEST COUNSELING RELATED TO THOSE TEST RESULTS. PUBLICLY FUNDED HIV TESTING SITES SHALL MAKE A GOOD FAITH EFFORT TO INFORM ALL PERSONS OF THEIR TEST RESULTS AND SHALL PROVIDE PERTINENT HIV PREVENTION COUNSELING AND REFERRALS.
- D. ALL PERSONS NEWLY DIAGNOSED WITH HIV WILL BE REFERRED FOR PARTNER SERVICES. A MINIMUM OF 75% OF THOSE OFFERED PARTNER SERVICES WILL RECEIVE AN INTERVIEW AND PERTINENT REFERRALS. PARTNER SERVICES STANDARDS WILL BE DETERMINED BY THE BEST PRACTICES GUIDANCE AND CODE OF CONDUCT STANDARDS FOR STI PREVENTION PROVIDERS DEVELOPED BY THE STATE DEPARTMENT OF HEALTH. THESE STANDARDS SHALL BE MADE PUBLICALLY ACCESSIBLE.
- E. OPERATIONAL AND EVALUATION STANDARDS FOR HIV TESTING AND COUNSELING SITES WILL BE DETERMINED BY THE BEST PRACTICES GUIDANCE DEVELOPED BY THE STATE DEPARTMENT OF HEALTH.
- F. IN ACCORDANCE WITH C.R.S 25-4-404(2), THE STATE DEPARTMENT OF HEALTH SHALL CREATE AND MAINTAIN GUIDELINES, SUBJECT TO APPROVAL BY THE STATE BOARD, CONCERNING THE PUBLIC HEALTH PROCEDURES DESCRIBED IN C.R.S 25-4-412 AND C.R.S 25-4-413. THESE GUIDELINES WILL INCLUDE CODE OF CONDUCT STANDARDS FOR THE DELIVERY OF PARTNER SERVICES AND CLIENTS' RIGHTS, RESPONSIBILITIES AND PROTECTIONS.

~~In addition to all manifestations of chlamydia, syphilis and gonorrhea, the Colorado Board of Health finds that the following diseases are contagious, are sexually transmissible, are dangerous to the public health, and pursuant to C.R.S. 25-4-401(1) are determined to be sexually transmitted infections. The Board recognizes that non-sexual transmission may occur for some of these diseases, and that in individual cases, based on clinical and epidemiologic information, the attending physician may conclude the patient's disease was not sexually acquired:~~

~~Chancroid~~

~~Genital herpes simplex infection~~

~~Granuloma inguinale~~

~~Lymphogranuloma venereum~~

~~Urethritis in males caused by C. trachomatis, U. urealyticum, M. genitalium, T. vaginalis, and Herpes simplex virus~~

~~Mucopurulent cervicitis in females caused by C. trachomatis or N. gonorrhoeae~~

~~Trichomoniasis~~

~~Pelvic inflammatory disease caused by C. trachomatis or N. gonorrhoeae~~

~~Epididymitis caused by C. trachomatis, N. gonorrhoeae, or E. coli~~

~~Human papillomavirus infection, including genital or anal warts~~

- 199 ~~Hepatitis A~~
- 200 ~~Hepatitis B~~
- 201 ~~Hepatitis C~~
- 202 ~~Pediculosis pubis~~
- 203 ~~Acute proctitis caused by C. trachomatis, N. gonorrhoeae, T. pallidum, or Herpes simplex virus~~

204 Appendix A. Reportable Disease Table

Disease/Event	Pathogen/Organism	Time*	Reporter ¹	Specimen Source(s) ²	Send Clinical Material ³
<i>Acinetobacter baumannii</i> , carbapenem-resistant (CRAB) ^{5, 4-Metro}	Carbapenem-resistant <i>Acinetobacter baumannii</i> (including <i>Acinetobacter baumannii</i> complex and <i>Acinetobacter baumannii-calcoaceticus</i> complex)	30 days	L	Sterile sites, urine	
Acute flaccid myelitis		7 4 days	P		
Animal bites by dogs, cats, bats, skunks, foxes, raccoons, coyotes, or other wild carnivores ^{6,7}		24 hrs	P		
Animal bites by mammals not listed above ⁶		7 days 4 days	P		
Anthrax ⁶	<i>Bacillus anthracis</i>	24 hrs Immed	L & P	All	Required
Arboviral Disease	Eastern equine encephalitis, LaCrosse encephalitis virus, California encephalitis serogroup, St. Louis encephalitis virus and Western equine encephalitis virus	4 days	L	All	
Botulism ⁶	<i>Clostridium botulinum</i>	24 hrs Immed	L & P	All	
Brucellosis ⁶	<i>Brucella</i> species	7 days 4 days	L & P	All	Required
California/LaCrosse serogroup virus diseases	LaCrosse encephalitis virus, California encephalitis serogroup virus, etc.	7 days	L	All	
Campylobacteriosis	<i>Campylobacter</i> species	7 days 4 days	L & P	All	
Candidemia	Candida species	30 days	L	Blood	Requested
Chancroid	<i>Haemophilus ducreyi</i>	7 4 days	L & P	All	
Chikungunya	Chikungunya virus	7 days 4 days	L	All	
Chlamydia	<i>Chlamydia trachomatis</i>	7 4 days	L & P	All	
Cholera ⁶	<i>Vibrio cholerae</i>	24 hrs Immed	L & P	All	Required
CJD and other transmissible spongiform encephalopathies (TSEs) ⁶		7 days 4 days	P		
<i>Clostridium difficile</i> infection ^{4-Metro}	<i>Clostridium difficile</i>	30 days	L	All	Requested ⁸
Colorado tick fever	Colorado tick fever virus	7 days 4 days	L	All	
Cryptosporidiosis	<i>Cryptosporidium</i> species	7 days 4 days	L & P	All	
Cyclosporiasis	<i>Cyclospora</i> species	7 days 4 days	L & P	All	Required
Dengue	Dengue virus	7 days 4 days	L	All	
Diphtheria ⁶	<i>Corynebacterium diphtheriae</i>	24 hrs Immed	L & P	All	Required

Disease/Event	Pathogen/Organism	Time*	Reporter ¹	Specimen Source(s) ²	Send Clinical Material ³
Eastern equine encephalitis	Eastern equine encephalitis virus	7 days	L	All	
Encephalitis ⁶		7 days 4 days	P	All	
Enterobacteriaceae, carbapenem-resistant (CRE) ⁹	Carbapenem-resistant <i>Escherichia coli</i> , <i>Klebsiella</i> species, <i>Enterobacter</i> species	7 days 4 days	L	All	Requested ⁸
<i>Escherichia coli</i> O157:H7 and Shiga toxin-producing <i>Escherichia coli</i> ¹⁰	Shiga toxin-producing <i>Escherichia coli</i> ¹⁰	7 days 4 days	L & P	All	Required
Giardiasis	<i>Giardia lamblia</i>	7 days 4 days	L & P	All	
Gonorrhea, any site	<i>Neisseria gonorrhoeae</i>	7 4 days	L & P	All	
Group A streptococci ^{11, 4-Metro}	<i>Streptococcus pyogenes</i>	7 days 4 days	L	Sterile only	Required ¹²
Group B streptococci ^{4-Metro}	<i>Streptococcus agalactiae</i>	7 30 days	L	Sterile only	Required ¹²
<i>Haemophilus influenzae</i> ⁶	<i>Haemophilus influenzae</i>	24 hrs 1 working day	L & P	Sterile only	Required
Hantavirus disease ⁶	Hantavirus	7 days 4 days	L & P	All	
Healthcare-associated infections ¹³		7 days 4 days	P		
Hemolytic uremic syndrome if ≤ 18 years ⁶		7 days 4 days	P		
Hepatitis A ⁶	Hepatitis A virus (+IgM anti-HAV)	24 hrs 1 working day	L & P	All	
Hepatitis B	Hepatitis B virus (+HBsAg, +IgM anti-HBc, +HBeAg, or +HBV DNA)	7 days 4 days	L & P	All	
Hepatitis C	Hepatitis C virus (+ serum antibody titer, including signal to cut-off ratio, or more specific + tests)	7 days 4 days	L & P	All	
Hepatitis, other viral		7 days 4 days	P		
Human immunodeficiency virus (HIV)/ acquired immunodeficiency syndrome (AIDS)	<ul style="list-style-type: none"> • Human immunodeficiency virus • CD4 counts (any value) • HIV viral load (any value) • HIV genotype 	7 days 4 days	<ul style="list-style-type: none"> • L & P • L & P • L & P • L 	All	
Influenza-associated death if < 18 years		7 days 4 days	P		
Influenza-associated hospitalization		7 days 4 days	P		
Japanese encephalitis	Japanese Encephalitis virus	7 days 4 days	L	All	
Legionellosis ⁶	<i>Legionella</i> species	7 days 4 days	L & P	All	
Leprosy (Hansen's Disease)		7 days 4 days	P		

Disease/Event	Pathogen/Organism	Time*	Reporter ¹	Specimen Source(s) ²	Send Clinical Material ³
Listeriosis	<i>Listeria monocytogenes</i>	7 days 4 days	L & P	All	Required
Lyme disease	<i>Borrelia burgdorferi</i>	7 days 4 days	L & P	All	
Lymphogranuloma venereum (LGV)	<i>Chlamydia trachomatis</i>	7 days 4 days	L & P	All	
Malaria ⁶	<i>Plasmodium</i> species	7 days 4 days	L & P	All	
Measles (rubeola) ⁶	Measles virus	24 hrs Immed	L & P	All	
Meningococcal Disease ⁶	<i>Neisseria meningitidis</i> or gram-negative diplococci	24 hrs Immed	L & P	Sterile only	Required
Mumps ⁶	Mumps virus (acute infection)	7 days 4 days	L & P	All	
Outbreaks - known or suspected of all types including those transmitted from food, water, person-to-person, and related to a health care setting ⁶		24 hrs Immed	P		
Pertussis (whooping cough) ⁶	<i>Bordetella pertussis</i>	24 hrs 1 working day	L & P	All	Requested ⁸
Plague ⁶	<i>Yersinia pestis</i>	24 hrs Immed	L & P	All	Required
Poliomyelitis ⁶	Poliovirus	24 hrs Immed	L & P	All	
Powassan virus disease	Powassan virus	7 days 4 days	L	All	
Pseudomonas, carbapenem-resistant ¹⁴	<i>Pseudomonas aeruginosa</i>	7 days 4 days	L	All	Requested ⁸
Psittacosis	<i>Chlamydia psittaci</i>	7 days 4 days	L & P	All	
Q fever ⁶	<i>Coxiella burnetii</i>	7 days 4 days	L & P	All	
Rabies: human (suspected) ⁶	Rabies virus (Lyssavirus)	24 hrs Immed	L & P	All	
Spotted fever Rickettsiosis	<i>Rickettsia</i> species, including Rocky Mtn Spotted fever and typhus groups	7 days 4 days	L & P	All	
Rubella (acute infection) ⁶	Rubella virus	24 hrs 1 day	L & P	All	
Rubella, congenital ⁶	Rubella virus	7 days 4 days	L & P	All	
Salmonellosis	<i>Salmonella</i> species	7 days 4 days	L & P	All	Required
Severe or novel coronavirus	Severe acute respiratory syndrome coronavirus (SARS-CoV), Middle East respiratory syndrome coronavirus (MERS-CoV)	24 hrs Immed	L & P	All	
Shigellosis	<i>Shigella</i> species	7 days 4 days	L & P	All	Required
Smallpox ⁶	Variola virus (Orthopox virus)	24 hrs Immed	L & P	All	

Disease/Event	Pathogen/Organism	Time*	Reporter ¹	Specimen Source(s) ²	Send Clinical Material ³
St. Louis encephalitis	St. Louis encephalitis virus	7 days	L	All	
<i>Staphylococcus aureus</i> , Vancomycin-resistant	Vancomycin-resistant <i>Staphylococcus aureus</i>	7 days 4 days	L	All	Required
Streptococcal toxic shock syndrome	<i>Streptococcus pyogenes</i>	7 days 4 days	P	All	Required ¹²
<i>Streptococcus pneumoniae</i>	<i>Streptococcus pneumoniae</i>	7 days 4 days	L	Sterile only	Required ¹²
Syphilis (4⁺, 2⁺, or early latent) ⁶	<i>Treponema pallidum</i>	24 hrs 1 working day	L & P	All	
Tetanus ⁶	<i>Clostridium tetani</i>	7 days 4 days	P	All	
Tick-borne relapsing fever ⁶	<i>Borrelia</i> species	7 days 4 days	L & P	All	
Toxic shock syndrome (non-streptococcal)		7 days 4 days	P		
Trichinosis ⁶	<i>Trichinella</i> species	7 days 4 days	P	All	
Tuberculosis disease (active) ⁶	<i>Mycobacterium tuberculosis</i> ¹⁵	24 hrs 1 working day	L & P	All	See Reg 4F
Tularemia ⁶	<i>Francisella tularensis</i>	24 hrs 1 working day	L & P	All	Required
Typhoid fever ⁶	<i>Salmonella</i> Typhi	24 hrs 1 working day	L & P	All	Required
Varicella (chicken pox) ⁶	Varicella virus	7 days 4 days	L & P	All	
Vibriosis	<i>Vibrio</i> species, non-cholera	7 days 4 days	L	All	Required
Viral hemorrhagic fever	Crimean-Congo hemorrhagic virus, Ebola virus, Lassa fever virus, Lujo virus, Marburg virus, Guanarito virus, Junin virus, Machupo virus, Sabia virus	24 hrs Immed	L & P	All	Required
West Nile virus (acute infection, IgM+)	West Nile virus	7 days 4 days	L	All	
Western equine encephalitis	Western equine encephalitis virus	7 days	L	All	
Yellow fever	Yellow fever virus	7 days 4 days	L	All	
Yersiniosis ^{4,Seven}	<i>Yersinia non-pestis</i> species	7 days 4 days	L	All	Required
<u>Zika virus</u>	<u>Zika virus</u>	<u>4 days</u>	<u>L</u>	<u>All</u>	

205

206 All cases are to be reported with patient's name, date of birth, sex, race, ethnicity, and address (including city and
207 county) and name and address of responsible physician or other health care provider; and such other information as is
208 needed in order to locate the patient for follow up. In addition, all laboratory information reported shall include
209 specimen accession number.

*Time: 1) "Immed" = by phone, within 4 hours of suspected diagnosis. 2) Unless the term "working day" is specified, "days" refers to calendar days.

- 1 Reporter: The party responsible for reporting is indicated by one of the following: L = Laboratory (whether or not associated with a hospital; by out-of-state laboratories that maintain an office or collection facility in Colorado; and by in-state laboratories which send specimens to an out-of-state laboratory referral laboratory), P = health care provider or other person knowing of or suspecting a case (including but not limited to coroners, persons in charge of hospitals or other institutions licensed by CDPHE (or their designees), persons in charge of schools (including nursing staff) and licensed day care centers), L & P = Both
- 2 Specimen sources: A condition is reportable when the pathogen is isolated or detected from any specimen source unless where otherwise indicated. A normally "sterile site" is defined as blood, CSF, pleural fluid (includes chest fluid, thoracentesis fluid), peritoneal fluid (includes abdominal fluid, ascites), pericardial fluid, bone (includes bone marrow), joint or synovial fluid, needle aspirate or culture of any specific joint, internal body sites (sterilely obtained from biopsy/tissue/abscess/aspirate/fluid/swab from lymph node, brain, heart, liver, spleen, vitreous fluid, kidney, pancreas, vascular tissue, or ovary). Skin and skin abscesses are not considered sterile sites.
- 3 Testing laboratories shall routinely submit bacterial culture isolates or patient clinical material that yields positive findings to the CDPHE Laboratory Services Division. The isolate or clinical material shall be received at the CDPHE Laboratory Services Division no later than one business day after the observation of positive findings.

Clinical material is defined as: (i) A culture isolate containing the infectious organism for which submission of material is required, or (ii) If an isolate is not available, material containing the infectious organism for which submission of material is required, in the following order of preference: (A) a patient specimen; (B) nucleic acid; or (C) other laboratory material. All specimens shall be accompanied by the following information: (a) Patient's name, date of birth, sex, race, ethnicity, and address (b) Name and address of responsible physician or other health care provider (c) Name of disease or condition (d) Laboratory information - test name, collection date and specimen type.
- 4 Condition reportable only among residents of a specific catchment area. Metro = Denver Metropolitan Area (Adams, Arapahoe, Denver, Douglas and Jefferson Counties); Seven = Seven-county Denver Metropolitan Area (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties). If not specified, condition reportable in all Colorado counties.
- 4-Metro Condition reportable only among residents of Denver Metropolitan Area (Adams, Arapahoe, Denver, Douglas and Jefferson Counties)
- 4-Seven Condition reportable only among residents of seven-county Denver Metropolitan Area (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties).
- 5 *Acinetobacter baumannii* (including *Acinetobacter baumannii* complex and *Acinetobacter baumannii-calcoaceticus* complex) that are intermediate or resistant to at least one carbapenem (including imipenem, meropenem, doripenem, or ertapenem) isolated from a normally sterile site or urine.
- 6 Report shall be based on the diagnosis or suspected diagnosis of the attending physician or other health care provider, whether or not supporting laboratory data are available.
- 7 For animal bites by dogs, cats, bats, skunks, foxes, raccoons, coyotes, and other wild carnivores, the name and locating information of the owner of the biting animal shall be reported, if known, by the health care provider Reporter.
- 8 Clinical material is requested from selected laboratories.
- 9 *Escherichia coli*, *Klebsiella* species, and *Enterobacter* species that are intermediate or resistant to at least one carbapenem (including imipenem, meropenem, doripenem, or ertapenem) AND resistant to all third-generation cephalosporins tested (ceftriaxone, cefotaxime, and ceftazidime); OR *Escherichia coli*, *Klebsiella* species, and *Enterobacter* species that test positive for carbapenemase production (by any method, including the Modified Hodge Test, disk diffusion, or PCR) production of a carbapenemase (i.e., KPC, NDM, VIM, IMP, OXA-48) demonstrated by a recognized test (e.g., polymerase chain reaction, metallo- β -lactamase test, modified-Hodge test, Carb-NP).

- 260 10 This includes any shiga-toxin test or O157 antigen test that is positive, even if no culture is performed. If the
261 laboratory does not have the capacity to perform H (flagellar) antigen tests, then Escherichia coli O157 should be
262 reported.
- 263 11 If Group A streptococci is isolated from a wound or surgical tissue/specimen and is accompanied by necrotizing
264 fasciitis or streptococcal toxic shock syndrome, the case shall be reported and the isolate shall be submitted.
- 265 12 Clinical material shall be submitted from laboratories located in the seven-county Denver Metropolitan Area
266 (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson Counties) when the material is from
267 residents of the Metro Area (Adams, Arapahoe, Denver, Douglas and Jefferson counties).
- 268 13 Reportable only by facilities that are voluntarily participating in applied public health projects. Appendix B
269 includes a definition of healthcare-associated infections, a list of included infections, and a list of included health
270 facility types
- 271 14 Pseudomonas species that are resistant to at least one of the following carbapenems: imipenem, meropenem, or
272 doripenem; OR Pseudomonas species that test positive for production of a carbapenemase (i.e., KPC, NDM, VIM,
273 IMP, OXA)
- 274 15 Including (+) AFB sputum smear

Appendix B. Healthcare-Associated Infections

Definition of a healthcare-associated infection: a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or its toxins that was not present or incubating at the time of admission to the health facility.

Healthcare-associated infections include:

Bloodstream infections

Bone and joint infections

Cardiovascular system infections

Central nervous system infections

Eye, ear, nose, throat, or mouth infections

Gastrointestinal system infections

Lower respiratory tract infections other than pneumonia

Pneumonia

Reproductive tract infections

Skin and soft tissue infections

Surgical site infections

Systemic infections

Urinary tract infections

Health facility types include:

Ambulatory surgical centers

Birth centers

Convalescent centers

Dialysis treatment clinics/End-stage renal disease facilities

Hospices

Hospitals (general, psychiatric, rehabilitation, maternity, and long-term care)

Long-term care facilities

Outpatient clinics (community clinics; community clinics with emergency centers; rural health clinics; outpatient rehabilitation facilities; outpatient physical therapy, occupational therapy or speech pathology services; and private physician offices)

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Disease Control and Environmental Epidemiology Division

RULES PERTAINING TO REPORTING, PREVENTION AND CONTROL OF AIDS, HIV RELATED ILLNESS AND HIV INFECTION

6 CCR 1009-9

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

Colorado has a comprehensive public health AIDS/HIV control law: Colorado Revised Statutes Title 25, Article 4, Sections 1401 et seq. These regulations are intended to provide detail and clarification for selected parts of the above cited statute. The statute covers subject matters not included in these regulations.

C.R.S. 25-4-1405.5 (2) (a) (I) requires the Colorado Department of Public Health and Environment (CDPHE) to conduct an anonymous counseling and testing program for persons considered to be at high risk for infection with HIV. The provision of confidential counseling and testing for HIV is the preferred screening service for detection of HIV infection. Local boards of health who provide HIV counseling and testing through a contractual agreement with CDPHE must consider the need for an anonymous HIV testing option in their jurisdiction. The consideration of this option must provide an opportunity for public comment in a public forum at a minimum of every two years. Other mechanisms for input into the need for an anonymous testing option in that jurisdiction must be available in addition to the public forum, including anonymous testimony in writing or through an organization. Local boards of health must document the following: notification of interested parties and the public, time allowed between notification and the public forum, accessibility in both location and time of the public forum, and the response to public comment in the decision process. Local Boards of Health electing to provide confidential HIV testing with an anonymous option must do so in conjunction with publicly funded HIV testing and counseling projects that screen individuals for HIV infection without providing on-going health care. The term "publicly funded HIV testing and counseling projects," shall pertain to HIV testing and counseling projects that receive direct funding support from the CDPHE, or receive direct funding support for analogous HIV testing and counseling projects from the following federal agencies: U.S. Department of Health and Human Services (DHHS), Centers for Disease Control and Prevention (CDC); Health Resources and Services Administration (HRSA), Ryan White HIV/AIDS Treatment Extension Act of 2009; or the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention. The term "health-care setting," shall refer to hospitals, emergency departments, urgent-care clinics, inpatient services, sexually transmitted disease (STD) clinics or other venues offering clinical STD services, tuberculosis (TB) clinics, substance abuse treatment clinics, other public health clinics, community clinics, correctional health-care facilities, primary care settings, or private physicians offices.

Per C.R.S. 25-4-1405.5 (2) (a) (II), Regulations 6-8 are the performance standards for confidential and anonymous publicly funded HIV testing and counseling projects and CDPHE staff.

Regulation 1. Reporting By Physicians, Health Care Providers, Hospitals, And Others

Diagnosed cases of AIDS, HIV-related illness, and HIV infection, regardless of whether confirmed by laboratory tests, shall be reported to the state or local health department or health agency within 7 days of diagnosis by physicians, health care providers, hospitals, or any other person providing testing and/or counseling or treatment to a person with HIV infection. When hospitals and laboratories transmit disease reports electronically using systems and protocols developed by the department that ensure protection of confidentiality, such reporting is acceptable and is considered good faith reporting.

All cases are to be reported with the patient's name, date of birth, sex, race, ethnicity, address (including city and county), phone, name and address of the reporting physician or agency; and such other information as is needed to identify and locate the patient for follow up. For cases reported from a public anonymous testing site as provided by C.R.S. 25-4-1405.5, the patient's name and address and the name and address of the reporting physician are not required.

~~Reports on hospitalized patients may be made part of a report by the hospital as a whole.~~

~~The reporting of the name, phone, address, date of birth, sex, race or ethnicity of research subjects with AIDS, HIV-related illness, or HIV infection to CDPHE or local department of health pursuant to the provisions of Sections 25-4-1402 and 25-4-1403 shall not be required of any researcher conducting a behavioral research study, medical research study of HIV treatment or vaccine effectiveness or conducting basic biomedical research into the cellular mechanisms causing HIV infection or HIV-related disease pursuant to an approved research protocol. For the purposes of the research exemption authorized in this section, "approved research protocol" means any activity which has been reviewed and approved by the state Board of Health as a research protocol. The research exemption authorized in this section and which meets the criteria described in 1. (A) through (F) inclusive, does not alter the reporting requirements of persons and researchers otherwise required to make reports when engaged in any treatment or testing outside the scope of or prior to enrollment in an approved research protocol and does not exempt the researcher from reporting other reportable diseases. The research exemption authorized in this section does not exempt medical researchers from meeting the requirements of Section 25-4-1405 (5) to provide post test counseling to infected enrolled research subjects and referral of such subjects to the state department of public health and environment or local department of health for partner notification services.~~

~~The State Board of Health shall approve research activities for the research reporting exemption specified in this section based on evidence that the research activity for which an exemption is requested meets the eligibility requirements specified by the State Board of Health.~~

~~The State Board of Health shall consider the following eligibility requirements:~~

~~(A) is fully described by a research protocol;~~

~~(B) is subject to review by and is governed by the federal department of Health and Human Services;~~

~~(C) has as the protocol objectives either: the investigation of HIV behavioral research, the effectiveness of a medical therapy or vaccine in preventing infection or the progression of HIV-related disease, or basic medical research into the cellular mechanisms causing HIV infection or HIV-related disease;~~

~~(D) is reviewed and approved by a duly constituted institutional review board in accordance with the regulations established by the Secretary of the Federal Department of Health and Human Services;~~

~~(E) the researcher has provided information that the research activity will be facilitated by an exemption specified in this section; and~~

~~(F) has been determined to have potential health benefits.~~

Regulation 2. Reporting by Laboratories

~~Laboratories shall report every test result that is diagnostic of, or highly correlated with, or indicates HIV infection, including, but not limited to, any undetectable HIV viral load and HIV genotype testing. The report shall include the name, date of birth, sex, race and address (including city and county), phone of the individual from whom the specimen was submitted. Such test results shall be reported by all in-state laboratories and by out-of-state laboratories that maintain an office or collection facility in Colorado or arrange for collection of specimens in Colorado. Results must be reported by the laboratory which performs the test, but an in-state laboratory which sends specimens to an out-of-state referral laboratory is also responsible for reporting the results. The laboratory shall also report the name, address and phone of the attending physician and any other person or agency referring such specimen for testing. Laboratories should make efforts to report all HIV/AIDS related tests electronically whenever possible. All genotype testing must be reported in an electronic format (such as a FASTA file) containing the nucleotide sequences of HIV.~~

~~Laboratories shall report all CD4 counts regardless of value. The Department shall destroy personal identifying information on all persons with CD4 results if investigation subsequent to the report finds no~~

evidence of HIV infection. Laboratories may fulfill the requirement to report all CD4 counts by allowing authorized personnel of CDPHE access to such records.

Laboratories shall follow the same procedures for reporting as are required of other reporting sources in Regulation 1.

Report of test results by a laboratory does not relieve the attending physician or other person providing HIV testing, treatment and/or counseling of his/her obligation to report the case or diagnosis, nor does report by the physician or other person providing HIV testing, treatment and/or counseling relieve the laboratory of its obligation.

Regulation 3. Information Sharing

Information concerning cases of AIDS, HIV-related illness, laboratory testing, treatment or HIV infection shall be shared, to the minimum extent necessary to achieve the public health purpose, between the appropriate local health department, CDPHE contracted agency or other health agency providing direct HIV related services and CDPHE, as provided by C.R.S. 25-4-1404 (1), (1)(a), (1)(b), (1)(c) and in a timely manner, usually within the timeframe for reporting in Regulation 1.

These requirements shall not apply if the state and local health agencies mutually agree not to share information on reported cases.

Regulation 4. Confidentiality

All public health reports and records held by the state or local health department in compliance with these regulations shall be confidential information subject to C.R.S. 25-4-1404. The public health reports and records referred to in C.R.S. 25-4-1404 shall include, but not be limited to, the forms and records designated by CDPHE for institutions and agencies which screen individuals for HIV infection without providing ongoing health care, such as a publicly funded HIV testing and counseling project.

Reasonable efforts shall be made by the department to consult with the attending physician or medical facility caring for the patient prior to any further follow-up by state or local health departments or health agencies.

Regulation 5. Investigations to Confirm the Diagnosis and Source of HIV Infection and to Prevent HIV Transmission

It is the duty of state and local health officers to conduct investigations to confirm the diagnosis and sources of HIV infection and to prevent transmission of HIV. Such investigations shall be considered official duties of the health department or health agency. Such investigations may include, but are not limited to:

1. review of pertinent, relevant medical records by authorized personnel if necessary to confirm the diagnosis, to investigate possible sources of infection, to determine objects and materials potentially contaminated with HIV and persons potentially exposed to HIV. Such review of records may occur without patient consent and shall be conducted at reasonable times and with such notice as is reasonable under the circumstances;

2. performing follow-up interview(s) with the case or persons knowledgeable about the case to collect pertinent and relevant information about the sources of HIV infection, materials and objects potentially contaminated with HIV, and persons who may have been exposed to HIV.

Regulation 6. Objective Standards

A. Training

1. All persons providing HIV testing and counseling at a publicly funded HIV testing and counseling project in a non-health-care setting will have completed an HIV testing and counseling course of not less than 32 hours of training, approved by the CDPHE STI/HIV/Viral Hepatitis Section.

2. All persons performing partner notification interviews will have completed courses concerning introduction to sexually transmitted disease interviewing and partner notification, and other related courses as specified by the CDPHE.

B. Notification of Results

1. Of all HIV tests performed at a publicly funded HIV testing and counseling project, 99% of those persons testing HIV positive will receive test results and risk-reduction counseling related to those test results.

2. Publicly funded HIV testing sites shall make a good faith effort to inform HIV negative persons of the test results and shall provide pertinent HIV prevention counseling and referrals to mitigate behavioral risks.

C. Partner Notification

1. All newly diagnosed HIV positive individuals will be referred to and assigned for partner notification interview. A minimum of 75% of those assigned for a partner notification interview will receive an interview. Agencies providing partner notification services (CDPHE and local health departments) will have a partner index (defined as the number of unsafe partners identified for whom identifying information was sufficient to initiate notification, divided by the number of interviewed HIV positive persons with unsafe behavior in the past year) of 0.8. Effective January 1, 1995, the acceptable partner index will be 1.0. Documentation of this activity will be provided to CDPHE through use of a CDPHE specified form.

A contact is defined as a person named by an infected person as having been an unsafe sex partner/needle share partner of that infected person.

If sufficient locating information (name, age, sex, phone number, recent address, work address) is obtained to conduct an investigation, such a contact is defined as an initiated contact.

2. Of all in-state initiated contacts, 60% must be located and offered HIV prevention and risk-reduction counseling and/or testing as documented by the results of the investigation on the CDPHE specified form. Documentation of investigation outcomes will include disposition codes as specified by the CDPHE, dates and location of counseling, and dates and location of testing (if done).

Regulation 7. Operational Standards

A. Publicly Funded Testing and Counseling

1. HIV testing (rapid or standard testing) in an outreach or social network setting, all persons must receive the following:

a. A written explanation of consent and confidentiality laws and regulations in Colorado.

b. A risk screening (i.e., A brief evaluation of HIV risk factors, both behavioral and clinical, used for decisions about who should be recommended HIV counseling and testing), as specified by CDPHE.

C. An assessment of readiness to receive the test results.

d. ~~An interpretation of the test results, including a need for immediate confirmatory testing if a rapid test is positive.~~

e. ~~If the test results are positive, 100 % of persons testing positive will be referred for medical care and 80% will be linked to medical care. Additional referrals to prevention services and partner services will be offered. Referrals or linkage to substance abuse treatment, mental health services and comprehensive risk counseling services shall be offered if indicated.~~

f. ~~If the test results are negative, referrals or linkage to other prevention services, if applicable. If indicated, make referrals or linkage to substance abuse treatment, mental health services, and comprehensive risk counseling services.~~

g. ~~All persons tested in all other publicly funded HIV testing projects in non health care settings must receive the following with HIV testing:~~

i. ~~Screening for substance abuse, mental illness, and the need for comprehensive risk counseling services as specified by CDPHE.~~

ii. ~~An assessment of motivation to reduce risk.~~

iii. ~~A risk reduction plan (i.e., identify with the client specific behaviors that can realistically be changed to reduce risk).~~

iv. ~~A risk reduction plan specific to the test results.~~

B. Consent Form

~~A consent form must be used at all publicly funded HIV testing and counseling projects in non health care settings. If the HIV test is confidential, the consent form must be signed by the client; if the HIV test is anonymous, the client may mark the consent form with the anonymous code linked to the HIV test in lieu of a signature.~~

C. Testing Parameters

~~1. A publicly funded HIV testing and counseling project will not provide anonymous testing to any person 12 years of age or younger.~~

~~2. If a counselor judges that a client is unable to understand either counseling or the testing process (e.g., because the client is under the influence of drugs or alcohol) the counselor may defer testing.~~

D. Written Results

~~1. A publicly funded HIV testing and counseling project may only provide written results to persons testing confidentially. To receive written results, the publicly funded HIV testing and counseling project must be presented with photo identification from the person requesting written results at the time of posttest.~~

~~2. A publicly funded HIV testing and counseling project may not give written results to any person testing anonymously.~~

E. Confidentiality and Record Maintenance

~~1. A publicly funded HIV testing and counseling project in non health care settings must have and adhere to an HIV record retention policy. Any record retention policy must be adopted by the local board of health with the opportunity for public comment and input through an open public forum conducted at least every two years. Other mechanisms for input into the record retention policy must be available in addition to the public forum, including anonymous testimony in writing or through an organization.~~

Any policy must address the following areas:

- a) the availability of anonymous testing,
- b) time frames for destruction of records,
- c) method and supervision for destruction of records,
- d) approval of record retention policy by the Colorado State Archivist,
- e) procedures for hard (paper) records and electronic (computer) records,
- f) procedures for records of negative results and positive results
- g) inclusion of record retention information in the client consent form

2. Per C.R.S. 25-4-1404.5 (2) (a) (II), a person may provide personal identifying information after counseling, if the person volunteers to do so. A publicly funded HIV testing and counseling project must document this information when volunteered, and maintain the confidentiality of the personal identifying information according to their record retention policy.

Regulation 8. Evaluation Standards and Penalties

A. Each CDPHE funded HIV testing and counseling project's compliance with these standards will be evaluated by the following:

- 1. An annual analysis by the CDPHE staff of the number of persons receiving HIV antibody testing and the proportion of persons testing receiving results per contracted agency.
- 2. A minimum of one on-site observation conducted annually by CDPHE staff.
- 3. An annual analysis of testing trends (anonymous vs. confidential) conducted by CDPHE staff.
- 4. A minimum of one annual audit of charts conducted by CDPHE staff.
- 5. Accuracy and completion of the evaluation data form submitted to CDPHE.

B. Failure of a CDPHE funded HIV testing and counseling project to comply with and meet these standards may result in one or more of the following action(s):

- 1. The CDPHE funded HIV testing and counseling project will meet with CDPHE to develop a plan for improving performance in specified areas.
- 2. The CDPHE funded HIV testing and counseling project may be given a probationary period to comply and meet the standards.
- 3. The CDPHE funded HIV testing and counseling project may be reevaluated by the end of the probationary period.
- 4. Failure to meet and comply with the standards may result in contract termination.



Notice of Public Rule-Making Hearing

March 15, 2017

ID #: 90

NOTICE is hereby given pursuant to the provisions of §24-4-103, C.R.S.; that the Colorado Board of Health will conduct a public rule-making hearing on:

Date: March 15, 2017

Time: 10:00 AM

Place: Sabin-Cleere Conference Room, Building A, 1st Floor, 4300 Cherry Creek Drive South, Denver, CO 80246

To consider the promulgation/amendments or repeal of:

CCR Number(s)

6 CCR 1009-1, Epidemic and Communicable Disease Control

6 CCR 1009-9, Reporting, Prevention, and Control of AIDS, HIV Related Illness, and HIV Infection

The proposed rules have been developed by the following division or office of the Colorado Department of Public Health and Environment:

Disease Control and Environmental Epidemiology

Statute(s) that requires or authorizes the Board of Health to promulgate, amend, or repeal this rule:

Statute(s)

§25-1.5-102, C.R.S.

§25-1-122, C.R.S.

§25-4-1401 et seq

§25-4-402, 404, and 405, C.R.S.

Agenda and Hearing Documents

The Board of Health agenda and the proposed rules, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available, at least seven (7) days prior to the meeting, on the Board's website, <https://colorado.gov/cdphe/boh>.

For specific questions regarding the proposed rules, contact the division below:

Disease Control and Environmental Epidemiology Division, A3-3620, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-2358.

Participation

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments, or by making oral comments at the hearing. At the discretion of the Chair, oral testimony at the hearing may be limited to three minutes or less depending on the number of persons wishing to comment.

Written Testimony

Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rule-making hearing.

Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Jamie L. Thornton, Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, EDO-A5, Denver, Colorado 80246-1530 or by e-mail at: cdphe.bohrequests@state.co.us

Written testimony is due by 5:00 p.m., Thursday, March 9, 2017.

A handwritten signature in black ink, appearing to read 'Deborah Nelson', is positioned at the top left of the page.

Deborah Nelson, Board of Health Administrator

Date: 2017-01-20T10:30:52

Notice of Proposed Rulemaking

Tracking number

2017-00058

Department

1000 - Department of Public Health and Environment

Agency

1006 - Center for Health and Environmental Data (1006, 1009 Series)

CCR number

6 CCR 1009-4

Rule title

Reporting and Collecting Medical Aid-in-Dying Medication Information

Rulemaking Hearing

Date

04/19/2017

Time

10:00 AM

Location

Colorado Dept. of Public Health and Environment, Bldg. A; 4300 Cherry Creek Drive South, First Floor, Sabin-Cleere Conference Room; Denver, CO 80246

Subjects and issues involved

This is a new rule concerning the reporting requirements for attending physicians and dispensing health care providers who prescribe or dispense medical aid-in-dying medication. This rule implements Proposition 106.

Statutory authority

Sections 25-48-111, 25-1-108(1)(C)(I), 25-1.5-101, and 25-1-122, C.R.S.

Contact information

Name

Kirk Bol

Title

Manager, Registries and Vital Statistics Branch

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Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the State Board of Health

From: Kirk Bol, MSPH, Manager, Registries and Vital Statistics Branch, Office of e-Health and Data, Center for Health and Environmental Data

Through: Chris Wells, PhD, MS, Director, Office of e-Health and Data, Center for Health and Environmental Data

Date: January 3, 2017

Subject: **Emergency Rulemaking Hearing**
Proposed promulgation of 6 CCR 1009-4, Reporting and Collecting Medical Aid-in-Dying Medication Information, for consideration at an emergency rulemaking hearing to occur in January of 2017

The Center for Health and Environmental Data is proposing new rules concerning the Department's collection and reporting of information as required under Section 25-48-111(2), C.R.S., of the "Colorado End-of-Life Options Act." The proposed rules require the attending physician to provide the Department key components of the patient's medical record and health care providers that dispense medication to provide the Department the dispensing record. The Department is required to review a sample of the submitted information and generate an annual statistical report. The rule also reaffirms that the information submitted is confidential.

**STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY**

for promulgation of

6 CCR 1009-4, Reporting and Collecting Medical Aid-in-Dying Medication Information

Basis and Purpose:

Overview of the statutory requirements governing this rulemaking:

In 2016, Colorado voters approved Proposition 106, "Access to Medical Aid In Dying", which amends Colorado statutes to include the Colorado End-of-life Options Act (hereinafter "Act") at Article 48 of Title 25, C.R.S. The Act:

- Allows a terminally ill individual with a prognosis of six months or less to live to request and self-administer medical aid-in-dying medication in order to voluntarily end his or her life;
- Authorizes a physician to prescribe medical aid-in-dying medication to a terminally ill individual under certain conditions; and
- Creates criminal penalties for tampering with a person's request for medical aid-in-dying medication or knowingly coercing a person with a terminal illness to request the medication.

The Act delineates a series of responsibilities applicable to attending/prescribing physicians and the medical record documentation requirements. These requirements span the time frame from when a patient makes an initial request of his/her attending physician for a prescription for medical aid-in-dying medication, the period of subsequent medical consultation and mental health evaluation (when applicable), and the prescription and dispensing of medical aid-in-dying medication, either directly by the attending physician or licensed pharmacist.

Section 25-48-111(2)(a), C.R.S., requires the Department to adopt rules to facilitate the collection of medical record information documented by the attending physician. The Department will sample the collected information annually to monitor compliance with the Act. The Act has not conferred any enforcement authority to the Department; rather, this information will be used to develop an annual statistical report. The report will not contain identifying information. The Act expressly states that the information submitted to the department is not a public record and is not available for public inspection. Along with confidentiality being established in Section 25-48-111(2)(a), C.R.S., reported mortality information is confidential pursuant to Section 25-1-122, C.R.S. The proposed rules delineate the information from the medical record that must be submitted to the department, the manner of submitting the information, and the relevant time frames.

Section 25-48-111(2)(b), C.R.S., states that the Department shall require health care providers to file a copy of a dispensing record with the department. To ensure the department effectively communicates the requirement and receives the data needed to monitor compliance with the Act, the proposed rule includes the dispensing record reporting requirements. This portion of the rule is authorized pursuant to Section 25-1-108(1)(C)(I), C.R.S. which authorizes the Board to promulgate such rules the board deems necessary to carry out the public health laws of the state and Section 25-1.5-101, C.R.S., which authorizes the Department to collect, compile and tabulate reports of deaths and to require any person having information with regard to the same to make such reports and submit such information as the Board of Health requires by rule. Similarly, Section 25-1-122, C.R.S., authorizes the board to set the manner, time period, and form in which morbidity reporting occurs.

Section 25-48-111, C.R.S. reads:

25-48-111. Medical record documentation requirements - reporting requirements - department compliance reviews - rules.

(1) The attending physician shall document in the individual's medical record, the following information:

- (a) dates of all oral requests;
- (b) a valid written request;
- (c) the attending physician's diagnosis and prognosis, determination of mental capacity and that the individual is making a voluntary request and an informed decision;
- (d) the consulting physician's confirmation of diagnosis and prognosis, mental capacity and that the individual is making an informed decision;
- (e) if applicable, written confirmation of mental capacity from a licensed mental health professional;
- (f) a notation of notification of the right to rescind a request made pursuant to this article; and
- (g) a notation by the attending physician that all requirements under this article have been satisfied; indicating steps taken to carry out the request, including a notation of the medical aid-in-dying medications prescribed and when.

(2)(a) The department of public health and environment shall annually review a sample of records maintained pursuant to this article to ensure compliance. The department shall adopt rules to facilitate the collection of information defined in subsection (1) of this section [concerning medical records]. Except as otherwise required by law, the information collected by the department is not a public record and is not available for public inspection. However, the department shall generate and make available to the public an annual statistical report of information collected under this subsection (2).

(b) The department shall require any health care provider, upon dispensing a medical aid-in-dying medication pursuant to this article, to file a copy of a dispensing record with the department. The dispensing record is not a public record and is not available for public inspection.

Rationale for proposed definitions:

The proposed rule includes two definitions. The first is the definition of “attending physician.” Section 25-48-102(2), C.R.S., reads, ““Attending physician” means a physician who has primary responsibility for the care of a terminally ill individual and the treatment of the individual’s terminal illness.” Stakeholders consistently supported clarifying that the attending physician responsible for reporting was the attending physician that prescribed the medication. This clarification distinguishes the responsibilities of the prescribing attending physician from other physicians that may be providing care to the patient. This clarification also ensures that the reporting is undertaken by the individual with first-hand knowledge that she and the patient has complied with the Act, and that reporting is limited to instances where medical-aid-in-dying medication is in-fact prescribed. The rule acknowledges that the attending physician may have a designee complete the act of emailing or mailing the attending physician’s record to the Department.

The second definition defines “health care provider.” Section 25-48-102(4), C.R.S., reads, ““health care provider” or “provider” means a person who is licensed, certified, registered, or otherwise authorized or permitted by law to administer health care or dispense medication in the ordinary course of business or practice of the profession. The term includes a health care facility, including a long-term care facility as defined in Section 25-3-103.7(1)(f.3) and a continuing care retirement community as described in Section 25.5-6-203(1)(C)(I), C.R.S.” The Act uses the term “health care provider” in the context of administering medical services; the Act affords the health care provider discretion as to whether he will participate in providing medical aid-in-dying medication. The term “health care provider” is also used in the context of dispensing medical aid-

in-dying medication. It is this use of the term that is relevant to the proposed rule. It is anticipated that in the vast majority, if not all cases, the health care provider that is required to submit the dispensing record information will be the attending physician that dispenses the medication pursuant to Section 25-48-106(l)(I), C.R.S., or the licensed pharmacist that dispenses the medication as recognized in Section 25-48-106(l)(II), C.R.S. As with the definition of “attending physician,” this definition ensures the dispensing record is filed by the individual with first-hand knowledge of filling the prescription.

Rationale for proposed medical record reporting requirements:

The medical record reporting requirements mirror those in statute. The proposed rule also requires the attending physician to provide minimal patient information and contact information so the Department is able to reconcile the medical record reporting with the dispensing record information. During the stakeholder process, the community discussed whether additional reporting, beyond what is listed in the statute, is needed. The consensus was to begin with the statutorily mandated elements and the minimum information needed for the Department to execute its statistical analysis and reporting responsibilities. Along with minimizing the burden to attending physicians, this approach ensures that the reporting is not a barrier to patients or physicians participating in activities permitted under the Act. If through implementation the Department and stakeholders determine that additional data is needed, a stakeholder process will be initiated.

The proposed rule also contains one substantive requirement that is not identified in statute. This is the requirement that when the attending physician does not dispense the medication but instead delivers a written prescription to a licensed pharmacist, the physician document and report that she or he informed the licensed pharmacist that the medication was prescribed pursuant to the Act. The stakeholders opined and the Department agrees that that this is a necessary step to ensure that the licensed pharmacist has notice that she is required to file the dispensing record information.

Rationale for proposed dispensing record requirements:

The Act does not expressly authorize rulemaking specific to filing the dispensing record; rather, the Act states that, “the Department will require any health care provider that dispenses medical aid-in-dying medication to file a copy of the dispensing record,” Section 25-48-111(2)(b). The Department has relied upon its broad rulemaking authority to specify a timeframe for filing the record and what the record is to contain. This ensures both the attending physician and the health care provider who fills the attending physician’s prescription, is aware of each other’s reporting responsibilities and ensures that all impacted stakeholders have notice of the reporting requirements through a public rulemaking process.

Rationale for the confidentiality provision:

The rule repeats the statute to assure attending physicians, health care providers dispensing medication and patients that this information is confidential.

Additional considerations:

The proposed rule was constructed to maintain the distinction between those individuals that are required to report under the Act, and health facilities and health facility licensing requirements. The Act requires health facilities to have a policy and provide patient notification. It is anticipated that health care facilities will rely upon these regulations as they develop those policies and practices. As the Act is implemented the community may find that further clarification of the definition of health care provider is needed in statute or within these regulations. The Office of eHealth and Data will continue to work closely with the Health Facilities and Emergency Medical Services Division and stakeholders to monitor whether the rule can be improved.

The rule does not contain any directives to the Department as it is atypical for rules promulgated by a board to impose mandates on the executive agency. Stakeholders asked about what steps the Department would take if the Department became aware that an attending physician failed to

report. The Department did not incorporate the stakeholder recommendation that the rule direct the Department to follow-up with physicians rather than report non-compliance with the Colorado Medical Board. The Department intends to provide technical assistance and education to assist physicians with the reporting requirements. While the Department anticipates that it would work with physicians, there may be circumstances where the Colorado Medical Board would need to be aware of a physician's failure to report.

The Act contemplates self-administration of the medical aid-in-dying medication. While some patients may be in the care of the attending physician that prescribed the medication or in the care of a hospice facility, the Department anticipates that patient deaths will occur in a variety of settings. There are benefits of knowing that the medication was used; however, the statute does not require this reporting and there will be circumstances where neither the attending physician nor the health care provider that dispensed the medication prescribed by the physician will know if the medication has been taken. Conversely, the Department anticipates that there will be circumstances where the death certificate is completed by an individual that is unaware that the patient's death occurred pursuant to this Act. While the Department contemplated asking attending physicians to report use of the medication when it was known to the attending physician, after further discussion with stakeholders and given the statutory structure, the Department concluded that it is unlikely that this reporting will generate useable data and thus, the Department's confidence and ability to analyze it is greatly reduced. As the Act is implemented, if it found reporting use of the medication is necessary, the Department will work with stakeholders to determine if a statutory or regulatory change is needed.

Emergency Rulemaking Finding and Justification:

An emergency rule-making, which waives the initial Administrative Procedure Act noticing requirements, is necessary to comply with state law. Emergency rulemaking is authorized pursuant to Section 24-4-103(6), C.R.S.

This emergency rule shall become effective on adoption. It will be effective for no more than 120 days after its adoption unless made permanent through a rulemaking that satisfies the Administrative Procedure Act noticing requirements.

Rationale: Proposition 106, Access to Medical Aid-in-Dying Medication, passed November 8, 2016. The Secretary of State, pursuant to Section 1-40-123, C.R.S., transmitted the certificate of election to the Governor on December 9, 2016. The Governor signed Proposition 106 into law on December 16, 2016. Article 48, Title 25, End-of-life Options, became effective upon the Governor's signature.

This rulemaking is necessary to comply with Section 25-48-111(2), C.R.S.

Specific Statutory Authority:

These rules are promulgated pursuant to the following statutes: Sections 25-48-111(2), 25-1-108(1)(C)(I), 25-1.5-101, and 25-1-122, C.R.S.

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

☒ Yes, Proposition 106. Rules are ☐ authorized ☒ required.
☐ No

Is this rulemaking due to a federal statutory or regulatory change?

☐ Yes
☒ No

Does this rule incorporate materials by reference?

_____ Yes
___X___ No

If “Yes,” the rule needs to provide the URL of where the material is available on the internet (CDPHE website recommended) or the Division needs to provide one print or electronic copy of the incorporated material to the State Publications Library. § 24-4-103(12.5)(c), C.R.S.

Does this rule create or modify fines or fees?

_____ Yes
___X___ No

REGULATORY ANALYSIS

for promulgation of

6 CCR 1009-4, Reporting and Collecting Medical Aid-in-Dying Medication Information

1. **A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

Attending physicians and health care providers that maintain medical records pertaining to medical aid-in-dying requests will be required to submit the information delineated in the proposed rules. Though patients are not required to report, patients need to be informed that a portion of their medical record will be submitted to the Department. Monitoring attending physicians' and health care providers' practices as it relates to the End-of-Life Options Act (hereinafter "Act") benefits the patients they serve. It also benefits the medical community because uniform reporting enables consistency in practice and medical professionals may be interested in the annual report.

2. **To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.**

No significant time or economic impacts for attending physicians or health care providers dispensing medical aid-in-dying medication are foreseen. Attending physicians are required to report the minimum information needed to monitor compliance with the Act. The proposed rule aligns the submission of medical record information with statutory requirement that health care providers submit a copy of the dispensing record. A single submission ensures coordination across the individuals that are serving a patient, eliminates duplication and can reduce data incongruities that arise when multiple persons are required to report on the same information.

3. **The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

The Department was allocated a .3 FTE for State FY 2016-17 and .5 FTE for State FY 2017-18, and thereafter, to implement the requirements delineated in Section 25-48-111, C.R.S. The rule does not generate revenue or give rise to additional costs. The staff will develop the reporting forms, provide ongoing education and technical support, sample the submissions to monitor compliance, and perform the annual statistical analysis and reporting required under the Act.

4. **A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.**

The benefits of the rule (and its associated costs) include a review of compliance with the Act to better serve patients, and provide on-going and reliable information concerning the impact of this Act to Coloradans. Inaction is not a possibility as rules are required by the statute. Inaction would result in non-compliance with Colorado statute and an uninformed implementation of Colorado's medical aid-in-dying statute.

5. **A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**

A uniform approach to reporting key data elements is necessary for the annual report to be of value. There is no less intrusive method for meeting the directive delineated in statute. The requirements delineated in the rule are the most efficient way for the Department to obtain all information needed to ensure compliance and generate an annual statistical report. While on-site inspection of a sample of medical records could occur, this would be more intrusive of attending physicians and other parties involved and would require more financial resources and FTE to allow for arranging on-site visits, traveling, reviewing records for the needed information and copying the relevant portions. Similarly, while uniform reporting is not required, it is necessary for the

annual report to be of value. The Department will remain open to feedback and adjust the forms as needed to make the process as efficient as possible for the reporting entities.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

No other alternatives to rulemaking were considered. Rulemaking is explicitly required per Section 25-48-111(2)(a), C.R.S. Other mechanisms for ensuring compliance were considered, though felt to be less efficient or less effective (see response to question 5).

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The Department is uncertain of either the short- or long-term impact of the “Colorado End-of-Life Options Act”, for it has not previously been in place in Colorado, and no Colorado-specific data exists to provide a good estimate. However, similar laws have been enacted in other states. In Oregon, a state with a slightly smaller population, 24 patients were prescribed medication under the “Oregon Death With Dignity Act” (Chapter 127.800, Oregon Revised Statute) in its first year (1998), with 16 deaths following utilization of the medication. The number increased to 218 patients prescribed medication in 2015 and 132 subsequent deaths following utilization of the medication. It is anticipated that Colorado will experience a similar trend in patients exercising this new right. The proposed rules draw upon the Act as well as the administrative rules promulgated by the Oregon Health Authority (Division Rule 9: Reporting Requirements of the Oregon Death With Dignity Act). Over time, as the medical and dispensing record information required by this rule is analyzed and reported the Department will be able to better understand patient characteristics, physician practices and the ultimate use of medical aid-in-dying medication. Through the stakeholder process, the Department became aware of and studied how other states, such as Oregon and Vermont, implemented comparable statutes.

STAKEHOLDER COMMENTS

for promulgation of

6 CCR 1009-4, Reporting and Collecting Medical Aid-in-Dying Medication Information

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

1. Department of Regulatory Agencies, State Medical Board and State Pharmacy Board
2. Colorado Hospital Association
3. Colorado Medical Society
4. Denver Medical Society
5. CDPHE Health Facilities Emergency Medical Services Division, Home and Community Facilities Branch, health facilities where notified through the Health Facilities portal
6. Compassion and Choices
7. Colorado Center for Hospice and Palliative Care
8. Home Care Association of Colorado
9. Colorado Health Care Association
10. Colorado Center for Hospice & Palliative Care
11. Colorado Medical Directors Association
12. Colorado Gerontological Society
13. Colorado Department of Human Services, Office of Behavioral Health
14. CDPHE, Office of e-Health and Data
15. CDPHE, Office of the State Registrar of Vital Records
16. Individuals or agencies that have expressed interest in the rulemaking, including:
 - a. Dr. Nathan Pollack, MD, Hospice Medical Director
 - b. Dr. David Pollack, MD, Psychiatrist, Oregon Health Sciences University
 - c. Horan & McConaty

The Department discussed the proposed rule or received feedback from: the Colorado Medical Society, Council on Ethical and Judicial Affairs; Colorado Hospital Association; Colorado Society of Osteopathic Medicine; Hospice and Palliative Care Association of Rockies; Colorado Academy of Family Physicians; Care Synergy (Pike's Peak Hospice, Halcyon Hospice, Denver Hospice, and Pathways Hospice); Compassion and Choices, and; Homecare Advisory Committee members.

The following individuals and/or entities were notified that this rule-making was proposed for consideration by the Board of Health:

See Previous.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The Department agrees with the stakeholder feedback that communicating the processes for reporting medical record information and dispensing record information is essential and the Department agrees that developing a form and related resources will assist stakeholders in meeting the new statutory and regulatory mandate.

As discussed in the Statement of Basis and Purpose, the rule does not contain language that limits the Department's capacity to coordinate with other agencies, such as the Colorado Medical Board, when such action may be necessary to comply with statute or protect the public health and safety of Coloradans.

Stakeholders expressed concern that Section 25-48-109(1), C.R.S., requires that the attending physician or the hospice medical director to sign the death certificate and Section 25-48-109(2), C.R.S., requires the underlying terminal condition to be listed as the cause of death on the death certificate. Stakeholders fear this requirement places physicians in the situation of falsifying the death certificate. Given that the statute expressly authorizes this entry on the death certificate, it is unlikely to be a statutory violation but the Department appreciates that this is a significant deviation in practice. The Department is also concerned that there will be instances where the attending physician no longer has a relationship with the patient and those completing the death certificate will be unaware that the deceased executed his or her rights under the End-of Life Options Act (hereinafter “Act”). This may create disparate outcomes for participating patients. These concerns are outside the scope of this rulemaking but they relate directly to the State Registrar and Office of Vital Statistics. The Department is studying these issues further.

Stakeholders also expressed concern that Section 25-48-120, C.R.S., requires individuals to return unused medication to the attending physician that prescribed it or through a state or federally approved medication take-back program. Stakeholders indicated that returning medication to the attending physician does not align with health care providers’ practices and gives rise to health and safety concerns. While medication take-back programs can be incentivized and health facilities’ policies can direct the attending physician’s conduct, the policy cannot undo the statutory requirement. This concern also falls outside the scope of this rulemaking; however, the Department appreciates the concern. Safe disposal is essential to protect the patient’s families, health facility staff and public from harm. Licensed health care facilities’ appropriately want to ensure the safety of their patients and their staff. The Department will continue to work with the community, the Division of Health Facilities and Emergency Medical Services, and the state’s medication take-back experts at the Department and at the Department of Regulatory Agencies on this issue.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

These proposed rules are designed to facilitate the uniform documentation and reporting of the facts surrounding prescribing and dispensing of medical aid-in-dying medication in Colorado. It is unknown if requests by patients for medical aid-in-dying medication will vary geographically and demographically in Colorado. It is not anticipated these rules will result in differential treatment of Coloradans, geographically or demographically. Adherence to the requirements outlined in the proposed rules will ensure sufficient information for the Department to generate an annual statistical report, intended to assess the utilization by Coloradans of the rights afforded by this Act.

As discussed above and in the Statement of Basis and Purpose, the Department appreciates the feedback from stakeholders concerning the death certificates and unused medication disposal. These provisions may create barriers that limit physician and health care provider participation and as such, limit a patient’s ability to execute the rights delineated in the Act. There is the potential for some populations to have greater risks created by confusion surrounding the completion of death certificates or exposure to unused medical aid-in-dying medication. The Department will monitor these issues and continue to work with the stakeholders as the Act is implemented.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**Office of e-Health and Data****Reporting and Collecting Medical Aid-in-Dying Medication Information****6 CCR 1009-4**

Adopted by the Board of Health on _____, 2017. Effective _____, 2017.

I. Definitions

- A. “Attending physician,” as used herein, shall be the attending physician defined in Section 25-48-102 (2), C.R.S., who prescribes medical aid-in-dying medication pursuant to Article 48, Title 25, C.R.S.
- B. “Health Care Provider,” as used herein, shall be the person defined in Section 25-48-102(4), C.R.S., who:
 - 1. Dispenses the medical aid-in-dying medication directly to the patient, or
 - 2. To fulfill the attending physician’s written prescription for medical aid-in-dying medication, dispenses the medical aid-in-dying medication directly to the patient, the attending physician or an individual expressly designated by the patient.

II. Requirements for Reporting Medical Record Information to the Department

- A. Within 30 calendar days of writing a prescription for medical aid-in-dying medication to end the life of a qualified patient, the attending physician or the attending physician’s designee, shall submit, in the form prescribed by the Department, the following:
 - 1. Patient’s name and date of birth;
 - 2. Dates of all oral requests made by the patient;
 - 3. The prescribing attending physician’s name, mailing address and phone number;
 - 4. The patient’s completed written request for medical aid-in-dying medication to end life that complies with Section 25-48-112, C.R.S.;
 - 5. The attending physician’s:
 - a. Diagnosis of a terminal disease;
 - b. Prognosis of six months or less;
 - c. Mental capacity determination that documents that the individual is making a voluntary and informed request;
 - d. Notation(s) of notification provided to the patient of the right to rescind a request made for medical aid-in-dying medication;

- 56 e. Notation of the medical aid-in-dying medications prescribed, dose
57 and date prescribed;
58
59 f. i) Notation and date when the medical aid-in-dying medication was
60 dispensed directly by the attending physician, or
61
62 ii) If the attending physician delivered a written prescription to a
63 licensed pharmacist, the name and phone number of the pharmacist
64 and the pharmacy, and a notation that the pharmacy was informed
65 that medical aid-in-dying medication was prescribed pursuant to
66 Article 48, Title 25, C.R.S., and the date of the notification; and
67
68 g. Notation that all requirements under Article 48, Title 25, C.R.S.
69 have been satisfied and indicating the steps taken to carry out the
70 patient's request.
71
72 6. The consulting physician's name, mailing address and phone number and a
73 copy of the consulting physician's written confirmation of the attending
74 physician's diagnosis, prognosis, and mental capacity determination.
75
76 7. If obtained by the physician, a written confirmation of mental capacity
77 from a licensed mental health provider.
78
79 B. All information submitted pursuant to this Section II will be submitted by mail or
80 secure e-mail as directed by the Department.
81

82 III. Requirements for Reporting Dispensing Record Information to the Department

83

- 84 A. Pursuant to Section 25-48-111(2)(b), C.R.S., within 10 calendar days of dispensing
85 medication pursuant to the Act, the health care provider dispensing a medical aid-
86 in-dying medication shall submit to the Department a completed, signed and dated
87 copy of the dispensing record. The health care provider shall submit, in the form
88 prescribed by the Department, the following:
89
90 1. Patient's name and date of birth;
91
92 2. Prescribing physician's name and phone number;
93
94 3. Dispensing health care provider's name, address and phone number;
95
96 4. Medication dispensed and quantity;
97
98 5. Date the prescription was written; and
99
100 6. Date the medication was dispensed.

101 B. All information submitted pursuant to this Section III will be submitted by mail or
102 secure e-mail as directed by the Department.
103

104 IV. Confidentiality

105

106 Except as otherwise required by law, all information collected pursuant to Section 25-48-111(2),
107 C.R.S. and this rule, is confidential.



Notice of Public Rule-Making Hearing

April 19, 2017

ID #: 92

NOTICE is hereby given pursuant to the provisions of §24-4-103, C.R.S.; that the Colorado Board of Health will conduct a public rule-making hearing on:

Date: April 19, 2017

Time: 10:00 AM

Place: Sabin-Cleere Conference Room, Building A, 1st Floor, 4300 Cherry Creek Drive South, Denver, CO 80246

To consider the promulgation/amendments or repeal of:

CCR Number(s)

6 CCR 1009-4, Reporting and Collecting Medical Aid-in-Dying Medication Information

The proposed rules have been developed by the following division or office of the Colorado Department of Public Health and Environment:

Center for Health and Environmental Data

Statute(s) that requires or authorizes the Board of Health to promulgate, amend, or repeal this rule:

Statute(s)

§25-48-111, C.R.S.

§25-1-108(1)(C)(I) C.R.S.

§25-1.5-101, C.R.S.

§25-1-122, C.R.S.

Agenda and Hearing Documents

The Board of Health agenda and the proposed rules, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available, at least seven (7) days prior to the meeting, on the Board's website, <https://colorado.gov/cdphe/boh>.

For specific questions regarding the proposed rules, contact the division below:

Office of eHealth and Data Information, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-2170.

Participation

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments, or by making oral comments at the hearing. At the discretion of the Chair, oral testimony at the hearing may be limited to three minutes or less depending on the number of persons wishing to comment.

Written Testimony

Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rule-making hearing.

Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Jamie L. Thornton, Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, EDO-A5, Denver, Colorado 80246-1530 or by e-mail at: cdphe.bohrequests@state.co.us

Written testimony is due by 5:00 p.m., Thursday, April 13, 2017.

Deborah Nelson, Board of Health Administrator

Date: 2017-01-23T08:20:25

Admin

Notice of Proposed Rulemaking

Tracking number

2017-00053

Department

1000 - Department of Public Health and Environment

Agency

1009 - Disease Control and Environmental Epidemiology Division

CCR number

6 CCR 1009-9

Rule title

RULES AND REGULATIONS PERTAINING TO THE REPORTING, PREVENTION, AND CONTROL OF AIDS, HIV RELATED ILLNESS, AND HIV INFECTION

Rulemaking Hearing**Date**

03/15/2017

Time

10:00 AM

Location

Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246

Subjects and issues involved

In consideration of repealing this rule.

Statutory authority

§25--1.5--102, C.R.S;§25--1--122, C.R.S;§25--4--1401 et seq;§25--4--402,404,and 405, C.R.S

Contact information**Name**

Melanie Mattson

Title

Branch Cheif

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Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the State Board of Health

From: Lisa Miller, MD, MSPH, Communicable Disease Branch Chief, and Melanie Mattson, STI/HIV/Viral Hepatitis Branch Chief, Disease Control and Environmental Epidemiology Division (DCEED)

Through: Rachel Herlihy, MD, MPH, DCEED Director RH

Date: December 30, 2016

Subject: **Request for Rulemaking Hearing**
Proposed amendments to 6 CCR 1009-1, Rules and Regulations Pertaining to Epidemic and Communicable Disease Control, and repeal of 6 CCR 1009-9, Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and HIV Infection, with a request for the rulemaking hearing to occur in March of 2017

In preparation for a Public Rulemaking Hearing, please find copies of the following documents: Proposed Amendments to 6 CCR 1009-1, Proposed Repeal of 6 CCR 1009-9, Statement of Basis and Purpose and Specific Statutory Authority, Stakeholder Comment, and Regulatory Analysis.

The *Rules and Regulations Pertaining to Epidemic and Communicable Disease Control* name the communicable diseases that are reportable to state or local health departments, in order to protect the public's health. The Rule also details the manner in which these conditions must be reported and includes language about access to pertinent medical records. The proposed rulemaking expands the reportable conditions to include Zika virus and candidemia. The proposal also modifies reporting requirements and timeframes.

Similarly, the *Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and HIV Infection* have listed the manner in which these conditions must be reported to state or local health departments, detailed performance standards for confidential and anonymous publicly-funded human immunodeficiency virus (HIV) testing and counseling projects as well as for CDPHE staff.

Recent legislation (Senate Bill 16-146) updated and modernized the statutes related to sexually transmitted infections to bring them in line with current medical knowledge and practice, as well as to reduce stigma that may be associated with HIV. To align our rules with statute (C.R.S. 25-4-404), the Department is proposing integrating the *Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and HIV Infection*, 6 CCR 1009-9 into *Rules and Regulations Pertaining to Epidemic and Communicable Disease Control*, 6 CCR 1009-1. Thus, the Department proposes repeal of 6 CCR 1009-9. Details regarding this integration are summarized in the Statement of Basis and Purpose and Statutory authority.

The Department has reached out to a wide variety of stakeholders to solicit input regarding the proposed amendments to 6 CCR 1009-1 and repeal of 6 CCR 1009-9 and has modified the proposed changes based on stakeholder feedback. In general, stakeholders are supportive of the proposed amendments and rule repeal. The Department remains fully committed to engaging its stakeholders during the rulemaking process.

In total, these proposed amendments and rule repeal align our rules with statute, continue to bring clarity to the rules and minimize potential confusion among end-users of the rules. As always, the Department will continue to solicit and incorporate stakeholder feedback.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY

for Amendments to
6 CCR 1009-1

Rules and Regulations Pertaining to Epidemic and Communicable Disease Control
and for the Repeal of 6 CCR 1009-9

Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and
HIV Infection

Basis and Purpose.

The *Rules and Regulations Pertaining to Epidemic and Communicable Disease Control* name the communicable diseases that are reportable to state or local health departments, in order to protect the public's health. The Rule also details the manner in which these conditions must be reported and includes language about access to pertinent medical records.

The following changes to the rule are being proposed:

- 1) The Department proposes making Zika virus (ZIKV) reportable by laboratories. ZIKV is an emerging mosquito-borne virus that has spread rapidly across the Americas in 2015 and 2016. Subsequent investigations have demonstrated vertical transmission of ZIKV to the fetus in pregnant women. These in utero infections have been associated with the potential for devastating outcomes including microcephaly and spontaneous abortions. There is also an association with ZIKV infection and post-infectious Guillain-Barré syndrome (GBS). Because of these epidemiological and clinical features, it is important for public health to track this condition in Colorado. In addition, the World Health Organization declared ZIKV disease a Public Health Emergency of International Concern under the International Health Regulations 2005 on February 1, 2016, and the Council of State and Territorial Epidemiologists recommended that all states make this condition reportable on February 26, 2016. This proposed change is reflected in the Table in Appendix A.
- 2) Senate Bill 16-146, known as the STI Modernization bill, combined Parts 4 and 14 in Article 4 of Title 25, the public health laws on sexually transmitted infections (STI) and human immunodeficiency virus (HIV), to make protections and policies apply equally to all STIs, including HIV and relevant forms of viral hepatitis. In keeping with the spirit of this legislation, CDPHE staff worked with stakeholders to recommend repeal of the current HIV rule (6 CCR 1009-9) and incorporate all STIs, including HIV, in the existing communicable disease rule (6 CCR 1009-1). While a majority of these two rules are duplicative, there are a number of specific requirements related to STIs noted in the amended rule, including:
 - Variables statutorily required for STI reports, which expand beyond those for other communicable diseases.
 - Language related to “other persons providing STI-related testing and counseling”, in Regulation 2, to ensure outreach testing activities are included.
 - Requirements related to an anonymous HIV testing option that is statutorily required.
 - Operational standards for HIV testing projects.
 - Language related to disease investigations pertaining to STIs. Based on stakeholder input, this language was added to ensure STI-related investigations were limited to only relevant information.
 - HIV and related conditions have been added to the Table in Appendix A.

3) The Department proposes making candidemia reportable from laboratories that serve residents of the five county Denver metropolitan area (Adams, Arapahoe, Denver, Douglas, and Jefferson). The Denver metro area was chosen as the reporting area to meet requirements of federal funding. Candidemia are bloodstream infections (BSIs) caused by a yeast (a type of fungus) called *Candida*. As one of the most common causes of BSIs in the United States, these infections often result in long hospital stays, high medical costs and poor patient outcomes. Some types of *Candida* are becoming increasingly resistant to antifungal treatments, including echinocandins and fluconazole, leaving few remaining treatment options, which can often be expensive and toxic for patients. Requiring reporting of candidemia will allow the Department to: 1) monitor disease incidence and trends, as other data on candidemia in large populations are scarce, 2) detect the emergence and spread of resistance to antifungal agents, 3) determine the burden of infections caused by antifungal-resistant *Candida* species, 4) understand and describe specific genetic mutations associated with resistance, and 5) identify areas where candidemia prevention and intervention strategies can be focused. This proposed change is reflected in the Table in Appendix A.

4) The Department proposes clarifying language regarding reportable arbovirals (viruses transmitted by arthropods, such as mosquitoes) such that proposed language will require reporting for the entire category of arboviral diseases (antibody panel), and remove language specific to Eastern equine encephalitis, Japanese encephalitis, LaCrosse virus and other California serogroup viruses, St. Louis encephalitis, and Western equine encephalitis. Laboratories run tests for these as a group and call the test an arboviral antibody panel. Because these tests are run in a group and not individually reportable by physicians, the proposed changes will make reporting easier for laboratories. This proposed change is reflected in the Table in Appendix A.

5) The Department proposes clarifying the reporting of Spotted fever rickettsiosis (including Rocky Mountain spotted fever (RMSF) and typhus) by changing the language to “Rickettsiosis (including RMSF and typhus)”. These conditions are currently reportable, but the current rule language implies that typhus is a spotted fever and it is not. In addition, laboratories run a group test for rickettsial species that is called a rickettsial antibody panel. This proposed change is reflected in the Table in Appendix A.

6) The Department proposes changing our reporting timelines. Three new categories would be created - “immediately” (by phone, within 4 hours), “1 working day”, and “4 days”. The “24 hour” category and the “7 day” category would be deleted, except for carnivorous animal bites, which would remain at “24 hours”. The table recognizes that, unless the term “working day” is specified, “days” refers to calendar days. The instructions to report cases suspected to be due to bioterrorism immediately remain unchanged. The proposed changes are designed to better align our reporting timelines with national standards, and to recognize the availability of more efficient electronic reporting. National reporting guidelines are developed by the Council of State and Territorial Epidemiologists and categorize reportable conditions as either “immediately notifiable”, “extremely urgent (within 4 hours)”, “immediately notifiable, urgent (within 24 hours)”, or “routinely notifiable”. This proposed change is reflected in the Table in Appendix A.

7) The Department proposes removing *Cyclospora* from the list of conditions where specimens must be submitted. The Centers for Disease Control and Prevention no longer requires submission of *Cyclospora* isolates. Removing this requirement will align our rule with federal guidelines. However, *Cyclospora* will remain a reportable condition. This proposed change is reflected in the Table in Appendix A.

8) The Department proposes updating the conditions required to be reported “based on the diagnosis or suspected diagnosis of the attending physician or other health care provider, whether or not supporting laboratory data are available”. These conditions are indicated in the Table with a superscript ‘6’. First, we propose correcting an error that occurred when the rule was last modified in

2015. Rubella (acute infection) and hepatitis A are and have been one of these conditions, but the superscript was inadvertently left off in the last update. When reviewing this proposed correction with stakeholders, the Department identified two other conditions that do not need to be reported if suspected, since there is no public health follow up without laboratory confirmation. Thus, the Department proposes removing *Haemophilus influenzae*, and Legionellosis from list of conditions that are required to be reported “based on the diagnosis or suspected diagnosis of the attending physician or other health care provider, whether or not supporting laboratory data are available”. These proposed changes are reflected in the Table in Appendix A.

9) The Department proposes that when bacterial culture isolates or patient clinical material that yields positive findings are required to be submitted to the CDPHE Laboratory Services Division (see Disease Table footnote #3), they be submitted within one business day. Currently, there is no time limitation on the submission. This has resulted in a delay in submission in some cases, and a resulting inability to recover or confirm the suspected pathogen. This can result in the inability to identify persons with outbreak-related infections, or to implement appropriate disease control actions. A free courier service is provided to all hospitals to facilitate delivery of isolates or specimens to the CDPHE laboratory. This proposed change is reflected in the Table in Appendix A.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes: Sections 25-1.5-102; 25-1-122; 25-4-402, 25-4-404, 25-4-405, and 25-4-1401 et seq., C.R.S.

SB 16-146 amended the *HIV Infection and Acquired Immune Deficiency Syndrome* statutes in 2016, resulting in the relocation of sections 25-4-1411, C.R.S. through 25-4-1415 C.R.S., to sections 25-4-1401, C.R.S. through 25-4-1405, C.R.S. However, due to an oversight, the act did not repeal Part 14 as it was previously written. Due to this oversight, the 2015 version of Part 14 that was not relocated by the Act remains in statute. The proposed amendments to the rules are not affected. The rules comport with the requirements delineated in Part 4 and Part 14 of Article 4, Title 25, C.R.S.

SUPPLEMENTAL QUESTIONS**Is this rulemaking due to a change in state statute?**

☒ Yes in part, SB 16-146; rules are ☐ authorized ☒ required.
☐ No

Is this rulemaking due to a federal statutory or regulatory change?

☐ Yes
☒ No

Does this rule incorporate materials by reference?

☐ Yes
☒ No

Does this rule create or modify fines or fees?

☐ Yes
☒ No

REGULATORY ANALYSIS

for Amendments to
6 CCR 1009-1

Rules and Regulations Pertaining to Epidemic and Communicable Disease Control
and for the Repeal of 6 CCR 1009-9

Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and
HIV Infection

1. A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Classes of persons affected by the proposed rule changes include 1) clinical laboratory personnel; 2) personnel at hospitals responsible for reporting, such as infection preventionists; 3) health care providers; 4) local public health personnel; 5) persons living with a sexually transmitted infection (STI); 6) persons at risk for acquiring a STI; 7) community based organizations; and 5) the general public.

Clinical laboratory personnel will bear some cost of the changes to laboratory reporting, as processes will need to be adjusted for the change in reporting timelines. For laboratories utilizing electronic reporting, this should be a one-time programming change.

Health care providers and other reporters will bear a cost related to some of the new reporting. Zika virus is currently reported as an 'unusual illness.....of public concern' so there is no new cost. For candidemia reporting, there is a cost of reporting additional laboratory information, or changing programming for those laboratories that report electronically.

Local public health, state public health, and the general public will benefit from the proposed changes to the rule. The benefit of these changes include: clearer, updated rules that are more easily interpreted and, therefore, followed; more complete reporting of diseases of public health importance; treating HIV like other communicable diseases, thereby reducing stigma; and reporting on timelines that reflect and utilize electronic reporting. Each of these proposed changes will provide better or more timely data to state and local public health agencies. These agencies, in turn, will be able to use this data to detect, prevent, and treat communicable disease in communities across Colorado, benefitting the general public. While the proposed changes are relevant to current local government operations, the proposed rule does not impose a new state mandate on local government.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Of the proposed changes to this rule, four are clarifications of existing rule or reductions in reporting. These proposed changes positively impact end-users of the rule by making it easier to implement.

Two of the proposed changes are additions to the list of reportable conditions necessitated by changes in conditions of public health concern. Candidemia will require some additional laboratory staff time to report, though if reported electronically this staff time should be minimal. Candidemia isolates or specimens are also *requested*, but not *required*. Zika reporting has been ongoing since 2016, and reports come from commercial laboratories, the CDPHE laboratory, or the Centers for Disease Control and Prevention laboratory. Detailed follow-up information is required for persons with suspected Zika infection in order to confirm the diagnosis and collect additional pertinent information. This burden falls to CDPHE staff, local health department staff, and health care providers. As of December 21, 2016, 52 cases of Zika have been reported.

Laboratories and hospital infection preventionists are the primary reporters of conditions included in the reportable disease table. Changing the timelines for reporting will require efforts to change work processes to meet these new timelines. Of note, for the 22 conditions that were reportable within 24 hours previously, one stayed the same, eight were changed to 'report within one working day', and 13 were changed to 'immediately report', if immediate public health intervention is necessary. Forty-four states currently require 'immediate reporting'. For those eight conditions that are no longer reportable within 24 hours, laboratories and health care providers no longer have to call the Department in the evening and on weekends to report.

Laboratories currently submit required bacterial culture isolates or patient clinical material that yields positive findings. Currently, there is no time limitation on the submission. This has resulted in a delay in submission in some cases, and a resulting inability to recover or confirm the suspected pathogen. This can result in the inability to identify persons with outbreak-related infections, or to implement appropriate disease control actions. A free courier service is provided to all hospitals to facilitate delivery of isolates or specimens to the CDPHE laboratory.

Recent legislation (Senate Bill 16-146) combined the statutes related to sexually transmitted infections (STIs) and human immunodeficiency virus (HIV) to make protections and policies apply equally to all STIs, including HIV. To be consistent with these legislative changes, the Department proposes the repeal of 6 CCR 1009-9, *Rules and regulations pertaining to the reporting, prevention, and control of AIDS, HIV related illness, and HIV infection*. Specific language from this rule will be added to 6 CCR 1009-1 to address STIs, including HIV. This will better align rule and statute and provide greater consistency in reporting for laboratories and healthcare providers. Additionally, the proposed rule will require guidelines and standards for STI prevention providers and Department staff concerning the delivery of client services and public health procedures; thus providing additional assurance of the quality of services delivered to persons living with, or at risk for acquiring a STI.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The costs to the agency for managing reports of Zika and candidemia will be covered by federal grant funding. Any other costs to CDPHE will be minimal and can be absorbed. There is no anticipated effect on state revenues.

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The benefit of these changes include: clearer, updated rules that are more easily interpreted and therefore, followed; and more complete reporting of diseases of public health importance (in the cases of Zika virus and Candidemia). Additionally, the proposed changes will repeal 6 CCR 1009-9, and provide greater consistency in the reporting of all diseases and infections, including STIs. The benefit of these changes is greater congruency between statute and rule, thus, reducing the confusion of having largely duplicative rules related to communicable disease reporting. Additionally, the proposed changes includes updated language that is meant to mirror current, evidence-based practices and reduces stigma related to sexually transmitted infections.

In addition, the Department proposes changing our reporting timelines. Three new categories would be created - "immediately" (by phone, within 4 hours), "1 working day", and "4 days". The "24 hour" category and the "7 day" category would be deleted, except for carnivorous animal bites, which would remain at "24 hours". The table recognizes that, unless the term "working day" is specified, "days" refers to calendar days. The benefit of the proposed changes will be better alignment with national standards and the opportunity to respond more rapidly to urgent public health situations. In addition, the proposal includes new language that encourages electronic laboratory reporting. The adoption of

electronic laboratory reporting will allow these reports to be more efficiently reported. There may be some cost to reporters to change the process of reporting to include the proposed new conditions, or to report at the proposed time intervals.

Inaction would result in a continued lack of clarity in the rules, lack alignment with SB 16-146, and lack of information about newly emerging conditions of public health importance.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Conducting surveillance for communicable diseases of public health significance is a standard procedure of epidemic and communicable disease control. No alternative methods are available to achieve the purposes of the authorizing statutes.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

No alternative methods for achieving the purpose of the proposed rules were considered because the rules utilize the widely accepted, proven public health methodology of surveillance and laboratory investigation. The Department proposes the inclusion of language related to STIs, including HIV to align this rule with statute, and as having a separate rule would be largely duplicative and confusing.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The Department examined the percentage of reports currently reportable within 7 days that were reported more than 4 days after the test result (the new reporting timeline for these tests). For the 6 months from April 1- September 30, 2016, there were 50,778 tests for 7-day reportable conditions analyzed, and 8.1% were reported more than 4 days after the test result. The Department also considered the testimony given in support of SB 16-146 and considered the intent of that legislation when developing the proposed amendments to rule.

STAKEHOLDER COMMENTS

for Amendments to
6 CCR 1009-1

Rules and Regulations Pertaining to Epidemic and Communicable Disease Control
and for the Repeal of 6 CCR 1009-9

Rules and Regulations Pertaining to Reporting, Prevention and Control of AIDS, HIV Related Illness and
HIV Infection

Early Stakeholder Engagement

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

Healthcare providers, Colorado hospital infection preventionists and lab directors (including those at acute care hospitals), Colorado Hospital Association staff, and local public health communicable disease staff, AIDS Service Organizations, Community Based Organizations, “Mod-Squad” Participants (activists), The Alliance for HIV Care the Prevention (CDPHE/Gov appointed advisory group to the Branch), Colorado Organizations Responding to AIDS - CORA (Lobbying group), State and Local Health Department Staff, Ryan White Part A Planning Council Members, Members of the Positive Women’s Network (PWN), Other individuals interested in STI/HIV/VH related issues and rules, Regional Epidemiologists, Members of the Association for Professionals in Infection Control, Colorado Hospital Association, and Colorado Medical Society.

Targeted outreach was conducted at several points throughout the fall:

- On 10/24/16 a memo was emailed to all hospital infection preventionists at Colorado acute care hospitals, all Lab Directors at acute care hospitals, and all communicable disease contacts at each local health department. The memo outlined the proposed changes, not including those changes related to HIV. In addition, a strike changes version of the Reportable Disease Table was included.
- On 11/2/16, proposed changes (not including HIV changes) were described to Colorado Regional Epidemiologists on a conference call and an opportunity for discussion and questions was provided.
- On 11/18/16, proposed changes (not including HIV) were presented to the members of the Association for Professional in Infection Control (APIC) at their monthly meeting.
- A series of 3 facilitated meetings were held in the fall of 2016 to gather feedback specific to proposed integration of 6 CCR 1009-9 into the communicable disease rule 6 CCR 1009-1.
- On 12/7/16 proposed changes were discussed on a conference call with a group of hospital infection preventionists and hospital laboratorians to review feedback from the APIC meeting on 11/18/16.
- In mid-December, a memo was emailed to all hospital infection preventionists at Colorado acute care hospitals (12/16), all Lab Directors at acute care hospitals (12/16), all communicable disease contacts at each local health department (12/16), infectious disease physicians (12/16), the Colorado Hospital Association (12/16), local health department directors (12/21), HIV/AIDS stakeholders (12/22), and the Colorado Medical Society (12/23). The memo outlined the proposed changes, including those changes related to HIV and changes made to the original proposal as a result of feedback. In addition, a strikethrough version of the rule and a strike changes version of the Reportable Disease Table was included.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior

to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

☒ Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.

☐ Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The Department held conference calls and facilitated meetings with stakeholders to discuss concerns and answer questions. These discussions led to greater understanding of the reporting process as well as greater understanding of the Department's proposed repeal of 6 CCR 1009-9 and integration of HIV regulations into 6 CCR 1009-1. The Department did incorporate stakeholder feedback from these calls and meetings and did adjust some of the proposals included in this proposal based on this feedback. While the Department will continue to engage stakeholders throughout the development of the proposed rules, the Department believes consensus has been achieved.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

The proposed modifications apply to all Colorado providers and laboratories responsible for reporting public health conditions of concern, and thus cover all Coloradoans. It is possible that those without access to diagnostic health care services (due to geography or socioeconomic status) would be less likely to be reported and to be identified as being in need of public health intervention (such as post exposure prophylaxis or outbreak source identification). In some of these situations, public health funding is available to pay for diagnostic testing. Proposed rule modifications promote health equity as they are meant to clarify and streamline the rules so they are more easily understood and applied to all eligible citizens. Additionally, this proposal responds to Senate Bill 16-146, known as STI Modernization that was passed in this last legislative session. This bill combined Parts 4 and 14 in Article 4 of Title 25 (the public health laws on STI and HIV) to make protections and policies apply equally to all sexually transmitted infections, including HIV and relevant forms of viral hepatitis, thus, bringing them in line with current medical knowledge and practice, as well as to reduce stigma that may be associated with HIV. This is a critical component in the advancement of HEEJ in our STI and HIV related programming. There are no environmental justice impacts.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**Disease Control and Environmental Epidemiology Division****RULES AND REGULATIONS PERTAINING TO EPIDEMIC AND COMMUNICABLE DISEASE CONTROL****6 CCR 1009-1**

Adopted by the Board of Health on _____, 2017. Effective _____, 2017.

1

2 Regulation 1. Reportable Diseases

3 For the purpose of these regulations, the diseases named in the Reportable Diseases Table (Appendix A)
4 are declared to be POTENTIALLY dangerous to the public health and shall be reportable in accordance
5 with the provisions of these regulations.

6 *****

8 Manner of Reporting

9 All cases are to be reported with patient's name, date of birth, sex, race, ethnicity, and address
10 (including city and county) and name and address of responsible physician or other health care provider;
11 and such other information as is needed to locate the patient for follow up. In addition, all laboratory
12 information reported shall include specimen accession number. For animal bites by dogs, cats, bats,
13 skunks, foxes, raccoons, coyotes, and other wild carnivores, the name and locating information of the
14 owner of the biting animal shall be reported, if known, by the health care provider. For healthcare-
15 associated infections, except as provided in § 25-3-601, C.R.S., facilities choosing to voluntarily
16 participate in applied public health projects on a project by project basis shall make medical records
17 available for review by the Department upon request within a reasonable time frame. IN ADDITION, FOR
18 SEXUALLY TRANSMITTED INFECTIONS, THE PATIENT'S SEX AT BIRTH, GENDER IDENTITY AND RELEVANT
19 TREATMENT SHALL BE REPORTED. FOR REPORTS FROM A PUBLICALLY FUNDED ANONYMOUS TESTING
20 SITE, AS PROVIDED IN §25-4-411, C.R.S, THE PATIENT'S NAME AND ADDRESS ARE NOT REQUIRED.

21 *****

22 Regulation 2. Reporting by Individuals

23 Where Reporter = 'P' in the Appendix A Reportable Diseases Table, cases of diseases shall be reported
24 by the physician or other health care provider and by other persons either treating or having knowledge
25 of a reportable disease, including, but not limited to coroners, persons in charge of hospitals or other
26 institutions licensed by the Colorado Department of Public Health and Environment, (or their designees),
27 persons in charge of schools (including school nursing staff), ~~and~~-licensed day care centers-OR ANY
28 OTHER PERSON PROVIDING TESTING AND/OR COUNSELING TO A PERSON WITH A SEXUALLY
29 TRANSMITTED INFECTION.

30 Regulation 3. Laboratory Reporting

31 *****

32 All specimens shall be accompanied by the following information: (a) Patient's name, date of birth, sex,
33 race, ethnicity, and address (b) Name and address of responsible physician or other health care provider
34 (c) Name of disease or condition (d) Laboratory information - test name, collection date and specimen

type. LABORATORIES SHOULD MAKE EFFORTS TO REPORT ALL TESTS ELECTRONICALLY WHENEVER POSSIBLE.

Regulation 4 Treatment and Control of Tuberculosis

The emergence of multiple drug-resistant tuberculosis in this country and state dictates a coherent and consistent strategy in order to protect the public health from this grave threat. The underlying principles of disease control expressed in the following rules are as follows: use of the most rapid and modern diagnostic methods by laboratories, rapid reporting, full patient compliance with medical treatment, and prevention of spread of tuberculosis in health care settings. The tuberculosis statute (C.R.S. 25-4-501 et seq.) covers subject matters not included in these regulations.

B. Physicians, health care providers, and health care facilities shall report within 7 CALENDAR days the following tuberculin skin test (TST) or Interferon-Gamma Release Assay (IGRA) result if it occurs in a health care worker, correctional facility worker, or detention facility worker: a positive TST (defined as = 5 mm induration) or positive IGRA test (based on manufacturer's interpretation criteria) if the worker has had prolonged or frequent face-to-face contact with an infectious tuberculosis case.

E. A laboratory may fulfill its requirement to report (in parts C and D of this regulation) by submitting a sputum specimen from the patient to either the State Public Health Laboratory, or for facilities located in Boulder, Broomfield, Denver, Adams, Douglas, Arapahoe, and Jefferson counties, to the Denver Public Health laboratory. The reporting requirement is not fulfilled if the laboratory submits an isolate from a culture to either of the public health laboratories or if the laboratory delays sending the sputum specimen for more than 2 CALENDAR days after collection of the specimen.

H. The Board of Health determines that to prevent the emergence of multiple drug-resistant tuberculosis, it is necessary and appropriate and good medical practice that persons with active tuberculosis disease receive directly observed treatment for their disease. All medical providers and health care organizations are required to provide directly observed therapy for patients with active tuberculosis disease for the full course of therapy, unless a variance for a particular patient from this requirement is approved by the tuberculosis control program of the State Department of Public Health and Environment or Denver Public Health. Directly observed therapy is not required for patients with extrapulmonary tuberculosis disease provided that the presence of pulmonary tuberculosis has been investigated and excluded. In applicable situations, a variance shall be granted in accordance with C.R.S. 25-4-506(3).

Medical providers and health care organizations shall report to the state or local health department within seven CALENDAR days the name of any patient on directly observed therapy who has missed one dose. When requested by medical providers and health care organizations, the state or local health department shall provide directly observed treatment to outpatients with active tuberculosis disease and this shall fulfill the requirement for the medical providers and health care organizations.

77 K.

78 *****

79 (2) The chief medical health officer of a local health agency, with the prior approval of the
80 local board of health and pursuant to the requirements of subparagraph 3 of this
81 paragraph K may require screening be performed for a particular group or population
82 that has been identified as high risk based on the criteria set forth in this paragraph K,
83 but each individual shall be informed of his or her right to be exempt from the screening
84 because of medical or religious reasons. The local health agency should provide at least
85 30 CALENDAR days notice to potentially affected persons, groups, and businesses prior
86 to consideration of the proposed program by the local board of health.

87 (3) Except as provided in subparagraph 6 of this paragraph K, no program approved by a
88 local board of health shall be implemented without the approval of the State Board of
89 Health. Within 30 CALENDAR days of a program having been approved by a local board
90 of health, the local health agency shall submit a copy of the proposed program to the
91 State Board of Health. When considering a proposed local health agency program, the
92 State Board of Health shall provide notice to all parties on its mailing list at least 20
93 CALENDAR days prior to the hearing.

94 *****

95 **Regulation 5. Investigations to Confirm the Diagnosis, Treatment, and Causes of Epidemic and**
96 **Communicable Diseases and to Determine Appropriate Methods of Epidemic and**
97 **Communicable Disease Control**

98 Investigations may be conducted to confirm the diagnosis, treatment, and causes of reportable
99 conditions and shall be considered official duties of the health department or health agency. Such
100 investigations may include, but are not limited to:

101 *****

102 (b) performing follow-up interview(s) with the case or persons knowledgeable about the
103 case to collect INFORMATION pertinent and relevant information about TO the cause(s)
104 of or risk factors for the reportable condition;

105 *****

106 **Regulation 6. Information Sharing**

107 Whenever a local health department or health agency learns of a case of a reportable disease or an
108 epidemic or communicable disease exposure potentially threatening the public health, it shall notify the
109 State Department of Health in a timely manner, usually within the timeframe for reporting in
110 Regulation 1.

111 *****

112 **Regulation 9. Confidentiality**

113 All personal medical records and reports held or viewed by the state or local health department in
114 compliance with these regulations shall be confidential information subject to C.R.S. 25-1-122(4) AND
115 C.R.S. 25-4-406(1). Reasonable efforts shall be made by the department to consult with the attending

RESPONSIBLE physician, OTHER HEALTHCARE PROVIDER, or medical facility caring for the patient prior to any further follow-up by State or local health departments or health agencies.

Regulation 11. Sexually Transmitted Infections

THE COLORADO BOARD OF HEALTH RECOGNIZES THAT NON-SEXUAL TRANSMISSION MAY OCCUR FOR SOME OF THESE INFECTIONS, AND THAT IN INDIVIDUAL CASES, BASED ON CLINICAL AND EPIDEMIOLOGIC INFORMATION, THE RESPONSIBLE PHYSICIAN OR OTHER HEALTHCARE PROVIDER MAY CONCLUDE THE PATIENT'S INFECTION WAS NOT SEXUALLY ACQUIRED.

INFORMATION CONCERNING TESTING, TREATMENT, CAUSES, OR THE PREVENTION OF SEXUALLY TRANSMITTED INFECTIONS SHALL BE SHARED, TO THE MINIMUM EXTENT NECESSARY TO ACHIEVE THE PUBLIC HEALTH PURPOSE, BETWEEN THE APPROPRIATE LOCAL HEALTH DEPARTMENT, STATE DEPARTMENT OF HEALTH, CONTRACTED AGENCY, RYAN WHITE FUNDED AGENCY, OTHER HEALTH AGENCY OR PERSON PROVIDING DIRECT SEXUALLY TRANSMITTED INFECTION RELATED SERVICES AND THE STATE DEPARTMENT OF HEALTH, AS PROVIDED BY C.R.S. 25-4-406(1)(b).

WITH RESPECT TO REGULATION 5, INVESTIGATIONS RELATED TO SEXUALLY TRANSMITTED INFECTIONS WILL BE LIMITED TO THE INFORMATION NECESSARY TO CONFIRM THE DIAGNOSIS, TREATMENT, SOURCE OF INFECTION, AND IDENTIFICATION OF MEASURES THAT MAY BE USED TO PREVENT ADDITIONAL SEXUALLY TRANSMITTED INFECTIONS.

THE DEPARTMENT SHALL DESTROY PERSONAL IDENTIFYING INFORMATION ON ALL PERSONS WITH CD4 OR VIRAL LOAD RESULTS IF INVESTIGATION SUBSEQUENT TO THE REPORT FINDS NO EVIDENCE OF A SEXUALLY TRANSMITTED INFECTION.

C.R.S. 25-4-411 (1)(a) REQUIRES THE STATE DEPARTMENT OF HEALTH TO CONDUCT AN ANONYMOUS COUNSELING AND TESTING PROGRAM FOR PERSONS CONSIDERED TO BE AT HIGH RISK FOR INFECTION WITH HUMAN IMMUNODEFICIENCY VIRUS (HIV). THE PROVISION OF CONFIDENTIAL COUNSELING AND TESTING FOR HIV IS THE PREFERRED SCREENING SERVICE FOR DETECTION OF HIV INFECTION. LOCAL BOARDS OF HEALTH WHO PROVIDE HIV COUNSELING AND TESTING THROUGH A CONTRACTUAL AGREEMENT WITH THE STATE DEPARTMENT OF HEALTH SHALL CONSIDER THE NEED FOR AN ANONYMOUS HIV TESTING OPTION IN THEIR JURISDICTION, UPON PETITION. THE CONSIDERATION OF THIS OPTION MUST PROVIDE AN OPPORTUNITY FOR PUBLIC COMMENT IN A PUBLIC FORUM, INCLUDING ANONYMOUS TESTIMONY PRESENTED IN WRITING OR THROUGH AN ORGANIZATION. LOCAL BOARDS OF HEALTH ELECTING TO PROVIDE CONFIDENTIAL HIV TESTING WITH AN ANONYMOUS OPTION MUST DO SO IN CONJUNCTION WITH PUBLICLY FUNDED HIV TESTING AND COUNSELING PROJECTS.

OPERATIONAL STANDARDS

A. ALL PERSONS PROVIDING HIV TESTING AND COUNSELING AT A PUBLICLY FUNDED HIV TESTING AND COUNSELING PROJECT IN A NON HEALTH-CARE SETTING WILL HAVE COMPLETED AN HIV TESTING AND COUNSELING COURSE APPROVED BY THE STATE DEPARTMENT OF HEALTH.

B. ALL PERSONS PERFORMING PARTNER SERVICES WILL HAVE COMPLETED COURSES CONCERNING INTRODUCTION TO SEXUALLY TRANSMITTED DISEASE INTERVIEWING AND PARTNER NOTIFICATION, AND OTHER RELATED COURSES AS SPECIFIED BY THE STATE DEPARTMENT OF HEALTH.

- C. OF ALL HIV TESTS PERFORMED AT A PUBLICLY FUNDED HIV TESTING AND COUNSELING PROJECT, 99% OF THOSE PERSONS TESTING HIV POSITIVE WILL RECEIVE TEST RESULTS AND APPROPRIATE POST-TEST COUNSELING RELATED TO THOSE TEST RESULTS. PUBLICLY FUNDED HIV TESTING SITES SHALL MAKE A GOOD FAITH EFFORT TO INFORM ALL PERSONS OF THEIR TEST RESULTS AND SHALL PROVIDE PERTINENT HIV PREVENTION COUNSELING AND REFERRALS.
- D. ALL PERSONS NEWLY DIAGNOSED WITH HIV WILL BE REFERRED FOR PARTNER SERVICES. A MINIMUM OF 75% OF THOSE OFFERED PARTNER SERVICES WILL RECEIVE AN INTERVIEW AND PERTINENT REFERRALS. PARTNER SERVICES STANDARDS WILL BE DETERMINED BY THE BEST PRACTICES GUIDANCE AND CODE OF CONDUCT STANDARDS FOR STI PREVENTION PROVIDERS DEVELOPED BY THE STATE DEPARTMENT OF HEALTH. THESE STANDARDS SHALL BE MADE PUBLICALLY ACCESSIBLE.
- E. OPERATIONAL AND EVALUATION STANDARDS FOR HIV TESTING AND COUNSELING SITES WILL BE DETERMINED BY THE BEST PRACTICES GUIDANCE DEVELOPED BY THE STATE DEPARTMENT OF HEALTH.
- F. IN ACCORDANCE WITH C.R.S 25-4-404(2), THE STATE DEPARTMENT OF HEALTH SHALL CREATE AND MAINTAIN GUIDELINES, SUBJECT TO APPROVAL BY THE STATE BOARD, CONCERNING THE PUBLIC HEALTH PROCEDURES DESCRIBED IN C.R.S 25-4-412 AND C.R.S 25-4-413. THESE GUIDELINES WILL INCLUDE CODE OF CONDUCT STANDARDS FOR THE DELIVERY OF PARTNER SERVICES AND CLIENTS' RIGHTS, RESPONSIBILITIES AND PROTECTIONS.

~~In addition to all manifestations of chlamydia, syphilis and gonorrhea, the Colorado Board of Health finds that the following diseases are contagious, are sexually transmissible, are dangerous to the public health, and pursuant to C.R.S. 25-4-401(1) are determined to be sexually transmitted infections. The Board recognizes that non-sexual transmission may occur for some of these diseases, and that in individual cases, based on clinical and epidemiologic information, the attending physician may conclude the patient's disease was not sexually acquired:~~

~~Chancroid~~

~~Genital herpes simplex infection~~

~~Granuloma inguinale~~

~~Lymphogranuloma venereum~~

~~Urethritis in males caused by C. trachomatis, U. urealyticum, M. genitalium, T. vaginalis, and Herpes simplex virus~~

~~Mucopurulent cervicitis in females caused by C. trachomatis or N. gonorrhoeae~~

~~Trichomoniasis~~

~~Pelvic inflammatory disease caused by C. trachomatis or N. gonorrhoeae~~

~~Epididymitis caused by C. trachomatis, N. gonorrhoeae, or E. coli~~

~~Human papillomavirus infection, including genital or anal warts~~

- 199 ~~Hepatitis A~~
- 200 ~~Hepatitis B~~
- 201 ~~Hepatitis C~~
- 202 ~~Pediculosis pubis~~
- 203 ~~Acute proctitis caused by C. trachomatis, N. gonorrhoeae, T. pallidum, or Herpes simplex virus~~

204 Appendix A. Reportable Disease Table

Disease/Event	Pathogen/Organism	Time*	Reporter ¹	Specimen Source(s) ²	Send Clinical Material ³
<i>Acinetobacter baumannii</i> , carbapenem-resistant (CRAB) ^{5, 4-Metro}	Carbapenem-resistant <i>Acinetobacter baumannii</i> (including <i>Acinetobacter baumannii</i> complex and <i>Acinetobacter baumannii-calcoaceticus</i> complex)	30 days	L	Sterile sites, urine	
Acute flaccid myelitis		7 4 days	P		
Animal bites by dogs, cats, bats, skunks, foxes, raccoons, coyotes, or other wild carnivores ^{6,7}		24 hrs	P		
Animal bites by mammals not listed above ⁶		7 days 4 days	P		
Anthrax ⁶	<i>Bacillus anthracis</i>	24 hrs Immed	L & P	All	Required
Arboviral Disease	Eastern equine encephalitis, LaCrosse encephalitis virus, California encephalitis serogroup, St. Louis encephalitis virus and Western equine encephalitis virus	4 days	L	All	
Botulism ⁶	<i>Clostridium botulinum</i>	24 hrs Immed	L & P	All	
Brucellosis ⁶	<i>Brucella</i> species	7 days 4 days	L & P	All	Required
California/LaCrosse serogroup virus diseases	LaCrosse encephalitis virus, California encephalitis serogroup virus, etc.	7 days	L	All	
Campylobacteriosis	<i>Campylobacter</i> species	7 days 4 days	L & P	All	
Candidemia	<i>Candida</i> species	30 days	L	Blood	Requested
Chancroid	<i>Haemophilus ducreyi</i>	7 4 days	L & P	All	
Chikungunya	Chikungunya virus	7 days 4 days	L	All	
Chlamydia	<i>Chlamydia trachomatis</i>	7 4 days	L & P	All	
Cholera ⁶	<i>Vibrio cholerae</i>	24 hrs Immed	L & P	All	Required
CJD and other transmissible spongiform encephalopathies (TSEs) ⁶		7 days 4 days	P		
<i>Clostridium difficile</i> infection ^{4-Metro}	<i>Clostridium difficile</i>	30 days	L	All	Requested ⁸
Colorado tick fever	Colorado tick fever virus	7 days 4 days	L	All	
Cryptosporidiosis	<i>Cryptosporidium</i> species	7 days 4 days	L & P	All	
Cyclosporiasis	<i>Cyclospora</i> species	7 days 4 days	L & P	All	Required
Dengue	Dengue virus	7 days 4 days	L	All	
Diphtheria ⁶	<i>Corynebacterium diphtheriae</i>	24 hrs Immed	L & P	All	Required

Disease/Event	Pathogen/Organism	Time*	Reporter ¹	Specimen Source(s) ²	Send Clinical Material ³
Eastern equine encephalitis	Eastern equine encephalitis virus	7 days	L	All	
Encephalitis ⁶		7 days 4 days	P	All	
Enterobacteriaceae, carbapenem-resistant (CRE) ⁹	Carbapenem-resistant <i>Escherichia coli</i> , <i>Klebsiella</i> species, <i>Enterobacter</i> species	7 days 4 days	L	All	Requested ⁸
<i>Escherichia coli</i> O157:H7 and Shiga toxin-producing <i>Escherichia coli</i> ¹⁰	Shiga toxin-producing <i>Escherichia coli</i> ¹⁰	7 days 4 days	L & P	All	Required
Giardiasis	<i>Giardia lamblia</i>	7 days 4 days	L & P	All	
Gonorrhea, any site	<i>Neisseria gonorrhoeae</i>	7 4 days	L & P	All	
Group A streptococci ^{11, 4-Metro}	<i>Streptococcus pyogenes</i>	7 days 4 days	L	Sterile only	Required ¹²
Group B streptococci ^{4-Metro}	<i>Streptococcus agalactiae</i>	7 30 days	L	Sterile only	Required ¹²
<i>Haemophilus influenzae</i> ⁶	<i>Haemophilus influenzae</i>	24 hrs 1 working day	L & P	Sterile only	Required
Hantavirus disease ⁶	Hantavirus	7 days 4 days	L & P	All	
Healthcare-associated infections ¹³		7 days 4 days	P		
Hemolytic uremic syndrome if ≤ 18 years ⁶		7 days 4 days	P		
Hepatitis A ⁶	Hepatitis A virus (+IgM anti-HAV)	24 hrs 1 working day	L & P	All	
Hepatitis B	Hepatitis B virus (+HBsAg, +IgM anti-HBc, +HBeAg, or +HBV DNA)	7 days 4 days	L & P	All	
Hepatitis C	Hepatitis C virus (+ serum antibody titer, including signal to cut-off ratio, or more specific + tests)	7 days 4 days	L & P	All	
Hepatitis, other viral		7 days 4 days	P		
Human immunodeficiency virus (HIV)/ acquired immunodeficiency syndrome (AIDS)	<ul style="list-style-type: none"> • Human immunodeficiency virus • CD4 counts (any value) • HIV viral load (any value) • HIV genotype 	7 days 4 days	<ul style="list-style-type: none"> • L & P • L & P • L & P • L 	All	
Influenza-associated death if < 18 years		7 days 4 days	P		
Influenza-associated hospitalization		7 days 4 days	P		
Japanese encephalitis	Japanese Encephalitis virus	7 days 4 days	L	All	
Legionellosis ⁶	<i>Legionella</i> species	7 days 4 days	L & P	All	
Leprosy (Hansen's Disease)		7 days 4 days	P		

Disease/Event	Pathogen/Organism	Time*	Reporter ¹	Specimen Source(s) ²	Send Clinical Material ³
Listeriosis	<i>Listeria monocytogenes</i>	7 days 4 days	L & P	All	Required
Lyme disease	<i>Borrelia burgdorferi</i>	7 days 4 days	L & P	All	
Lymphogranuloma venereum (LGV)	<i>Chlamydia trachomatis</i>	7 days 4 days	L & P	All	
Malaria ⁶	<i>Plasmodium</i> species	7 days 4 days	L & P	All	
Measles (rubeola) ⁶	Measles virus	24 hrs Immed	L & P	All	
Meningococcal Disease ⁶	<i>Neisseria meningitidis</i> or gram-negative diplococci	24 hrs Immed	L & P	Sterile only	Required
Mumps ⁶	Mumps virus (acute infection)	7 days 4 days	L & P	All	
Outbreaks - known or suspected of all types including those transmitted from food, water, person-to-person, and related to a health care setting ⁶		24 hrs Immed	P		
Pertussis (whooping cough) ⁶	<i>Bordetella pertussis</i>	24 hrs 1 working day	L & P	All	Requested ⁸
Plague ⁶	<i>Yersinia pestis</i>	24 hrs Immed	L & P	All	Required
Poliomyelitis ⁶	Poliovirus	24 hrs Immed	L & P	All	
Powassan virus disease	Powassan virus	7 days 4 days	L	All	
Pseudomonas, carbapenem-resistant ¹⁴	<i>Pseudomonas aeruginosa</i>	7 days 4 days	L	All	Requested ⁸
Psittacosis	<i>Chlamydia psittaci</i>	7 days 4 days	L & P	All	
Q fever ⁶	<i>Coxiella burnetii</i>	7 days 4 days	L & P	All	
Rabies: human (suspected) ⁶	Rabies virus (Lyssavirus)	24 hrs Immed	L & P	All	
Spotted fever Rickettsiosis	<i>Rickettsia</i> species, including Rocky Mtn Spotted fever and typhus groups	7 days 4 days	L & P	All	
Rubella (acute infection) ⁶	Rubella virus	24 hrs 1 day	L & P	All	
Rubella, congenital ⁶	Rubella virus	7 days 4 days	L & P	All	
Salmonellosis	<i>Salmonella</i> species	7 days 4 days	L & P	All	Required
Severe or novel coronavirus	Severe acute respiratory syndrome coronavirus (SARS-CoV), Middle East respiratory syndrome coronavirus (MERS-CoV)	24 hrs Immed	L & P	All	
Shigellosis	<i>Shigella</i> species	7 days 4 days	L & P	All	Required
Smallpox ⁶	Variola virus (Orthopox virus)	24 hrs Immed	L & P	All	

Disease/Event	Pathogen/Organism	Time*	Reporter ¹	Specimen Source(s) ²	Send Clinical Material ³
St. Louis encephalitis	St. Louis encephalitis virus	7 days	L	All	
<i>Staphylococcus aureus</i> , Vancomycin-resistant	Vancomycin-resistant <i>Staphylococcus aureus</i>	7 days 4 days	L	All	Required
Streptococcal toxic shock syndrome	<i>Streptococcus pyogenes</i>	7 days 4 days	P	All	Required ¹²
<i>Streptococcus pneumoniae</i>	<i>Streptococcus pneumoniae</i>	7 days 4 days	L	Sterile only	Required ¹²
Syphilis (4⁺, 2⁺, or early latent) ⁶	<i>Treponema pallidum</i>	24 hrs 1 working day	L & P	All	
Tetanus ⁶	<i>Clostridium tetani</i>	7 days 4 days	P	All	
Tick-borne relapsing fever ⁶	<i>Borrelia</i> species	7 days 4 days	L & P	All	
Toxic shock syndrome (non-streptococcal)		7 days 4 days	P		
Trichinosis ⁶	<i>Trichinella</i> species	7 days 4 days	P	All	
Tuberculosis disease (active) ⁶	<i>Mycobacterium tuberculosis</i> ¹⁵	24 hrs 1 working day	L & P	All	See Reg 4F
Tularemia ⁶	<i>Francisella tularensis</i>	24 hrs 1 working day	L & P	All	Required
Typhoid fever ⁶	<i>Salmonella</i> Typhi	24 hrs 1 working day	L & P	All	Required
Varicella (chicken pox) ⁶	Varicella virus	7 days 4 days	L & P	All	
Vibriosis	<i>Vibrio</i> species, non-cholera	7 days 4 days	L	All	Required
Viral hemorrhagic fever	Crimean-Congo hemorrhagic virus, Ebola virus, Lassa fever virus, Lujo virus, Marburg virus, Guanarito virus, Junin virus, Machupo virus, Sabia virus	24 hrs Immed	L & P	All	Required
West Nile virus (acute infection, IgM+)	West Nile virus	7 days 4 days	L	All	
Western equine encephalitis	Western equine encephalitis virus	7 days	L	All	
Yellow fever	Yellow fever virus	7 days 4 days	L	All	
Yersiniosis ^{4,Seven}	<i>Yersinia non-pestis</i> species	7 days 4 days	L	All	Required
<u>Zika virus</u>	<u>Zika virus</u>	<u>4 days</u>	<u>L</u>	<u>All</u>	

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206 All cases are to be reported with patient's name, date of birth, sex, race, ethnicity, and address (including city and
207 county) and name and address of responsible physician or other health care provider; and such other information as is
208 needed in order to locate the patient for follow up. In addition, all laboratory information reported shall include
209 specimen accession number.

*Time: 1) "Immed" = by phone, within 4 hours of suspected diagnosis. 2) Unless the term "working day" is specified, "days" refers to calendar days.

- 1 Reporter: The party responsible for reporting is indicated by one of the following: L = Laboratory (whether or not associated with a hospital; by out-of-state laboratories that maintain an office or collection facility in Colorado; and by in-state laboratories which send specimens to an out-of-state laboratory referral laboratory), P = health care provider or other person knowing of or suspecting a case (including but not limited to coroners, persons in charge of hospitals or other institutions licensed by CDPHE (or their designees), persons in charge of schools (including nursing staff) and licensed day care centers), L & P = Both
- 2 Specimen sources: A condition is reportable when the pathogen is isolated or detected from any specimen source unless where otherwise indicated. A normally "sterile site" is defined as blood, CSF, pleural fluid (includes chest fluid, thoracentesis fluid), peritoneal fluid (includes abdominal fluid, ascites), pericardial fluid, bone (includes bone marrow), joint or synovial fluid, needle aspirate or culture of any specific joint, internal body sites (sterilely obtained from biopsy/tissue/abscess/aspirate/fluid/swab from lymph node, brain, heart, liver, spleen, vitreous fluid, kidney, pancreas, vascular tissue, or ovary). Skin and skin abscesses are not considered sterile sites.
- 3 Testing laboratories shall routinely submit bacterial culture isolates or patient clinical material that yields positive findings to the CDPHE Laboratory Services Division. The isolate or clinical material shall be received at the CDPHE Laboratory Services Division no later than one business day after the observation of positive findings.

Clinical material is defined as: (i) A culture isolate containing the infectious organism for which submission of material is required, or (ii) If an isolate is not available, material containing the infectious organism for which submission of material is required, in the following order of preference: (A) a patient specimen; (B) nucleic acid; or (C) other laboratory material. All specimens shall be accompanied by the following information: (a) Patient's name, date of birth, sex, race, ethnicity, and address (b) Name and address of responsible physician or other health care provider (c) Name of disease or condition (d) Laboratory information - test name, collection date and specimen type.
- 4 Condition reportable only among residents of a specific catchment area. Metro = Denver Metropolitan Area (Adams, Arapahoe, Denver, Douglas and Jefferson Counties); Seven = Seven-county Denver Metropolitan Area (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties). If not specified, condition reportable in all Colorado counties.
- 4-Metro Condition reportable only among residents of Denver Metropolitan Area (Adams, Arapahoe, Denver, Douglas and Jefferson Counties)
- 4-Seven Condition reportable only among residents of seven-county Denver Metropolitan Area (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties).
- 5 *Acinetobacter baumannii* (including *Acinetobacter baumannii* complex and *Acinetobacter baumannii-calcoaceticus* complex) that are intermediate or resistant to at least one carbapenem (including imipenem, meropenem, doripenem, or ertapenem) isolated from a normally sterile site or urine.
- 6 Report shall be based on the diagnosis or suspected diagnosis of the attending physician or other health care provider, whether or not supporting laboratory data are available.
- 7 For animal bites by dogs, cats, bats, skunks, foxes, raccoons, coyotes, and other wild carnivores, the name and locating information of the owner of the biting animal shall be reported, if known, by the health care provider Reporter.
- 8 Clinical material is requested from selected laboratories.
- 9 *Escherichia coli*, *Klebsiella* species, and *Enterobacter* species that are intermediate or resistant to at least one carbapenem (including imipenem, meropenem, doripenem, or ertapenem) AND resistant to all third-generation cephalosporins tested (ceftriaxone, cefotaxime, and ceftazidime); OR *Escherichia coli*, *Klebsiella* species, and *Enterobacter* species that test positive for carbapenemase production (by any method, including the Modified Hodge Test, disk diffusion, or PCR) production of a carbapenemase (i.e., KPC, NDM, VIM, IMP, OXA-48) demonstrated by a recognized test (e.g., polymerase chain reaction, metallo- β -lactamase test, modified-Hodge test, Carb-NP).

- 260 10 This includes any shiga-toxin test or O157 antigen test that is positive, even if no culture is performed. If the
261 laboratory does not have the capacity to perform H (flagellar) antigen tests, then Escherichia coli O157 should be
262 reported.
- 263 11 If Group A streptococci is isolated from a wound or surgical tissue/specimen and is accompanied by necrotizing
264 fasciitis or streptococcal toxic shock syndrome, the case shall be reported and the isolate shall be submitted.
- 265 12 Clinical material shall be submitted from laboratories located in the seven-county Denver Metropolitan Area
266 (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson Counties) when the material is from
267 residents of the Metro Area (Adams, Arapahoe, Denver, Douglas and Jefferson counties).
- 268 13 Reportable only by facilities that are voluntarily participating in applied public health projects. Appendix B
269 includes a definition of healthcare-associated infections, a list of included infections, and a list of included health
270 facility types
- 271 14 Pseudomonas species that are resistant to at least one of the following carbapenems: imipenem, meropenem, or
272 doripenem; OR Pseudomonas species that test positive for production of a carbapenemase (i.e., KPC, NDM, VIM,
273 IMP, OXA)
- 274 15 Including (+) AFB sputum smear

Appendix B. Healthcare-Associated Infections

Definition of a healthcare-associated infection: a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or its toxins that was not present or incubating at the time of admission to the health facility.

Healthcare-associated infections include:

Bloodstream infections

Bone and joint infections

Cardiovascular system infections

Central nervous system infections

Eye, ear, nose, throat, or mouth infections

Gastrointestinal system infections

Lower respiratory tract infections other than pneumonia

Pneumonia

Reproductive tract infections

Skin and soft tissue infections

Surgical site infections

Systemic infections

Urinary tract infections

Health facility types include:

Ambulatory surgical centers

Birth centers

Convalescent centers

Dialysis treatment clinics/End-stage renal disease facilities

Hospices

Hospitals (general, psychiatric, rehabilitation, maternity, and long-term care)

Long-term care facilities

Outpatient clinics (community clinics; community clinics with emergency centers; rural health clinics; outpatient rehabilitation facilities; outpatient physical therapy, occupational therapy or speech pathology services; and private physician offices)

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Disease Control and Environmental Epidemiology Division

RULES PERTAINING TO REPORTING, PREVENTION AND CONTROL OF AIDS, HIV RELATED ILLNESS AND HIV INFECTION

6 CCR 1009-9

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

Colorado has a comprehensive public health AIDS/HIV control law: Colorado Revised Statutes Title 25, Article 4, Sections 1401 et seq. These regulations are intended to provide detail and clarification for selected parts of the above cited statute. The statute covers subject matters not included in these regulations.

C.R.S. 25-4-1405.5 (2) (a) (I) requires the Colorado Department of Public Health and Environment (CDPHE) to conduct an anonymous counseling and testing program for persons considered to be at high risk for infection with HIV. The provision of confidential counseling and testing for HIV is the preferred screening service for detection of HIV infection. Local boards of health who provide HIV counseling and testing through a contractual agreement with CDPHE must consider the need for an anonymous HIV testing option in their jurisdiction. The consideration of this option must provide an opportunity for public comment in a public forum at a minimum of every two years. Other mechanisms for input into the need for an anonymous testing option in that jurisdiction must be available in addition to the public forum, including anonymous testimony in writing or through an organization. Local boards of health must document the following: notification of interested parties and the public, time allowed between notification and the public forum, accessibility in both location and time of the public forum, and the response to public comment in the decision process. Local Boards of Health electing to provide confidential HIV testing with an anonymous option must do so in conjunction with publicly funded HIV testing and counseling projects that screen individuals for HIV infection without providing on-going health care. The term "publicly funded HIV testing and counseling projects," shall pertain to HIV testing and counseling projects that receive direct funding support from the CDPHE, or receive direct funding support for analogous HIV testing and counseling projects from the following federal agencies: U.S. Department of Health and Human Services (DHHS), Centers for Disease Control and Prevention (CDC); Health Resources and Services Administration (HRSA), Ryan White HIV/AIDS Treatment Extension Act of 2009; or the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention. The term "health-care setting," shall refer to hospitals, emergency departments, urgent-care clinics, inpatient services, sexually transmitted disease (STD) clinics or other venues offering clinical STD services, tuberculosis (TB) clinics, substance abuse treatment clinics, other public health clinics, community clinics, correctional health-care facilities, primary care settings, or private physicians offices.

Per C.R.S. 25-4-1405.5 (2) (a) (II), Regulations 6-8 are the performance standards for confidential and anonymous publicly funded HIV testing and counseling projects and CDPHE staff.

Regulation 1. Reporting By Physicians, Health Care Providers, Hospitals, And Others

Diagnosed cases of AIDS, HIV related illness, and HIV infection, regardless of whether confirmed by laboratory tests, shall be reported to the state or local health department or health agency within 7 days of diagnosis by physicians, health care providers, hospitals, or any other person providing testing and/or counseling or treatment to a person with HIV infection. When hospitals and laboratories transmit disease reports electronically using systems and protocols developed by the department that ensure protection of confidentiality, such reporting is acceptable and is considered good faith reporting.

All cases are to be reported with the patient's name, date of birth, sex, race, ethnicity, address (including city and county), phone, name and address of the reporting physician or agency; and such other information as is needed to identify and locate the patient for follow up. For cases reported from a public anonymous testing site as provided by C.R.S. 25-4-1405.5, the patient's name and address and the name and address of the reporting physician are not required.

354 ~~Reports on hospitalized patients may be made part of a report by the hospital as a whole.~~

355 ~~The reporting of the name, phone, address, date of birth, sex, race or ethnicity of research subjects with~~
356 ~~AIDS, HIV-related illness, or HIV infection to CDPHE or local department of health pursuant to the~~
357 ~~provisions of Sections 25-4-1402 and 25-4-1403 shall not be required of any researcher conducting a~~
358 ~~behavioral research study, medical research study of HIV treatment or vaccine effectiveness or~~
359 ~~conducting basic biomedical research into the cellular mechanisms causing HIV infection or HIV-related~~
360 ~~disease pursuant to an approved research protocol. For the purposes of the research exemption~~
361 ~~authorized in this section, "approved research protocol" means any activity which has been reviewed and~~
362 ~~approved by the state Board of Health as a research protocol. The research exemption authorized in this~~
363 ~~section and which meets the criteria described in 1. (A) through (F) inclusive, does not alter the reporting~~
364 ~~requirements of persons and researchers otherwise required to make reports when engaged in any~~
365 ~~treatment or testing outside the scope of or prior to enrollment in an approved research protocol and does~~
366 ~~not exempt the researcher from reporting other reportable diseases. The research exemption authorized~~
367 ~~in this section does not exempt medical researchers from meeting the requirements of Section 25-4-1405~~
368 ~~(5) to provide post test counseling to infected enrolled research subjects and referral of such subjects to~~
369 ~~the state department of public health and environment or local department of health for partner~~
370 ~~notification services.~~

371 ~~The State Board of Health shall approve research activities for the research reporting exemption specified~~
372 ~~in this section based on evidence that the research activity for which an exemption is requested meets~~
373 ~~the eligibility requirements specified by the State Board of Health.~~

374 ~~The State Board of Health shall consider the following eligibility requirements:~~

375 ~~(A) is fully described by a research protocol;~~

376 ~~(B) is subject to review by and is governed by the federal department of Health and Human Services;~~

377 ~~(C) has as the protocol objectives either: the investigation of HIV behavioral research, the effectiveness~~
378 ~~of a medical therapy or vaccine in preventing infection or the progression of HIV-related disease,~~
379 ~~or basic medical research into the cellular mechanisms causing HIV infection or HIV-related~~
380 ~~disease;~~

381 ~~(D) is reviewed and approved by a duly constituted institutional review board in accordance with the~~
382 ~~regulations established by the Secretary of the Federal Department of Health and Human~~
383 ~~Services;~~

384 ~~(E) the researcher has provided information that the research activity will be facilitated by an exemption~~
385 ~~specified in this section; and~~

386 ~~(F) has been determined to have potential health benefits.~~

387 **Regulation 2. Reporting by Laboratories**

388 ~~Laboratories shall report every test result that is diagnostic of, or highly correlated with, or indicates HIV~~
389 ~~infection, including, but not limited to, any undetectable HIV viral load and HIV genotype testing. The~~
390 ~~report shall include the name, date of birth, sex, race and address (including city and county), phone of~~
391 ~~the individual from whom the specimen was submitted. Such test results shall be reported by all in-state~~
392 ~~laboratories and by out-of-state laboratories that maintain an office or collection facility in Colorado or~~
393 ~~arrange for collection of specimens in Colorado. Results must be reported by the laboratory which~~
394 ~~performs the test, but an in-state laboratory which sends specimens to an out-of-state referral laboratory~~
395 ~~is also responsible for reporting the results. The laboratory shall also report the name, address and phone~~
396 ~~of the attending physician and any other person or agency referring such specimen for testing.~~
397 ~~Laboratories should make efforts to report all HIV/AIDS related tests electronically whenever possible. All~~
398 ~~genotype testing must be reported in an electronic format (such as a FASTA file) containing the~~
399 ~~nucleotide sequences of HIV.~~

400 ~~Laboratories shall report all CD4 counts regardless of value. The Department shall destroy personal~~
401 ~~identifying information on all persons with CD4 results if investigation subsequent to the report finds no~~

evidence of HIV infection. Laboratories may fulfill the requirement to report all CD4 counts by allowing authorized personnel of CDPHE access to such records.

Laboratories shall follow the same procedures for reporting as are required of other reporting sources in Regulation 1.

Report of test results by a laboratory does not relieve the attending physician or other person providing HIV testing, treatment and/or counseling of his/her obligation to report the case or diagnosis, nor does report by the physician or other person providing HIV testing, treatment and/or counseling relieve the laboratory of its obligation.

Regulation 3. Information Sharing

Information concerning cases of AIDS, HIV-related illness, laboratory testing, treatment or HIV infection shall be shared, to the minimum extent necessary to achieve the public health purpose, between the appropriate local health department, CDPHE contracted agency or other health agency providing direct HIV related services and CDPHE, as provided by C.R.S. 25-4-1404 (1), (1)(a), (1)(b), (1)(c) and in a timely manner, usually within the timeframe for reporting in Regulation 1.

These requirements shall not apply if the state and local health agencies mutually agree not to share information on reported cases.

Regulation 4. Confidentiality

All public health reports and records held by the state or local health department in compliance with these regulations shall be confidential information subject to C.R.S. 25-4-1404. The public health reports and records referred to in C.R.S. 25-4-1404 shall include, but not be limited to, the forms and records designated by CDPHE for institutions and agencies which screen individuals for HIV infection without providing ongoing health care, such as a publicly funded HIV testing and counseling project.

Reasonable efforts shall be made by the department to consult with the attending physician or medical facility caring for the patient prior to any further follow-up by state or local health departments or health agencies.

Regulation 5. Investigations to Confirm the Diagnosis and Source of HIV Infection and to Prevent HIV Transmission

It is the duty of state and local health officers to conduct investigations to confirm the diagnosis and sources of HIV infection and to prevent transmission of HIV. Such investigations shall be considered official duties of the health department or health agency. Such investigations may include, but are not limited to:

1. review of pertinent, relevant medical records by authorized personnel if necessary to confirm the diagnosis, to investigate possible sources of infection, to determine objects and materials potentially contaminated with HIV and persons potentially exposed to HIV. Such review of records may occur without patient consent and shall be conducted at reasonable times and with such notice as is reasonable under the circumstances;

2. performing follow-up interview(s) with the case or persons knowledgeable about the case to collect pertinent and relevant information about the sources of HIV infection, materials and objects potentially contaminated with HIV, and persons who may have been exposed to HIV.

Regulation 6. Objective Standards

A. Training

1. All persons providing HIV testing and counseling at a publicly funded HIV testing and counseling project in a non-health-care setting will have completed an HIV testing and counseling course of not less than 32 hours of training, approved by the CDPHE STI/HIV/Viral Hepatitis Section.

2. All persons performing partner notification interviews will have completed courses concerning introduction to sexually transmitted disease interviewing and partner notification, and other related courses as specified by the CDPHE.

B. Notification of Results

1. Of all HIV tests performed at a publicly funded HIV testing and counseling project, 99% of those persons testing HIV positive will receive test results and risk-reduction counseling related to those test results.

2. Publicly funded HIV testing sites shall make a good faith effort to inform HIV negative persons of the test results and shall provide pertinent HIV prevention counseling and referrals to mitigate behavioral risks.

C. Partner Notification

1. All newly diagnosed HIV positive individuals will be referred to and assigned for partner notification interview. A minimum of 75% of those assigned for a partner notification interview will receive an interview. Agencies providing partner notification services (CDPHE and local health departments) will have a partner index (defined as the number of unsafe partners identified for whom identifying information was sufficient to initiate notification, divided by the number of interviewed HIV positive persons with unsafe behavior in the past year) of 0.8. Effective January 1, 1995, the acceptable partner index will be 1.0. Documentation of this activity will be provided to CDPHE through use of a CDPHE specified form.

A contact is defined as a person named by an infected person as having been an unsafe sex partner/needle share partner of that infected person.

If sufficient locating information (name, age, sex, phone number, recent address, work address) is obtained to conduct an investigation, such a contact is defined as an initiated contact.

2. Of all in-state initiated contacts, 60% must be located and offered HIV prevention and risk-reduction counseling and/or testing as documented by the results of the investigation on the CDPHE specified form. Documentation of investigation outcomes will include disposition codes as specified by the CDPHE, dates and location of counseling, and dates and location of testing (if done).

Regulation 7. Operational Standards

A. Publicly Funded Testing and Counseling

1. HIV testing (rapid or standard testing) in an outreach or social network setting, all persons must receive the following:

a. A written explanation of consent and confidentiality laws and regulations in Colorado.

b. A risk screening (i.e., A brief evaluation of HIV risk factors, both behavioral and clinical, used for decisions about who should be recommended HIV counseling and testing), as specified by CDPHE.

C. An assessment of readiness to receive the test results.

d. ~~An interpretation of the test results, including a need for immediate confirmatory testing if a rapid test is positive.~~

e. ~~If the test results are positive, 100 % of persons testing positive will be referred for medical care and 80% will be linked to medical care. Additional referrals to prevention services and partner services will be offered. Referrals or linkage to substance abuse treatment, mental health services and comprehensive risk counseling services shall be offered if indicated.~~

f. ~~If the test results are negative, referrals or linkage to other prevention services, if applicable. If indicated, make referrals or linkage to substance abuse treatment, mental health services, and comprehensive risk counseling services.~~

g. ~~All persons tested in all other publicly funded HIV testing projects in non health care settings must receive the following with HIV testing:~~

i. ~~Screening for substance abuse, mental illness, and the need for comprehensive risk counseling services as specified by CDPHE.~~

ii. ~~An assessment of motivation to reduce risk.~~

iii. ~~A risk reduction plan (i.e., identify with the client specific behaviors that can realistically be changed to reduce risk).~~

iv. ~~A risk reduction plan specific to the test results.~~

B. Consent Form

~~A consent form must be used at all publicly funded HIV testing and counseling projects in non health care settings. If the HIV test is confidential, the consent form must be signed by the client; if the HIV test is anonymous, the client may mark the consent form with the anonymous code linked to the HIV test in lieu of a signature.~~

C. Testing Parameters

~~1. A publicly funded HIV testing and counseling project will not provide anonymous testing to any person 12 years of age or younger.~~

~~2. If a counselor judges that a client is unable to understand either counseling or the testing process (e.g., because the client is under the influence of drugs or alcohol) the counselor may defer testing.~~

D. Written Results

~~1. A publicly funded HIV testing and counseling project may only provide written results to persons testing confidentially. To receive written results, the publicly funded HIV testing and counseling project must be presented with photo identification from the person requesting written results at the time of posttest.~~

~~2. A publicly funded HIV testing and counseling project may not give written results to any person testing anonymously.~~

E. Confidentiality and Record Maintenance

~~1. A publicly funded HIV testing and counseling project in non health care settings must have and adhere to an HIV record retention policy. Any record retention policy must be adopted by the local board of health with the opportunity for public comment and input through an open public forum conducted at least every two years. Other mechanisms for input into the record retention policy must be available in addition to the public forum, including anonymous testimony in writing or through an organization.~~

Any policy must address the following areas:

- a) the availability of anonymous testing,
- b) time frames for destruction of records,
- c) method and supervision for destruction of records,
- d) approval of record retention policy by the Colorado State Archivist,
- e) procedures for hard (paper) records and electronic (computer) records,
- f) procedures for records of negative results and positive results
- g) inclusion of record retention information in the client consent form

2. Per C.R.S. 25-4-1404.5 (2) (a) (II), a person may provide personal identifying information after counseling, if the person volunteers to do so. A publicly funded HIV testing and counseling project must document this information when volunteered, and maintain the confidentiality of the personal identifying information according to their record retention policy.

Regulation 8. Evaluation Standards and Penalties

A. Each CDPHE funded HIV testing and counseling project's compliance with these standards will be evaluated by the following:

- 1. An annual analysis by the CDPHE staff of the number of persons receiving HIV antibody testing and the proportion of persons testing receiving results per contracted agency.
- 2. A minimum of one on-site observation conducted annually by CDPHE staff.
- 3. An annual analysis of testing trends (anonymous vs. confidential) conducted by CDPHE staff.
- 4. A minimum of one annual audit of charts conducted by CDPHE staff.
- 5. Accuracy and completion of the evaluation data form submitted to CDPHE.

B. Failure of a CDPHE funded HIV testing and counseling project to comply with and meet these standards may result in one or more of the following action(s):

- 1. The CDPHE funded HIV testing and counseling project will meet with CDPHE to develop a plan for improving performance in specified areas.
- 2. The CDPHE funded HIV testing and counseling project may be given a probationary period to comply and meet the standards.
- 3. The CDPHE funded HIV testing and counseling project may be reevaluated by the end of the probationary period.
- 4. Failure to meet and comply with the standards may result in contract termination.



Notice of Public Rule-Making Hearing

March 15, 2017

ID #: 90

NOTICE is hereby given pursuant to the provisions of §24-4-103, C.R.S.; that the Colorado Board of Health will conduct a public rule-making hearing on:

Date: March 15, 2017

Time: 10:00 AM

Place: Sabin-Cleere Conference Room, Building A, 1st Floor, 4300 Cherry Creek Drive South, Denver, CO 80246

To consider the promulgation/amendments or repeal of:

CCR Number(s)

6 CCR 1009-1, Epidemic and Communicable Disease Control

6 CCR 1009-9, Reporting, Prevention, and Control of AIDS, HIV Related Illness, and HIV Infection

The proposed rules have been developed by the following division or office of the Colorado Department of Public Health and Environment:

Disease Control and Environmental Epidemiology

Statute(s) that requires or authorizes the Board of Health to promulgate, amend, or repeal this rule:

Statute(s)

§25-1.5-102, C.R.S.

§25-1-122, C.R.S.

§25-4-1401 et seq

§25-4-402, 404, and 405, C.R.S.

Agenda and Hearing Documents

The Board of Health agenda and the proposed rules, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available, at least seven (7) days prior to the meeting, on the Board's website, <https://colorado.gov/cdphe/boh>.

For specific questions regarding the proposed rules, contact the division below:

Disease Control and Environmental Epidemiology Division, A3-3620, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-2358.

Participation

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments, or by making oral comments at the hearing. At the discretion of the Chair, oral testimony at the hearing may be limited to three minutes or less depending on the number of persons wishing to comment.

Written Testimony

Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rule-making hearing.

Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Jamie L. Thornton, Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, EDO-A5, Denver, Colorado 80246-1530 or by e-mail at: cdphe.bohrequests@state.co.us

Written testimony is due by 5:00 p.m., Thursday, March 9, 2017.



Deborah Nelson, Board of Health Administrator

Date: 2017-01-20T10:30:52

Notice of Proposed Rulemaking

Tracking number

2017-00054

Department

1000 - Department of Public Health and Environment

Agency

1009 - Disease Control and Environmental Epidemiology Division

CCR number

6 CCR 1009-10

Rule title

COLORADO HIV AND AIDS PREVENTION GRANT PROGRAM

Rulemaking Hearing

Date

03/15/2017

Time

10:00 AM

Location

Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246

Subjects and issues involved

To consider proposed amendments

Statutory authority

§25--4--1401 et seq, C.R.S.

Contact information

Name

Melanie Mattson

Title

Branch Chief

Telephone

303-692-2756

Email

melanie.mattson@state.co.us



Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the State Board of Health

From: Melanie Mattson, STI/HIV/Viral Hepatitis Branch Chief, Disease Control and Environmental Epidemiology Division (DCEED)

Through: Rachel Herlihy, MD, MPH, DCEED Director RH

Date: December 30, 2016

Subject: **Request for Rulemaking Hearing**
Proposed amendments to 6 CCR 1009-10, Colorado HIV and AIDS Prevention Grant Program, with a request for the rulemaking hearing to occur in March of 2017

In preparation for a Public Rulemaking Hearing, please find copies of the following documents: Proposed Amendments to 6 CCR 1009-10, Statement of Basis and Purpose and Specific Statutory Authority, Stakeholder Comment, and Regulatory Analysis.

The *Colorado HIV and AIDS Prevention Grant Program* rules were created to address local community needs in areas of medically accurate human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) prevention and education through a competitive grant process. The rule includes procedures and timelines by which an entity may apply for program grants, the required content of these grants, criteria for selection and the qualifications of an adequate proposal

Recent legislation (Senate Bill 16-146) updated and modernized the statutes related to sexually transmitted infections to bring them in line with current medical knowledge and practice, as well as to reduce stigma that may be associated with HIV. To align our rules with statute, the Department is proposing the update to the statutory references in 6 CCR 1009-10. Additionally, the Department proposes the deletion the grant application timeline that limits the solicitation of grant applications to twice per fiscal year.

Details regarding this amendment are summarized in the Statement of Basis and Purpose and Statutory authority.

The Department has reached out to a wide variety of stakeholders to solicit input regarding the proposed amendments to 6 CCR 1009-10. These proposed amendments align our rules with statute, continue to bring clarity to the rules, minimize potential confusion among end-users of the rules and enable effective administration of the grant program. As always, the Department will continue to solicit and incorporate stakeholder feedback.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to
6 CCR 1009-10
Colorado HIV and AIDS Prevention Grant Program

Basis and Purpose.

The *Colorado HIV and AIDS Prevention Grant Program* rules were created to address local community needs in areas of medically accurate human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) prevention and education through a competitive grant process. The rule includes procedures and timelines by which an entity may apply for program grants, the required content of these grants, criteria for selection and the qualifications of an adequate proposal.

The following changes to the rule are being proposed:

- 1) Senate Bill 16-146 (SB146), known as the Sexually Transmitted Infection (STI) Modernization bill, was passed in this last legislative session. This bill combined Parts 4 and 14 in Article 4 of Title 25 (the public health laws on STI and HIV) to make protections and policies apply equally to all STIs, including HIV and relevant forms of viral hepatitis. The Department proposes an update to the statutory references in 6 CCR 1009-10 as the statutes governing the Colorado HIV and AIDS Prevention Grant Program have changed.
- 2) The Department proposes the deletion of the timelines for grant applications. This timeline limits the solicitation of grant applications to twice per fiscal year and inhibits the Department's ability to rapidly respond to emerging issues, such as an outbreak of acute HIV infection due to injection drug use or utilizing new technology to prevent HIV and AIDS. Lifting this restriction will allow the Department, in consultation with the Advisory Committee, to respond to these types of issues more efficiently and effectively.

While the Department needs a flexible grant process so we can efficiently distribute funds to meet emerging needs, the Department want grant applicants to be informed of the overall timeline so, drawing upon language utilized by other Department grant programs, the proposed rule adds language to let applicants know their application will be reviewed within 120 days and that a funding recommendation would be made to the board within 180 days. We anticipate that this is the maximum length needed and that most applications would beprocessed within 60-90 days.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes:

C.R.S. 25-4-1401 et. Seq. *HIV Treatment & Prevention Resources*

SB146 amended the *HIV Infection and Acquired Immune Deficiency Syndrome* statutes in 2016, resulting in the relocation of sections 25-4-1411, C.R.S through 25-4-1415, C.R.S., to sections 25-4-1401, C.R.S. through 25-4-1405, C.R.S. Due to an oversight, the act did not repeal the previous version of Part 14 as it existed prior to July 1, 2016 when these amendments became effective. Because of this oversight, the previous version of Part 14 as it existed in 2015 that was not relocated by the act is printed below. The proposed rules are not affected. The rules comport with the requirements delineated in Part 4 and Part 14 of Article 4, Title 25, C.R.S.

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

☒ Yes, in part, __SB16-146__; rules are ___ authorized ☒ required.
☐ No

Is this rulemaking due to a federal statutory or regulatory change?

☐ Yes
☒ No

Does this rule incorporate materials by reference?

☐ Yes
☒ No

Does this rule create or modify fines or fees?

☐ Yes
☒ No

REGULATORY ANALYSIS
for Amendments to
6 CCR 1009-10
Colorado HIV and AIDS Prevention Grant Program

- 1. A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

Classes of persons affected by the proposed rule changes include 1) persons living with HIV/AIDS, 2) persons at risk for acquiring HIV, 3) local health departments, and 4) community based organizations.

Persons living with or at risk for acquiring HIV will garner the most benefit from the proposed rule changes. Updating the statutory citations aligns the rule with statute and reduces confusion for readers of the rule. The benefit of allowing the Department to solicit applications more than twice a year is that it increases the Department's ability to issue funding to assist partner agencies to respond to emerging or emergency issues, such as an outbreak of acute HIV infection in an at risk population.

- 2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.**

This change will better align rule and statute and provide the Department more flexibility in funding programs that impact persons living with, or at risk for acquiring HIV infection.

- 3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

The proposed rule revision will not affect costs to the Department, any affiliated agencies or state revenue. Staff time is needed to develop and oversee a Request for Application (RFA) process; however, the Department wants to allow for multiple RFAs in a given fiscal year, when the Department determines that it is necessary to address emerging issues and emergencies, or to enable partners to utilize every opportunity to prevent HIV and AIDS.

- 4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.**

The benefit of these changes includes the Department's ability to solicit grant applications more than twice per fiscal year, if needed. Lifting the restriction will allow the Department, in consultation with the Advisory Committee, to respond to emerging issues by providing funding for our partner agencies' HIV prevention related activities, or to respond to an emergency situation such as an outbreak of acute HIV in an at risk population.

Inaction would result in a delay in the Department's ability to rapidly respond to emerging issues, such as a HIV related outbreak, or to redirect previously unspent funds to critical HIV prevention projects. These types of delays could result in more persons acquiring HIV or other sexually transmitted infections (STIs).

- 5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**

No alternative methods are available to achieve the purposes of the authorizing statutes.

- 6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.**

No alternative methods for achieving the purpose of the proposed rules were considered because there are no other available mechanism to administer the Colorado HIV and AIDS Prevention Grant Program. The Department proposes repealing the restriction regarding the limit of two solicitations for grant applications per fiscal year.

- 7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.**

Not applicable.

STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1009-10
Colorado HIV and AIDS Prevention Grant Program

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

AIDS Service Organizations, Community Based Organizations, “Mod-Squad” Participants (activists), The Alliance for HIV Care the Prevention (CDPHE/Gov appointed advisory group to the Branch), Colorado Organizations Responding to AIDS - CORA (Lobbying group), State and Local Health Department Staff, Ryan White Part A Planning Council Members, Members of the Positive Women’s Network (PWN), and other individuals interested in STI/HIV/VH related issues and rules.

Targeted outreach was conducted at several points through a series of 3 facilitated meetings to gather feedback specific to proposed integration of 6 CCR 1009-9 into the communicable disease rule 6 CCR 1009-1 as well as to proposed amendments to 6 CCR 1009-10.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

☒ Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.

☐ Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department’s efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The Department held meetings with stakeholders to discuss concerns and answer questions. There were to major concerns expressed by stakeholders about the Department’s proposed amendments to this rule.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

This proposal is in response to Senate Bill146, known as STI Modernization that was passed in this last legislative session. This bill combined Parts 4 and 14 in Article 4 of Title 25 (the public health laws on STI and HIV) to make protections and policies apply equally to all sexually transmitted infections, including HIV and relevant forms of viral hepatitis, thus, bringing them in line with current medical knowledge and practice, as well as to reduce stigma that may be associated with HIV. This is a critical component in the advancement of HEEJ in our STI and HIV related programming.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**Disease Control and Environmental Epidemiology Division****COLORADO HIV AND AIDS PREVENTION GRANT PROGRAM****6 CCR 1009-10**

Adopted by the Board of Health on _____, 2017. Effective _____, 2017.

1.1 Definitions

B. "Advisory Committee" means the seven member committee set forth in Section ~~25-4-1414~~ **25-4-1404**(1) (a), C.R.S. that is responsible for overseeing the Colorado Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) Prevention Program that shall fund medically accurate and evidence based HIV and AIDS prevention and education programs through a competitive grant process pursuant to Section ~~25-4-1413~~ **25-4-1403**, C.R.S.

D. "Colorado HIV and AIDS Prevention Grant Program" (CHAPP) means the grant program created to address local community needs in the areas of medically accurate HIV and AIDS prevention and education through a competitive grant process established pursuant to Section ~~25-4-1413~~ **25-4-1403**(1), C.R.S. administered by the Disease Control and Environmental Epidemiology Division at the Colorado Department of Public Health and Environment.

1.3 Procedures for Grant Application

B. Timelines for Grant Application

Grant applications may be solicited ~~up to two times each fiscal year,~~ on dates determined by the Division and in consultation with the Advisory Committee. APPLICATIONS WILL BE REVIEWED WITHIN 120 DAYS OF SUBMISSION AND REFERRAL OF RECOMMENDED APPLICATIONS TO THE BOARD OF HEALTH WILL BE WITHIN 180 DAYS OF SUBMISSION.

1.5 Criteria for Selecting Entities

A. The Division shall solicit competitive applications. The Advisory Committee shall review applications received pursuant to Section ~~25-4-1413~~ **25-4-1403** and Section ~~25-4-1414~~ **25-4-1404** C.R.S. and submit to the Board and the Executive Director of the Department recommended recipients, recommended grant amounts, and the duration of each recommended grant. In making recommendations for grants, the Advisory Committee shall follow the purpose of the program as outlined in section ~~25-4-1413~~ **25-4-1403**.

F. The Board shall have final authority to approve the grants administered under Section ~~25-4-1414~~ **25-4-1404** and Section ~~25-4-1413~~ **25-4-1403** C.R.S.

1.6 Awarding of Program Grants

33 *****

34 B. Any actual or prospective applicant who is aggrieved in connection with the solicitation or award
35 of a contract pursuant to Section ~~25-4-1413~~ **25-4-1403** may protest to the Executive Director of
36 the department or his/her designee.

37 *****

38 4. At the discretion of the Board, a protest may result in changes in the final selection of
39 entities receiving awards, the amount and duration of awards, and the termination of
40 contracts or other agreements that were awarded pursuant to Section ~~25-4-1413~~ **25-4-**
41 **1403.**

42 *****



Notice of Public Rule-Making Hearing

March 15, 2017

ID #: 89

NOTICE is hereby given pursuant to the provisions of §24-4-103, C.R.S.; that the Colorado Board of Health will conduct a public rule-making hearing on:

Date: March 15, 2017

Time: 10:00 AM

Place: Sabin-Cleere Conference Room, Building A, 1st Floor, 4300 Cherry Creek Drive South, Denver, CO 80246

To consider the promulgation/amendments or repeal of:

CCR Number(s)

6 CCR 1009-10, Colorado HIV and AIDS Prevention Grant Program

The proposed rules have been developed by the following division or office of the Colorado Department of Public Health and Environment:

Disease Control and Environmental Epidemiology

Statute(s) that requires or authorizes the Board of Health to promulgate, amend, or repeal this rule:

Statute(s)

§25-4-1401 et seq, C.R.S.

Agenda and Hearing Documents

The Board of Health agenda and the proposed rules, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available, at least seven (7) days prior to the meeting, on the Board's website, <https://colorado.gov/cdphe/boh>.

For specific questions regarding the proposed rules, contact the division below:

Disease Control and Environmental Epidemiology Division, A3-3620, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-2358.

Participation

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments, or by making oral comments at the hearing. At the discretion of the Chair, oral testimony at the hearing may be limited to three minutes or less depending on the number of persons wishing to comment.

Written Testimony

Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rule-making hearing.

Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Jamie L. Thornton, Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, EDO-A5, Denver, Colorado 80246-1530 or by e-mail at: cdphe.bohrequests@state.co.us

Written testimony is due by 5:00 p.m., Thursday, March 9, 2017.

Deborah Nelson, Board of Health Administrator

Date: 2017-01-24T11:21:16

Notice of Proposed Rulemaking

Tracking number

2017-00051

Department

1000 - Department of Public Health and Environment

Agency

1011 - Health Facilities and Emergency Medical Services Division (1011, 1015 Series)

CCR number

6 CCR 1015-4

Rule title

STATEWIDE EMERGENCY MEDICAL AND TRAUMA CARE SYSTEM

Rulemaking Hearing

Date

03/15/2017

Time

10:00 AM

Location

Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246

Subjects and issues involved

To consider proposed amendments to 6 CCR 1015-4, Chapter 3, Statewide Emergency Medical and Trauma Care System, Designation of Trauma Facilities.

Statutory authority

§25-3.5-704, C.R.S

Contact information

Name

Grace Sandeno

Title

EMTS Trauma Section Manager

Telephone

303-692-2983

Email

grace.sandeno@state.co.us



Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the State Board of Health

From: Grace Sandeno, Trauma Section Manager, Emergency Medical and Trauma Services Branch

Through: D. Randy Kuykendall, Division Director, Health Facilities & Emergency Medical Services, D.R.K.

Date: January 18, 2017

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1015-4 Statewide Emergency Medical and Trauma Care System, Chapter Three - Designation of Trauma Facilities with a request for a rulemaking hearing to be set for March of 2017

Trauma designation determines which injuries a hospital can treat. The goal is to ensure that patients receive the appropriate level of care for their injuries. However, changes in medical practice and population growth in Colorado have resulted in hospitals providing a higher level of care without obtaining a higher level designation. The Department, the Statewide Trauma Advisory Committee and interested stakeholders developed a task force to review the current rules regarding the scope of services offered by designated trauma centers. The proposed rule changes are to ensure that patient safety and adequate care are provided by standardizing expectations about what will be available in facilities choosing to expand their scope of care beyond the minimum requirements for the designation level. The changes do not affect the current standards for Level III and IV trauma designation but lay out additional requirements about what is expected of a trauma center providing an expanded scope of care.

During the scope of care rule revision, it became necessary to implement some additional standards for the quality improvement process at Level III and IV trauma centers with expanded scope of care. Staff and the task force worked together to revise the current rules in Section 308 to include performance improvement processes which apply to expanded scope facilities. In addition, the group reorganized the entire section into a more logical format.

While these issues were being explored, the American College of Surgeons (ACS) announced that it would be increasing fees and moving to an annual payment structure. Currently, any designated trauma center in Colorado wishing to be verified by the ACS is paying the Department to set up the review. Given the fee increases and change to annual payment, the Division is also changing its fee structure to an annual payment structure. The Division will no longer facilitate payment to the ACS; after the implementation of the rule change, any hospital wishing to be ACS verified will pay the ACS directly.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY

for Amendments to

6 CCR 1015-4 Statewide Emergency Medical and Trauma Care System, Chapter Three - Designation
of Trauma Facilities

Basis and Purpose.

The proposed rule amendments will provide clarity regarding the minimum requirements for a facility that wishes to offer an expanded scope of care. They also create a standard by which the Department can ensure consistency of trauma care across the state. The requirements related to trauma quality improvement for Level III to V facilities were prioritized, moved and modified to account for expanded scope of care.

The fee changes are brought about by changes made by the American College of Surgeons (ACS), including fee increases and moving to an annual payment schedule. The fee structure being proposed in the amendments will match the ACS's move to an annual payment. In addition, the department will no longer collect fees related to ACS verification; the department will only collect those fees associated with state designation.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes:

§ 25-3.5-704, C.R.S

Is this rulemaking due to a change in state statute?

_____ Yes, the bill number is _____. Rules are ____ authorized ____ required.
___X___ No

Is this rulemaking due to a federal statutory or regulatory change?

_____ Yes
___X___ No

Does this rule incorporate materials by reference?

_____ Yes
___X___ No

If "Yes," the rule needs to provide the URL of where the material is available on the internet (CDPHE website recommended) or the Division needs to provide one print or electronic copy of the incorporated material to the State Publications Library. § 24-4-103(12.5)(c), C.R.S.

Does this rule create or modify fines or fees?

___X___ Yes
_____ No

REGULATORY ANALYSIS

for Amendments to

6 CCR 1015-4 Statewide Emergency Medical and Trauma Care System, Chapter Three - Designation of Trauma Facilities

1. A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The proposed rule changes will affect all designated trauma facilities in varying ways. Moving to an annual payment plan from a triennial plan will allow for facilities to more accurately budget payments. The changes to fees and the fee structure enable the Department to cover anticipated costs for the next three year cycle and allow the Department to facilitate state designation without involvement in the American College of Surgeons verification fee payments.

Currently there are 82 designated trauma facilities within the state: 3 Level I facilities, all of which are ACS verified; 13 Level II facilities, all of which are ACS verified; 21 Level III facilities, one of which is verified; 44 Level IV/V facilities, none of which are ACS verified; and one Regional Pediatric Trauma Center (RPTC), which is ACS verified. The fee change will have the following effects on the individual facilities:

Level	Current Fee New Facility Designation	New Fee	Percentage Change
I	\$20,000	\$17,500	-12.50%
II	\$19,800	\$17,500	-11.62%
III	\$14,330	\$11,300	-21.14%
IV/V	\$6,800	\$8,500	25.00%
RPTC	\$20,000	\$17,500	-12.50%

Level	Current Fee Replacement Facility	New Fee	Percentage Change
I	\$8,700	\$6,500	-25.29%
II	\$8,100	\$6,500	-19.75%
III	\$3,080	\$1,800	-41.56%
IV/V	\$2,800	\$1,800	-35.71%
RPTC	\$8,700	\$6,500	-25.29%

Level	Current Fee Existing Facility Designation	New Fee	Percentage Change
I ACS (3 Facilities)	\$34,200	\$24,300	-28.95%
I Non ACS (0 Facilities)	\$34,200	\$36,900	7.89%
II ACS (13 Facilities)	\$34,200	\$24,300	-28.95%
II Non ACS (0 Facilities)	\$34,200	\$36,900	7.89%

III ACS (1 Facility)	\$16,600	\$15,000	-9.64%
III Non ACS (20 Facilities)	\$16,600	\$21,000	26.51%
IV Non ACS (>15,000) (7 Facilities)	\$11,100	\$15,000	35.14%
IV/V Non ACS (5,000-14,999) (17 Facilities)	\$8,000	\$12,000	50.00%
IV/V Non ACS (<5000) (20 Facilities)	\$6,800	\$9,000	32.35%
RPTC ACS (1 Facilities)	\$34,200	\$24,300	-28.95%
RPTC Non ACS (0 Facilities)	\$34,200	\$36,900	7.89%

Other major amendments to the rule include the introduction of the necessary platform a facility needs to offer for an expanded scope of care beyond its designated level. This addition to the rules will only affect Level III and IVs. The expanded scope of services will be optional for facilities and creates no additional burden on facilities unless they choose to offer expanded services.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Currently, there are a number of Level III and IV trauma centers offering an expanded scope of care. The absence of rules regarding this issue has made it difficult to standardize and regulate these services throughout the state. With the introduction of the proposed new Section 306, patients can be assured that similar care meets similar standards across the state. Facilities will also be prepared with the information they need to make a business decision to offer expanded scope services.

The revision of current Section 308 will standardize quality improvement processes throughout the entire system for level III-V facilities.

The fee restructure to an annual payment will ensure that facilities have accurate fees accounted for in their annual budget, instead of having to factor it in every 3 years. The increase in fees for the state designation process reflects the direct and indirect costs related to the state designation process. Finally, removing the Department from passing through ACS verification fees will simplify payments for both the department and the facility.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There is no anticipated direct cost increase to the agency for the enforcement of the proposed rule changes. The agency will modify current processes to accommodate the new rules. While some fees are being increased, others are being reduced. The benefit of moving to an annual fee structure, is that the triennial payment methodology created significant variances in the revenue. This variance will be eliminated by having all designated facilities submitting annual payments. This, coupled with the Department no longer collecting fees on behalf of the American College of Surgeons, makes the fee

changes neutral for TABOR purposes. The Department anticipates an average annual cost of \$421,546 per year to perform the work required under the statute and this regulation. The Department anticipates that the revenue will be between \$445,700 and \$459,355. The additional revenue is anticipated to be slightly higher than expenses. This revenue, retained in fund balance, will allow the Department to anticipate future expenses such as travel increases and increased cost for trauma reviewers. The Department will continue to monitor revenue and expenses to ensure the fund does not exceed the 16.5% statutory limitation on fund balances.

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The financial cost of the rule change is relatively minimal to high level facilities. This will be the first fee increase in the 18 years of the program for the smallest trauma centers and could result in facilities deciding not to continue with designation. However, facilities appear to be universally in favor of changing to an annual fee rather than a triennial fee as this is much easier to budget for.

The cost of meeting the new scope of care regulations should also be relatively minimal to most level III and IV facilities. Most of the items required are already in place in facilities and merely require additional policies to provide best practice guidelines for care.

Inaction will leave the state's trauma program without the means to hold facilities to the medical standards expected for the same patients when treated at a higher level of care. Without a fee increase, the state's trauma program would not be able to support itself based on the current fee revenue.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The proposed amendments related to expanded scope of care are only affecting facilities that choose to offer expanded services. By placing them in rule, the department can ensure standardization in the care patients receive. The changes to the quality improvement standards are largely organizational or directly related to the expanded scope issue and thus only affect facilities choosing to offer additional services. The fee change is unavoidable as program costs have increased.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

The introduction of rules related to expanded scope of care is to provide structure for those facilities that choose to offer such services. The goal of the proposed language is to maintain consistent standards for care of patients across the trauma system. This is being put into rule instead of policy or guidance to ensure that all facilities are operating at the same level in providing patient care. The alternative would be to continue as things are without the ability to enforce uniform standards across the designation levels.

Alternate fee structures were proposed to the public with more of the system costs being assumed by smaller facilities, but this proposal was rejected by stakeholders as onerous for those facilities that are least able to afford participation.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

A budget analysis of previous years' revenues and expenditures along with projections for the next three years were used to determine potential fee alternatives. In addition, historical data on trauma designation site reviews and previous deficiency lists were used to discuss possibilities for development of the scope of care rules and additions to the quality improvement rules.

STAKEHOLDER COMMENTS

for Amendments to

6 CCR 1015-4 Statewide Emergency Medical and Trauma Care System, Chapter Three - Designation of Trauma Facilities

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

Since January 7, 2016, an “expanded scope of care” sub-committee has been meeting roughly on a monthly basis. The sub-committee was formed from the Statewide Trauma Advisory Committee (STAC) and is made up of representatives from Level I, II, III, and IV trauma facilities. All meetings have been open to the public and published in advance through the EMTS on the GO weekly newsletter. Minutes are published on our public website for viewing and comment. Updates on its progress have been provided to the STAC committee and SEMTAC as a whole on Jan 13-14, 2016, April 13-14, 2016, July 13-14, 2016, and Oct 12-13, 2016.

The members of the sub-committee are:

Charles Mains -SEMTAC member, STAC chair
Wade Smith - Level I orthopedist
George Chaus - Level II orthopedist
Joel Schaefer - Level II Trauma Medical Director
Carole Ann Banville - Level II Trauma Program Manager
Jodie Taylor - Level III Trauma Medical Director
Nancy Frizell - Level III Trauma Program Manager
Doug Huene - Level IV orthopedist
Bruce Gross - Level IV Trauma Medical Director
Paula Golden - Level IV Trauma Program Manager
Patti Thompson - Rural Administrator

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

☒ Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.

☐ Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department’s efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The proposed rule changes are to ensure that patient safety and adequate care are provided by standardizing expectations about what will be available in facilities choosing to expand their scope of care beyond the minimum requirements for the designation level. Stakeholder comment was accepted by the task force and collated by the department with feedback and edits based on that comment provided at each of the monthly meetings.

Staff and the task force worked together to revise the current quality improvement rules in Section 308 to include performance improvement processes which apply to expanded scope facilities. In addition, the group reorganized the entire section into a more logical format.

There has been little to no comment on the re-organization of the trauma quality improvement rules. Any relevant feedback on the scope of care rules above, resulted in concomitant changes in the related quality rules.

Stakeholders were provided with several scenarios to arrive at a balanced program budget and helped the department select a fee structure that provided the most benefit to the most under-resourced facilities.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

The proposed rule will ensure that the expanded scope of care model will provide consistent and equitable care for patients whether in a rural or urban environment.

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
Health Facilities and Emergency Medical Services Division**

STATEWIDE EMERGENCY MEDICAL AND TRAUMA CARE SYSTEM

6 CCR 1015-4

Adopted by the Board of Health on _____, 2016. Effective _____, 2016.

CHAPTER THREE - DESIGNATION OF TRAUMA FACILITIES

Purpose and Authority for Rules

These rules address the designation process for trauma facilities, the enforcement and disciplinary procedures applicable to trauma facilities, and the designation criteria for Level I through V trauma facilities. The authority for the promulgation of these rules is set forth in Section 25-3.5-701 *et seq.*, C.R.S.

Index to Sections

300 - Definitions

301 - Designation Process

302 - Enforcement and Disciplinary Process

303 - Trauma Facility Designation Criteria - Level I

304 - Trauma Facility Designation Criteria - Level II

305 – Trauma Quality Improvement Programs for Designated Trauma Centers Levels III-V

306 – Expanded Scope of Care for Designated Trauma Centers, Level III-IV

307 - Trauma Facility Designation Criteria - Level III

308 - Trauma Facility Designation Criteria - Level IV

309 - Trauma Facility Designation Criteria - Level V

~~**308 – Trauma Quality Improvement Programs for Designated Trauma Centers Levels III – V**~~

310 - Burn Unit Referral Criteria

311 - Trauma Facility Designation Criteria - Regional Pediatric Trauma Centers

300. Definitions

1. Advanced Trauma Life Support (ATLS) or equivalent - The training provided in accordance with the American College of Surgeons curriculum for Advanced Trauma Life Support. An equivalent program is one which has been approved by the department. The burden shall be upon the applicant to prove that the program is equivalent to ATLS.

2. Consultation - Telephone or telemedicine, as specified in this chapter, to determine the necessity of transfer and the circumstances of transfer, including but not limited to additional diagnostic/therapeutic issues, availability of resources and weather conditions. Consultation

occurs between the attending trauma surgeon (or physician in a Level IV facility) of a referring facility and an attending trauma surgeon (who is a member of the attending staff) at a receiving facility. Trauma consultation shall include written documentation completed by the trauma surgeon at the Levels II and III facilities, or the attending physicians at the Level IV facility. Disagreements as to patient disposition will be documented at both facilities.

3. Core group - the core group of surgeons is comprised of those surgeons identified by the trauma medical director who provide coverage for at least 60 percent of the trauma call schedule.

4. Critical Injuries (Adult) - Critical injuries for adult patients are defined as any of the following:

- A. Bilateral pulmonary contusions requiring nontraditional ventilation,
- B. Multi-system trauma with pre-existing coagulopathy (hemophilia),
- C. Pelvic fractures with unrelenting hemorrhage,
- D. Aortic tears,
- E. Liver injuries with vena cava injury or requiring emergency surgery with liver packing.

5. Critical Injuries (Pediatric) - Critical injuries for pediatric patients (age 0-14 years) are defined as any of the following:

- A. Bilateral pulmonary contusions requiring nontraditional ventilation,
- B. Multi-system trauma with pre-existing or life threatening coagulopathy (hemophilia),
- C. Pelvic fractures with unrelenting hemorrhage,
- D. Aortic tears,
- E. Liver injuries with vena cava injury or requiring emergency surgery with liver packing,
- F. Coma for longer than 6 hours or with focal neurologic deficit.

6. Department - The Colorado Department of Public Health and Environment, unless the context requires otherwise.

7. Divert - Redirection of the trauma patient to a different receiving facility. Redirection shall be in accordance with the prehospital trauma triage algorithms, as set forth in 6 CCR 1015-4, Chapter Two. Reasons for going on divert are limited to lack of critical equipment or staff; operating room, emergency department, or intensive care unit saturation; disaster or facility structural compromise.

8. **Expanded Scope of Care – An expanded scope of care is any specialty or service line that provides treatment at a trauma center beyond the minimum requirements of the trauma center’s designation level, either on a part-time or full-time basis.**

9. Key Resource Facilities - Level I and II designated trauma centers which have an expanded responsibility in providing on-going consultation, education and technical support to referring facilities, individuals, or RETACS.

10. Met with reservations - Evidence of some degree of compliance with regulatory standards, but where further action is required for full compliance.

- 64 11. Morbidity and Mortality Review - A case presentation of all complications, deaths and cases of
65 interest for educational purposes to improve overall care to the trauma patient. Case
66 presentations shall include all aspects and contributing factors of trauma care from pre-hospital
67 care to discharge or death. The multi-disciplinary group of health professionals shall meet on a
68 regular basis, but not less than every two months. The documentation of the review shall
69 include date, reason for review, problem identification, corrective action, resolution and
70 education. Documented minutes shall be maintained on site and readily available.
- 71 12. Multidisciplinary Trauma Committee - This committee is responsible for the development,
72 implementation and monitoring of the trauma program at each designated trauma center.
73 Functions include but are not limited to: establishing policies and procedures; reviewing process
74 issues, e.g., communications; promoting educational offerings; reviewing systems issues, e.g.,
75 response times and notification times; and reviewing and analyzing trauma registry data for
76 program evaluation and utilization. Attendance required will be established by the committee.
77 Membership will be established by the facility.
- 78 13. Outreach - The act of providing resources to other facilities in order to improve response to the
79 injured patient. These resources shall include, but not be limited to, clinical consultation and
80 public and professional education. Trauma centers shall be centers of excellence and shall share
81 this expertise with other trauma centers and non-designated facilities. Timely and appropriate
82 communication, consultation and feedback are imperative to patient outcome.
- 83 14. Plan of correction - Identifies how the facility plans to correct deficiencies or standards
84 identified as met with reservations cited in the department's written notice to the facility, within
85 an identified timeline. A plan of correction may also be required to meet a waiver request or
86 fulfill a request from the department to address a temporary issue identified by the department
87 or the facility.
- 88 15. Promptly Available - Unless otherwise specified, promptly available shall be a facility-defined
89 timeframe based on current standards of clinically appropriate care.
- 90 16. Quality/Performance Improvement Program - A defined plan for the process to monitor and
91 improve the performance of a trauma program is essential. This plan shall address the entire
92 spectrum of services necessary to ensure optimal care to the trauma patient, from pre-hospital
93 to rehabilitative care. This plan may be parallel to, and interactive with, the hospital-wide
94 quality improvement program but shall not be replaced by the facility process.
- 95 17. Regional Emergency Medical and Trauma Advisory Council (RETAC) - The representative body
96 appointed by the governing bodies of counties or cities and counties for the purpose of
97 providing recommendations concerning regional area emergency medical and trauma service
98 plans for such counties or cities and counties.
- 99 18. Scope of Care – A scope of care is a description of the facility's capabilities to manage the
100 trauma patient. This description must include administrative support and specialty availability
101 that ensures continuity of care for all admitted patients.
- 102 19. State Emergency Medical and Trauma Services Advisory Council (SEMTAC) - The council created
103 in the department pursuant to Section 25-3.5-104, C.R.S.
- 104 20. Special Audit for Trauma Deaths - All trauma deaths shall be audited. A comprehensive review
105 audit shall be initiated by the Trauma Medical Director in Levels I, II, III facilities and by the
106 appropriate personnel designated by the Level IV and V facilities. The trauma nurse coordinator

- 107 shall participate in these audits. A written critique shall be used to document the process to
108 include the assessment, corrective action and resolution.
- 109 **21.** Trauma Nurse Coordinator - The terms "trauma nurse coordinator," "trauma coordinator" and
110 "trauma program manager" are used interchangeably in these regulations (6 CCR 1015). The
111 trauma nurse coordinator (TNC) works to promote optimal care for the trauma patient through
112 participation in clinical programs, administrative functions, and professional and public
113 education. The TNC shall be actively involved in the state trauma system. The essential
114 responsibilities of the TNC include maintenance of the trauma registry, continuous quality
115 improvement in trauma care, and educational activities to include injury prevention.
- 116 **22.** Trauma Nurse Core Course (TNCC) or equivalent - the training provided in accordance with the
117 Emergency Nurses Association curriculum. An equivalent program is one that has been
118 approved by the department. The burden shall be upon the applicant to prove that the program
119 is equivalent to the TNCC.
- 120 **23.** Trauma Service - The Trauma Service is an organized, identifiable program which includes: a
121 Trauma Medical Director, a Trauma Nurse Coordinator, a Multi-disciplinary Trauma Committee,
122 Quality Improvement Program, Injury Prevention and Data Collection/Trauma Registry.
- 123 **24.** Trauma Medical Director - The Trauma Medical Director is a board certified general surgeon
124 who is responsible for: service leadership, overseeing all aspects of trauma care, and
125 administrative authority for the hospital trauma program including: trauma multidisciplinary
126 committee, trauma quality improvement program, physician appointment to and removal from
127 trauma service, policy and procedure enforcement, peer review, trauma research program, and
128 key resource facility functions, if applicable; participates in the on-call schedule; practices at the
129 facility for which he/she is medical director on a full time basis; and participates in all facility
130 trauma-related committees. In Level I facilities, the Trauma Medical Director shall participate in
131 an organized trauma research program with regular meetings with documented evidence of
132 productivity. In Level IV, the Trauma Medical Director may be a physician so designated by the
133 hospital who takes responsibility for overseeing the program.
- 134 **25.** Trauma Team - A facility-defined team of clinicians and ancillary staff, including those required
135 by these rules.
- 136 **26.** Trauma Team Activation - A facility-defined method (protocol) for notification of the trauma
137 team of the impending arrival of a trauma patient based on the prehospital trauma triage
138 algorithms as set forth in 6 CCR 1015-4, Chapter Two.
- 139 **27.** Verifiable, External Continuing Medical Education (CME) - A facility-defined, trauma-related
140 continuing medical education program outside the facility, or a program given within the facility
141 by visiting professors or invited speakers, or teaching an ATLS course.
- 142 **28.** Waiver - A waiver is an exception to the trauma rules approved by the department. The request
143 for a waiver shall demonstrate that the alternative meets the intent of the rule. Waivers are
144 generally granted for a limited term and shall be granted for a period no longer than the
145 designation cycle. Waivers cannot be granted for any statutory requirement under state or
146 federal law, requirements under state licensing, federal certification or local safety, fire,
147 electrical, building, zoning or similar codes.

148 **301. Designation Process**
149

3. New Facility

B. Fee Structure

Facilities seeking simultaneous verification or consultation by the American College of Surgeons (ACS) shall pay any money associated with the verification directly to the ACS and the state designation fees identified below will be paid to the Department. If the ACS is unable to supply all required team members for the designation review, the facility shall pay the Department an additional \$3,000 per reviewer obtained by the state.

The facility shall submit the non-refundable state designation fee with its application. The new facility designation fee is:

Level I/RPTC:	\$20,000 \$17,500
Level II:	\$19,800 \$17,500
Level III:	\$14,330 \$11,300
Level IV/V:	\$6,800 \$8,500

4. Replacement Facility

B. Fee Structure

The facility shall submit the non-refundable designation fee with its application. The replacement facility designation fee is:

Level I/RPTC:	\$8,700 \$6,500
Level II:	\$8,100 \$6,500
Level III:	\$3,080 \$1,800
Level IV/V:	\$2,800 \$1,800

5. Renewal of Existing Facility

B. Fee Structure

(1) Facilities seeking state designation only:

- a. The facility shall submit the required **annual** designation fee in the manner specified by the department. The renewal of existing facility designation fee is:

Level I/RPTC:	\$34,200 \$12,300
Level II:	\$34,200 \$12,300
Level III:	\$16,600 \$7,000
Level IV/V: Emergency Department Visits > 15,000 per year	\$11,100 \$5,000
Level IV/V: Emergency Department Visits between 5,000 - 15,000 per year	\$8,000 \$4,000
Level IV/V: Emergency Department Visits between 5,000 - 9,999 per year	\$7,200
Level IV/V: Emergency Department Visits < 5,000 per year	\$6,800 \$3,000

- b. Fees submitted with the renewal application may be forfeited if the application is incomplete and the facility does not respond in a timely manner.

(2) Facilities seeking state designation and simultaneous ACS verification:

- a. **Facilities seeking verification by the American College of Surgeons (ACS) shall pay any money associated with the verification directly to the ACS and the state fees identified below.**
- b. Facilities requesting simultaneous verification by the ~~American College of Surgeons (ACS)~~ at the time of the Colorado state trauma designation survey shall pay ~~one hundred percent of any increase in the ACS verification fees over the calendar year 2010 fees~~ the following annual fee for the state designation process only:

LEVEL I/RPTC:	\$8,100
LEVEL II:	\$8,100
LEVEL III:	\$5,000
LEVEL IV/V:	N/A

- c. **If the ACS is unable to supply all required team members for the designation review, the facility shall pay the Department an additional \$3,000 per reviewer obtained by the state.**

(3) **The new fees shall be in effect on July 1, 2017, and the first annual payment shall be due on July 1 of the state fiscal year in which the current state designation expires. ~~subsequent to the effective date of these rules.~~**

7. Waivers

- D. The notice shall describe where to send comments within that 30-day period.
Comments should be directed to:

EMTS Branch ~~Section~~
ATTN: ~~Section~~ Branch Chief
CDPHE, HFEMSD-A2
4300 Cherry Creek Drive South
Denver, CO 80246

305. TRAUMA QUALITY IMPROVEMENT PROGRAMS FOR DESIGNATED TRAUMA CENTERS LEVEL III-V

1. All designated Level III-V trauma centers shall have an organized, trauma quality improvement program that demonstrates a plan, process and accountability for continuous quality improvement in the delivery of trauma care.
 - A. Each facility shall define its Scope of Care (SOC) based on the resources that are available to the facility.
 - B. Each facility shall have a formal transfer policy when specialty resources are not available.
 - C. Administration must support the trauma program and the trauma medical director in providing staff education commensurate with the level of care and based on patient population served.
2. The trauma quality plan shall address the entire spectrum of services necessary to ensure optimal care to the trauma patient, from pre-hospital to rehabilitative care. The plan shall ensure the continuity of care for all admitted patients. If the facility does not have the resources available to manage medical co-morbidities, then the patient shall be transferred.
 - A. In Level III facilities, this plan may be parallel to, and interactive with, the hospital-wide quality improvement program as defined in § 25-3-109, C.R.S. but may not be replaced by the facility process.
 - B. In Level IV- V facilities, this plan may be part of the hospital-wide quality improvement program, but must have specific defined trauma-related indicators, components and is overseen by the Trauma Medical Director (TMD). Trauma related issues must be documented separately, and the TMD has purview over any trauma issues.
 - C. This plan shall include identification of:
 - (1) The trauma center's organizational structure responsible for the administration of the plan, to include a description of who has the authority to change policies, procedures or protocols related to trauma care.
 - (2) The responsibility of the trauma medical director, in coordination with the trauma nurse coordinator, for:
 - a. The identification of and responsibility for the oversight of the plan.

- 241 b. The facility-defined standards of medical care for the trauma patient.
- 242 c. The data sources to support an effective monitoring system, to include
- 243 but not be limited to retrospective and concurrent medical record
- 244 review, including;
- 245 i. Primary level of review at least weekly.
- 246 ii. Secondary level of review TMD in collaboration with TNC at
- 247 least twice a month.
- 248 iii. Tertiary level of review at least every other month at Level IIIs
- 249 and at least quarterly at Level IV and Vs.
- 250 d. Identification of systems issues to be addressed in multidisciplinary
- 251 committee.
- 252 e. Identification of peer issues to be addressed in trauma peer review.
- 253 f. Review of all inpatients, transfers in or out and trauma deaths.
- 254 g. Provide appropriate physician, mid level, ancillary and nursing staff
- 255 education commensurate with the scope of care.
- 256 h. Provide a mechanism for external review of specialty specific trauma
- 257 cases that are not just limited to deaths.
- 258 3. The trauma quality program shall include a multidisciplinary committee responsible for trauma
- 259 program performance.
- 260 A. Membership will be established by the facility and shall include representation from
- 261 specialties that care for trauma patients.
- 262 B. The committee will establish attendance requirements.
- 263 C. The committee must meet on a regular basis, but not less than every two months for
- 264 Level III facilities and quarterly for Level IV-V facilities, to assure timely review and
- 265 corrective action.
- 266 D. The committee must review all services essential to the care and management of the
- 267 trauma patient.
- 268 E. Performance management functions include but are not limited to:
- 269 (1) A process for issue identification, case summarization, discussion, action plan,
- 270 resolution or outcome for loop closure.
- 271 (2) Initiation of corrective action as needed.
- 272 (3) A process for pre-hospital trauma care review.
- 273 (4) A process for the identification and review of facility-defined audit filters,
- 274 patient sentinel events, complications and trends.
- 275 (5) Facility specific nursing audits for nursing documentation.
- 276 (6) Establishing and enforcing policies and procedures.

- (7) Reviewing systems issues, e.g., communications, notification times, and response times.
- (8) Promoting educational offerings.
- (9) Reviewing and analyzing trauma registry data for program evaluation and utilization.
- (10) Provision for case presentations of interest for educational purposes to improve overall care to the trauma patient to including all aspects and contributing factors of trauma care from pre-hospital to discharge or death.
4. The trauma quality program shall include a method and process for conducting multidisciplinary trauma peer review comparable to the peer review defined in § 12-36.5-104 *et.seq*, C.R.S..
- A. The facility shall define standards of care for the trauma patient.
- B. The performance improvement process shall monitor compliance with, or adherence to, facility-defined standards.
- C. Documentation of findings and recommendations must be maintained with an identified reporting process for loop closure.
- D. Review any event that deviates from an anticipated outcome.
- E. Compliance with all facility trauma care policies, protocols and practice guidelines.
- F. Conducting a review of all trauma deaths with:
- (1) A report summary of the trauma peer review findings to the trauma multidisciplinary committee.
- (2) All trauma centers shall have a policy that includes the process and criteria for utilization of a resource outside the facility for specialty specific peer review. Qualifications of outside peer reviewer must be identified by the facility as defined in §12-36.5-104, C.R.S.
- (3) The deaths shall be identified as unanticipated mortality with opportunity for improvement (preventable), anticipated mortality without opportunity for improvement (potentially preventable), or mortality without opportunity for improvement (non-preventable).
5. The trauma quality program shall demonstrate accountability by:
- A. The development and implementation of on-going reporting and trending of facility-specific audit filters.
- B. Documenting and maintaining minutes available for trauma multidisciplinary committee, trauma peer review committee or any other committees used in this process. Written documentation of the process to include date, issue identification, case summarization, assessment, any corrective action, recommendations, policy revision, education and resolution.
- C. Maintaining a system (such as a log) for tracking patient disposition and deaths.
- D. Evidence of provider response times when the trauma team is activated.

E. Evidence of provider response times when consultations are required.

F. Evidence that nursing care issues are reviewed as part of the trauma program.

306. EXPANDED SCOPE OF CARE FOR DESIGNATED TRAUMA CENTERS, LEVEL III – IV

1. All designated Level III-IV trauma centers shall define their Scope of Care (SOC) based on the resources that are available at the facility. Physicians shall be allowed to transfer patients when in the best interest of the patient and shall not be encumbered by organizational restrictions to keep patients within a system. Facilities that provide an expanded scope of care shall have:

A. A written policy for the management of each expanded scope service line being offered, for example, orthopedic surgery, plastic surgery or neurosurgery.

B. A written policy and plan for patient management when each service is not available, to include:

(1) A defined service that manages inpatient care for continuity.

(2) A written plan to ensure continuity of care for all admitted patients when the service is not available.

(3) Regular communication with transport providers and referring hospitals on availability of the expanded scope service(s).

(4) Hospital defined continuity of care plan that includes time of availability and proof of communication between services.

C. Formal transfer guidelines for times when a facility does not have specialty coverage and for unusual conditions such as weather, disaster, etc.

D. Management guidelines based on the defined scope of care and nationally recognized best practice standards.

E. For Level IV facilities, if there is an emergency physician serving as the trauma medical director, there shall be a physician with surgical expertise to assist with performance improvement.

2. Mandatory Transfers and Consideration for Transfer

A. All Level III-IV Trauma Centers shall transfer patients with the following injuries, in addition to patients described in 6 CCR 1015-4, Chapter Two:

(1) Hemodynamically unstable pelvic fracture.

(2) Pelvic fracture requiring operative fixation.

(3) Fracture or dislocation with vascular disruption that cannot be revascularized by reduction

- B. All Level III and IV trauma centers shall consult the trauma surgeon at a Level I or II key resource facility regarding any multiply injured patient requiring massive transfusion protocol. The consult for consideration of transfer shall occur within 2 hours of the initiation of the massive transfusion protocol.
- C. All Level IV Trauma Centers shall transfer trauma patients under the following conditions, in addition to patients described in 6 CCR 1015-4, Chapter Two:
- (1) Bilateral femur fractures.
 - (2) Femoral shaft fracture with any of the following:
 - a. Head injury with any evidence of blood on the brain, depressed skull fracture or skull fracture with sinus involvement.
 - b. Chest injury – Multiple rib fractures > 4 unilaterally or > 2 bilaterally, or hemothorax.
 - c. Abdomen – Hollow organ or solid visceral injury, intra or retroperitoneal bleeding.
- D. All Level III-IV trauma centers shall transfer orthopedic patients if the facility does not have the resources and clinical expertise to manage medical co-morbidities such as:
- (1) Severe COPD – with home O2 requirement > 4L.
 - (2) Pulmonary hypertension.
 - (3) Critical aortic stenosis.
 - (4) CAD and/or recent MI within 6 months.
 - (5) Renal disease requiring dialysis.
 - (6) End stage liver disease – with a MELD score >19.
 - (7) Unmanageable coagulopathy.
 - (8) BMI > 40.
 - (9) Pregnancy > 20 weeks.
- E. All Level IV trauma centers with part-time specialty coverage:
- (1) Level IV facilities with part time orthopedic coverage shall not operate on femoral fractures unless there is general surgery availability.

- (2) Cases shall be reviewed for projected length of stay. If the length of stay is greater than the service coverage and general surgery availability, then the patient shall be transferred.

3. Expanded Scope Required Resources

A. An Emergency Department with:

- (1) A defined call response time for each specialty consultation.
- (2) A Massive Transfusion Protocol. If the facility initiates the MTP then immediate consultation with a higher level of care will be required to expedite transfer or discuss further stabilization.

B. An Operating Room with:

- (1) Defined operating room availability, within 30 minutes if the facility is providing emergent surgery as part of an expanded scope of care.
- (2) Anesthesia service and appropriate operating room staff shall match fully functional operating room availability.
- (3) Facilities shall match specialty provider availability with operating room availability.
- (4) Intra-operative equipment and radiology capability commensurate with the scope of care provided.

C. Inpatient services with:

- (1) Medical consultation with a physician appropriately credentialed by the facility to treat medical co-morbidities.

D. Education, including:

- (1) Administrative support for the trauma program and the trauma medical director in providing appropriate staff education commensurate with the scope of care and based on patient population served.
- (2) It is the physician specialists' responsibility to provide education to the team looking after their patients, including:
- a. Post operative care.
 - b. Complication recognition and care.
 - c. Recognition and care of hemodynamic instability.

4. Performance Improvement and Patient Safety

- A. Attendance at multidisciplinary committee shall include representation from all specialties and service lines involved in the care of trauma patients to include 50% attendance by emergency medicine, orthopedics, general surgery, anesthesia and medicine.
- B. Level III - IV facilities shall have a mechanism for outside review of specialty specific trauma cases.
- C. Facility defined specialty care filters based on the written scope of care and nationally recognized best practice guidelines.

305307. Trauma Facility Designation Criteria - Level III

306308. Trauma Facility Designation Criteria - Level IV

307309. Trauma Facility Designation Criteria - Level V

~~308. Trauma Quality Improvement Programs for Designated Trauma Centers Levels III-V~~
(COMMENT: SUBSTANCE REVISED AND MOVED TO 305. This comment is informational to assist the reader and will not be part of the published rule if adopted by the Board of Health.)

- ~~1. All designated Level III-V trauma centers shall have an organized, trauma quality improvement program that demonstrates a plan, process and accountability for continuous quality improvement in the delivery of trauma care. The program shall include, but not be limited to:~~

~~A. A plan that shall address the entire spectrum of services necessary to ensure optimal care to the trauma patient, from prehospital to rehabilitative care. This plan may be parallel to, and interactive with, the hospital-wide quality improvement program as defined in C.R.S. § 25-3-109 but may not be replaced by the facility process. In Level IV-V clinics or facilities, this plan may be part of the hospital-wide quality improvement program, but must have specific defined trauma-related indicators and components. This plan shall include identification of:~~

~~(1) The trauma center's organizational structure responsible for the administration of the plan, to include a description of who has the authority to change policies, procedures or protocols related to trauma care;~~

~~(2) The responsibility of the trauma medical director, or in Level IV-V centers the physician responsible for coordination of the service in coordination with the trauma nurse coordinator for:~~

~~a. The identification of and responsibility for the oversight of the plan;~~

~~b. Initiation of corrective action as needed;~~

~~c. Conducting a special audit of all trauma deaths with:~~

- i. ~~Written documentation of the process to include the assessment, any corrective action and resolution; and~~
- ii. ~~The deaths shall be identified as preventable, potentially preventable, or non-preventable, and~~
- iii. ~~Reporting a summary of the audit findings to the trauma multidisciplinary committee;~~
- d. ~~The facility defined standards of medical care for the trauma patient;~~
- e. ~~A process for corrective action, to include problem identification, action plan, resolution or outcome for loop closure;~~
- f. ~~The method for documentation and maintenance of minutes on site and readily available of special death audits, trauma multidisciplinary committee, or any other committees used in this process;~~
- g. ~~The process for prehospital trauma care review;~~
- h. ~~The data sources to support an effective monitoring system, to include but not be limited to retrospective and concurrent medical record review;~~
- i. ~~A process for the identification and review of facility defined patient sentinel events, complications and trends;~~
- j. ~~The development and evidence of on-going reporting and trending of facility specific audit filters to facilitate the quality improvement program to identify at a minimum, but not limited to:~~
 - i. ~~Program structure (systems issues) with: all trauma transfers in or out, except those with isolated extremity fractures;~~
 - ii. ~~Program process (medical issues) with: provider response times when the trauma team is activated; and~~
 - iii. ~~Program outcomes with compliance with: initial resuscitation and stabilization as defined in facility policy;~~
- k. ~~Facility specific nursing audits with:~~
 - i. ~~Evidence that nursing performance improvement issues are reviewed as part of the trauma program;~~
 - ii. ~~Clinical filters for nursing documentation; and~~
 - iii. ~~Ongoing monitoring and/or trending.~~
- l. ~~Methods and process for conducting multidisciplinary peer review to include;~~
- i. ~~A process of peer review as defined in C.R.S. § 12-36.5-104 et.seq. This process shall monitor compliance with, or adherence to, facility defined standards of medical care for the trauma patient. All trauma centers shall have a policy that~~

includes the process and criteria for utilization of a resource outside the facility for peer review. Documentation of findings and recommendations must be maintained with an identified reporting process for loop closure. Qualifications of outside peer reviewer must be identified by the facility as defined in C.R.S. § 12-36.5-104;

m. Provision for case presentations of interest for educational purposes to improve overall care to the trauma patient to include:

i. All aspects and contributing factors of trauma care from prehospital to discharge or death; and

ii. A review of any event that deviates from an anticipated outcome; and

iii. Documentation of the review shall include date, reason for review, problem identification, recommendations, resolution and education.

B. The trauma multidisciplinary committee is responsible for trauma program performance at each trauma center. Membership will be established by the facility and the committee will establish attendance requirements. This includes, but is not limited to:

(1) The review of all services essential to the care and management of the trauma patient;

(2) Meeting on a regular basis, but not less than every two months for Level III facilities, and quarterly for Level IV-V clinics or facilities, to assure timely review and corrective action.

(3) Performance management functions include but are not limited to:

a. Establishing and enforcing policies and procedures;

b. Reviewing process issues, e.g., communications; reviewing systems issues, e.g., response times and notification times; and promoting educational offerings; and

c. Reviewing and analyzing trauma registry data for program evaluation and utilization, with defined intervals for data collection and analysis;

i. Level III facilities shall maintain a trauma registry as required by regulation in Chapter 1;

ii. In Level IV-V clinics or facilities shall fulfill the reporting requirement for the submission of data as required by regulation in Chapter 1;

iii. In Level IV-V clinics or facilities with non-participation in the Colorado Hospital Association discharge data set, the trauma registry as defined in Chapter 1 of these rules may, at a minimum, be in the form of a hard-copy abstract approved by the department;

577 iv. ~~— Maintaining a system (such as a log) for tracking patient~~
578 disposition, and deaths.

579 ~~309~~**310.** **Burn Unit Referral Criteria**

580 *****

581 ~~310~~**311.** **Facility Designation Criteria - Regional Pediatric Trauma Center**

582 *****



COLORADO

Board of Health

Department of Public Health & Environment

Notice of Public Rule-Making Hearing

March 15, 2017

ID #: 91

NOTICE is hereby given pursuant to the provisions of §24-4-103, C.R.S.; that the Colorado Board of Health will conduct a public rule-making hearing on:

Date: March 15, 2017

Time: 10:00 AM

Place: Sabin-Cleere Conference Room, Building A, 1st Floor, 4300 Cherry Creek Drive South, Denver, CO 80246

To consider the promulgation/amendments or repeal of:

CCR Number(s)
6 CCR 1015-4, Chapter 3, Designation of Trauma Facilities Statewide Emergency Medical and Trauma Care System

The proposed rules have been developed by the following division or office of the Colorado Department of Public Health and Environment:

Health Facilities and Emergency Medical Services

Statute(s) that requires or authorizes the Board of Health to promulgate, amend, or repeal this rule:

Statute(s)
§25-3.5-704, C.R.S.

Agenda and Hearing Documents

The Board of Health agenda and the proposed rules, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available, at least seven (7) days prior to the meeting, on the Board's website, <https://colorado.gov/cdphe/boh>.

For specific questions regarding the proposed rules, contact the division below:

Health Facilities and Emergency Medical Services Division, EMS 8300, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-6339.

Participation

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments, or by making oral comments at the hearing. At the discretion of the Chair, oral testimony at the hearing may be limited to three minutes or less depending on the number of persons wishing to comment.

Written Testimony

Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rule-making hearing.

Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Jamie L. Thornton, Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, EDO-A5,

Denver, Colorado 80246-1530 or by e-mail at: cdphe.bohrequests@state.co.us

Written testimony is due by 5:00 p.m., Thursday, March 9, 2017.

A handwritten signature in black ink, appearing to read "D Nelson", written in a cursive style.

Deborah Nelson, Board of Health Administrator

Date: 2017-01-23T07:47:37

Notice of Proposed Rulemaking

Tracking number

2017-00055

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Unemployment Insurance

CCR number

7 CCR 1101-2

Rule title

REGULATIONS CONCERNING EMPLOYMENT SECURITY

Rulemaking Hearing**Date**

03/07/2017

Time

11:00 AM

Location

633 17th Street, 12th Floor, Conference Room 12A, Denver, CO 80202

Subjects and issues involved

To add a new section providing guidance to enhance employers knowledge of the factors used to determine a workers classification.

Statutory authority

Sections 8-72-102 and 24-4-103, CRS

Contact information**Name**

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DRAFT Rules

PART XVII ~~EMPLOYEE MISCLASSIFICATION~~ WORKER CLASSIFICATION

17.1 CLASSIFICATION GUIDANCE AND CLARIFICATION

17.1.1 STATUTORY REFERENCE: 8-70-115, C.R.S.

17.1.2 FACTORS TO CONSIDER. IN DETERMINING WHETHER A WORKER IS AN EMPLOYEE OR INDEPENDENT CONTRACTOR, THE DEPUTY, HEARING OFFICER, OR PANEL CONSIDERS THE NINE FACTORS ENUMERATED UNDER § 8-70-115, C.R.S., AS WELL AS ANY OTHER RELEVANT FACTORS, INCLUDING BUT NOT LIMITED TO:

- .1 THE RELATIONSHIP BETWEEN THE COMPANY FOR WHOM SERVICES ARE PERFORMED AND THE WORKER.
- .2 THE TOTALITY OF THE CIRCUMSTANCES OF THE RELATIONSHIP BETWEEN THE COMPANY FOR WHOM SERVICES ARE PERFORMED AND THE WORKER.

17.1.3 CUSTOMARILY ENGAGED IN AN INDEPENDENT TRADE, OCCUPATION, PROFESSION OR BUSINESS. WHETHER A WORKER IS CUSTOMARILY ENGAGED IN AN INDEPENDENT TRADE, OCCUPATION, PROFESSION OR BUSINESS IS DEPENDENT UPON WHETHER THE WORKER ENGAGES IN A BUSINESS THAT IS SEPARATE AND DISTINCT FROM THE COMPANY FOR WHOM SERVICES ARE PERFORMED. WHETHER A WORKER COULD OR DOES PERFORM SERVICES FOR MULTIPLE BUSINESSES MAY BE CONSIDERED IN THE DIVISION'S DETERMINATION REGARDING THE WORKER AS AN EMPLOYEE OR AN INDEPENDENT CONTRACTOR, BUT IT IS NOT SOLELY DISPOSITIVE IN THAT DETERMINATION.

IN REACHING ITS DETERMINATION, THE DIVISION TREATS EVERY WORKING RELATIONSHIP AS UNIQUE. THE DIVISION DOES NOT RELY ON ANY SINGLE FACTOR, BUT RATHER THE TOTALITY OF THE CIRCUMSTANCES AND ALL RELEVANT FACTORS IN ACCORDANCE WITH APPLICABLE STATUTES AND CASES. WHILE THESE FACTORS MAY REPRESENT CONSIDERATION AS TO THE STATUS OF THE WORKING RELATIONSHIP, THE CIRCUMSTANCES DIFFER FROM CASE TO CASE AND ADDITIONAL FACTORS NOT LISTED MAY BE CONSIDERED. NO SINGLE SET OF FACTORS IS EXCLUSIVE, BUT THE FOLLOWING FACTORS ARE CONSIDERED WHEN DETERMINING WHETHER AN EMPLOYMENT RELATIONSHIP EXISTS UNDER THE COLORADO EMPLOYMENT SECURITY ACT:

- .1 THE DATE THE WORKER'S BUSINESS STARTED AND WHETHER THE COMPANY REQUIRED THE WORKER TO START THE BUSINESS IN ORDER TO PERFORM SERVICES FOR THE COMPANY.
- .2 IF THE WORKER MARKETS HIS OR HER OWN BUSINESS AND THE MEANS USED FOR MARKETING.
- .3 IF THE WORKER'S BUSINESS IS VIABLE BEYOND THE SCOPE OF THE AGREEMENT BETWEEN THE WORKER AND THE COMPANY FOR WHOM THE SERVICES ARE CURRENTLY BEING PERFORMED, INCLUDING WHETHER:
 - .1 THE WORKER'S BUSINESS IS ECONOMICALLY INDEPENDENT FROM OR IS WHOLLY DEPENDENT UPON CONTINUED WORK WITH THE COMPANY FOR WHOM SERVICES ARE PERFORMED.

- .2 THERE IS A PERMANENT OR CONTINUOUS WORKING RELATIONSHIP BETWEEN THE WORKER AND THE COMPANY, AND ANY INDUSTRY-SPECIFIC CONDITIONS RELEVANT TO THE PERMANENCY.
- .4 IF THE WORKER HAS A BUSINESS INVESTMENT SUCH THAT THERE IS A RISK OF SUFFERING A LOSS ON THE PROJECT.
- .5 IF THE WORKER USES HIS OR HER OWN EQUIPMENT WHILE ON THE PROJECT.
- .6 IF THE RATE AND METHOD OF PAYMENT IS NEGOTIATED BY THE PARTIES, IS ESTABLISHED BY THE WORKER, OR IS ESTABLISHED BY THE COMPANY FOR WHOM SERVICES ARE PERFORMED.
- .7 IF THE WORKER MAY EMPLOY OR DOES EMPLOY OTHERS TO COMPLETE THE WORK.
- .8 IF THE WORKER CARRIES HIS OR HER OWN LIABILITY INSURANCE.
- .9 THE NUMBER OF HOURS PER WEEK THAT THE WORKER PERFORMS SERVICES FOR THE COMPANY.
- .10 IF THE WORKER SEEKS OTHER WORK FOR THE WORKER'S OWN BUSINESS IN THE SAME FIELD AS HE OR SHE PERFORMS FOR THE COMPANY.
- .11 IF THE WORKER HAS THE ABILITY TO ACCEPT OR REJECT WORK BEING OFFERED.
- .12 IF THE SERVICE PROVIDED BY THE WORKER IS AN INTEGRAL PART OF THE COMPANY'S BUSINESS.

17.1.4 WORKER-BUSINESS RELATIONSHIP.

- .1 THE EVIDENCE AND CIRCUMSTANCES MUST DEMONSTRATE THAT THE WORKER IN QUESTION IS AN INDEPENDENT CONTRACTOR.
- .2 A WORKER COULD STILL BE DETERMINED TO BE IN COVERED EMPLOYMENT, EVEN IF THE WORKER SIGNS A CONTRACT OR AN AGREEMENT, IF THE FACTS OF THE RELATIONSHIP ESTABLISH THAT AN EMPLOYMENT RELATIONSHIP EXISTS.
- .3 THE EXISTENCE OF AN AGREEMENT BETWEEN THE WORKER AND THE COMPANY FOR THE WORKERS' COMPENSATION COVERAGE IS NOT DETERMINATIVE OF THE WORKER-BUSINESS RELATIONSHIP FOR UNEMPLOYMENT INSURANCE PURPOSES.

17.1.5 BURDEN OF PROOF. THE COMPANY FOR WHOM SERVICES ARE PERFORMED HAS THE BURDEN OF ESTABLISHING, BY A PREPONDERANCE OF THE EVIDENCE, THAT A WORKER IS, IN FACT, FREE FROM CONTROL AND DIRECTION IN THE PERFORMANCE OF THE WORK AND IS CUSTOMARILY ENGAGED IN AN INDEPENDENT TRADE, OCCUPATION, OR PROFESSION RELATED TO THAT WORK. A WRITTEN DOCUMENT MAY ESTABLISH A REBUTTABLE PRESUMPTION OF INDEPENDENT CONTRACTOR STATUS ONLY IF IT INCLUDES THE APPLICABLE FACTORS SET FORTH IN § 8-70-115 (1)(c), C.R.S., AND THE DISCLOSURE SET FORTH IN § 8-70-115 (2), C.R.S. WHILE AN AGREEMENT THAT MEETS THE REQUIREMENTS OF § 8-70-115 (1) (c) MAY SHIFT THE BURDEN OF PROOF TO THE WORKER OR THE DIVISION, SUCH AN AGREEMENT IS NOT, IN ITSELF, CONCLUSIVE OF WHETHER THE WORKER IS, IN FACT, AN EMPLOYEE OR AN INDEPENDENT CONTRACTOR.

17.1.6 COMPLIANCE ASSISTANCE. A BUSINESS MAY REQUEST THAT THE DIVISION PROVIDE EDUCATIONAL INFORMATION AS IT RELATES TO PROPER WORKER CLASSIFICATION. A

BUSINESS HAS FURTHER OPPORTUNITY TO REQUEST A NONBINDING ADVISORY OPINION IN ACCORDANCE WITH REGULATION 17.2.

17.2 NONBINDING ADVISORY OPINION

17.2.1 Statutory Reference: 8-72-114 (4), C.R.S.

17.2.2 Issuance of Advisory Opinion. An advisory opinion, described in 8-72-114 (4)(a), C.R.S., shall be issued only if:

- .1 The employer completes and submits a request for a written advisory opinion using such filing methods as may be prescribed by the division; and
- .2 Upon submitting the request for a written advisory opinion, the employer must submit a nonrefundable fee of \$100; and
- .3 In conjunction with the request, as solicited by the division, the employer must provide information and evidence as described in 8-70-115, C.R.S.

~~17.1~~ 17.3 MISCLASSIFICATION WORKER CLASSIFICATION INVESTIGATIONS AND FINES

~~17.1.1~~ 17.3.1 Statutory Reference: 8-72-114 (3), C.R.S.

~~17.1.2~~ 17.3.2 Written Order. Upon conclusion of a requested investigation of misclassification, the division shall issue a written order in conjunction with an audit report including any determination of the existence of an employment relationship.

~~17.1.3~~ 17.3.3 Appeal From Determination. Any employer who wishes to appeal a determination made under the provisions of this part XVII of the regulations shall file a notice of appeal with the division. A hearing may be obtained in accordance with 8-76-113, C.R.S., and regulation 11.2.

~~17.1.4~~ 17.3.4 The Division, prior to committing department resources to a full audit under the provision of this article, shall take into consideration whether the purported acts of misclassification are inconsistent with section 8-70-115 (1) (b), C.R.S.

~~17.1.5~~ 17.3.5 Fine. As described in 8-72-114 (3)(~~Ee~~)(III), C.R.S., a fine may be imposed on an employer who misclassified an employee with willful disregard for the law. Such fine shall be imposed in the following manner:

- .1 For the first instance of such misclassification, an employer shall be fined a minimum of one hundred dollars or one hundred dollars for each day that an employee was misclassified, whichever is greater, but the fine shall not exceed five thousand dollars per misclassified employee.
- .2 For the second and any subsequent instance of such misclassification, an employer shall be fined a minimum of one thousand dollars or five hundred dollars for each day that an employee was misclassified, whichever is greater, but the fine shall not exceed twenty-five thousand dollars per misclassified employee.

**COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
STATEMENT OF BASIS AND PURPOSE FOR PROPOSED PERMANENT RULES
PUBLIC HEARING MARCH 7, 2017**

1. Summary of the basis and purpose for the rule or rule change

The following amendments are proposed to improve the Unemployment Insurance Division's administration of Articles 70 through 83, Title 8, Colorado Revised Statutes (CRS) and meet the requirements of Senate Bill 16-179.

Worker Classification (Part XVII)

To add a new section providing guidance to enhance employers' knowledge of the factors used to determine a worker's classification.

2. If emergency, give reasons

3. Authority for rule

The authority for the amendments of the rules is in § 8-72-102 C.R.S.

Rules. (1) The director of the division has the power to adopt, amend, or rescind, in accordance with section 24-4-103, C.R.S., reasonable and necessary rules relating to the administration of the "Colorado Employment Security Act" and governing hearings and proceedings under such act.

Notice of Proposed Rulemaking

Tracking number

2017-00035

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Oil and Public Safety

CCR number

7 CCR 1101-14

Rule title

UNDERGROUND STORAGE TANKS AND ABOVEGROUND STORAGE TANKS

Rulemaking Hearing**Date**

03/02/2017

Time

10:00 AM

Location

633 17th Street, Suite 500; Denver, CO 80202

Subjects and issues involved

The proposed changes include the following; adopting all codes and standards cited in 7 CCR 1101-14 by reference; providing the address of OPS where codes and standards maybe obtained; include additional language to ensure Colorado Storage Tank Regulations better align to the federal EPAs regulations related to underground storage tanks found in 40 CFR part 280 and 281. These revisions do not impact new testing requirements, nor add any additional new requirements to the August 15, 2016 adopted regulations.

Statutory authority

Title 8 Article 20 Section 102 and Article 20.5 Sections 202 and 302 of the Colorado Revised Statutes (C.R.S.

Contact information**Name**

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**COLORADO DEPARTMENT OF
LABOR AND EMPLOYMENT**

DIVISION OF OIL AND PUBLIC SAFETY

STORAGE TANK REGULATIONS

7 C.C.R. 1101-14

Effective: May 1, 2017



**STORAGE TANK REGULATIONS
COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF OIL AND PUBLIC SAFETY**

(Found at 7 C.C.R. 1101-14)

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ARTICLE 1 GENERAL PROVISIONS

Section 1-1 Statement of Basis and Purpose

These regulations are promulgated to establish rules for the design, installation, registration, construction, and operation of storage tanks used to store regulated substances (including petroleum), response to releases of regulated substances from these tanks, and to describe the financial responsibility of storage tank owner/operators. The main purpose of these regulations is to reduce damage to the environment and risk to the public caused by leaking petroleum storage tanks and to mitigate such damage effectively when it occurs.

These regulations do not apply to material classified as hazardous wastes under Subtitle C of the U.S. Solid Waste Disposal Act.

The amendment to Article 9 of these regulations is developed pursuant to the Colorado Revised Statutes 8-20.5-103(9) that created the Petroleum Cleanup and Redevelopment Fund. The rules are designed to establish the implementation and operational guidelines of this fund.

Section 1-2 Technical Rationale

The technical requirements of these regulations are supported by many studies made by petroleum industry associations, the National Fire Protection Association (NFPA), the American Society of Testing and Materials (ASTM), and by or at the behest of the U.S. Environmental Protection Agency (EPA). The requirements represent the consensus of informed persons with regard to the best methods for reducing the hazards posed by storage tanks to acceptable levels.

Section 1-3 Statutory Authority

The amendments to these regulations have been created pursuant to Title 8 Article 20 Section 102 and Article 20.5 Sections 202 and 302 of the Colorado Revised Statutes (C.R.S.). The design, construction, location, installation, and operation of liquid fuel systems and equipment and the handling of liquid fuels shall conform to the minimum standards as prescribed by the applicable sections of NFPA 30.

Section 1-4 Effective Date

These amended rules shall be effective on January 1, 2017. The prior editions of the combined UST/AST regulations were published October 15, 2014, January 1, 2014, May 1, 2013, April 14, 2011, January 1, 2009, August 1, 2008, April 30, 2006, May 30, 2005, August 1, 2004, August 1, 2002, February 1, 1999, and January 1, 1997. Prior editions of the UST rules were published effective September 30, 1995 and December 1, 1989. Prior editions of the AST rules were published effective September 30, 1995 and October 1, 1994. A prior edition of the Emission Inspection rules was published effective January 1, 1990.

Section 1-5 Definitions

Terms in these regulations shall have the same definitions as those found in Articles 20 and 20.5 of Title 8 of the Colorado Revised Statutes. In addition, unless the context otherwise requires:

"Abandoned tank" means an underground or aboveground petroleum storage tank that the current tank owner or operator or current property owner did not install, has never operated or leased to another for operation, and had no reason to know was present on the site at the time of site acquisition.

"Aboveground storage tank" (AST) means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, constructed of non-earthen materials, including but not limited to concrete, steel, or plastic, which provide structural support, used to contain or dispense fuel products and the volume of which, including the pipes

connected thereto, is ninety percent or more above the surface of the ground, is not permanently closed, and except those exempted in statute and these regulations.

"Aboveground storage tank (AST) system" means all ASTs at a facility, all the connected piping and ancillary equipment, all loading facilities, and all containment systems if applicable.

"Alternative fuel" means a motor fuel that combines petroleum-based fuel products with renewable fuels.

"Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

"ASTM International (ASTM)" means an international voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

"Atmospheric tank" is a storage tank that has been designed to operate at pressures from atmospheric through 0.5 psig (760 mm Hg through 780 mm Hg) measured at the top of the tank.

"Bodily injury" shall have the meaning given to this term by applicable Colorado state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

"Bulk plant" is that portion of a property where liquids are received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank or container. [Note: A bulk plant is normally a wholesale fuel facility where petroleum products are stored prior to resale or redistribution.]

"Calendar days" means consecutive days including weekends and nationally recognized holidays.

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an UST or AST system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and UST and AST systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and UST and AST systems.

"Certificate of conformance" means a document issued by the national type evaluation program constituting evidence of conformance of a weighing and measuring device with the requirements of National Institute of Standards and Technology (NIST) Handbook 44.

"Certificate of Eligibility" is a document that entitles the bearer to participate in the Fund without further determination of compliance by the Director, if that bearer is a mortgagee who has acquired, by foreclosure or receipt of a deed in lieu of foreclosure, property on which the petroleum storage tanks covered by the certificate are located.

"CFR" Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government

"Change in service" means continued use of an UST or AST to store a non-regulated substance.

"Chemicals of concern" (COCs) are chemical compounds that have been identified for evaluation due to specific risks to human health and/or the environment.

"Committee" means the Petroleum Storage Tank Committee created in C.R.S. § 8-20.5-104.

"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered.

"Connected piping" means all piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual AST or UST system, the piping that joins two systems should be allocated equally between them.

"Containment sump" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

"Contamination" means the presence of a regulated substance at or below ground that originated from a regulated storage tank system.

"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the system (e.g., tank from piping).

"Dispenser" means equipment that dispenses regulated substances from the storage tank system.

"Dispenser system" means the dispenser and the equipment necessary to connect the dispenser to the storage tank system.

"Director" means the Director of the Division of Oil and Public Safety of the Colorado Department of Labor and Employment or any designees thereof which may include certain employees of the Division of Oil and Public Safety of the Colorado Department of Labor and Employment or other persons.

"Downgradient" is in the direction of maximum decreasing static head.

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Electrolyte" means the soil or liquid adjacent to and in contact with the systems, including the moisture and other chemicals contained in it; the electrically conductive material between the tank and its environment;

"Excavation zone" means the volume containing the UST system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Exposure pathway" is the course that a chemical of concern takes from a source area to a point of exposure. An exposure pathway describes a unique mechanism by which a person or sensitive environment is assumed to be exposed to a chemical of concern. Each exposure pathway

includes a source, an exposure route, and a point of exposure. If the exposure point differs from the source, transport or exposure media (e.g., air, water, dust) are also included. All exposure pathways are assumed to be complete unless an exposure pathway elimination criteria is demonstrated. Exposure pathway elimination criteria are listed in the Owner/Operator Guidance Document.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

"Financial reporting year" means the latest consecutive twelve-month period for which any report used to support a financial test is prepared. "Financial reporting year" may thus comprise a fiscal or a calendar year period.

"Fire resistant tank" is an atmospheric single or double walled AST with thermal insulation that has been evaluated for resistance to physical damage and for limiting the heat transferred to the primary tank when exposed to a hydrocarbon pool fire, and is listed in accordance with UL 2080 or an equivalent test procedure, and meets the additional requirements of NFPA.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Fund" means the Petroleum Storage Tank Fund created in C.R.S. § 8-20.5-103.

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Good Engineering Practice", "Good Engineering Standards", and "Nationally Recognized Standard" means in accordance with standards developed by nationally recognized laboratories or associations such as: Underwriters Laboratory (U.L.), American National Standards Institute (ANSI), American Petroleum Institute (API), American Society for Testing and Materials (ASTM), American Society of Mechanical Engineers (ASME), Steel Tank Institute (STI), National Association of Corrosion Engineers (NACE), or the National Fire Protection Association (NFPA).

"Hazardous substance UST system" means an UST system that contains a hazardous substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

"Hydraulic conductivity" is the coefficient of proportionality describing the rate at which water can move through a permeable medium.

"Hydraulic gradient" is the slope of the water table in the direction of groundwater flow. This slope is typically expressed as a unit change in water table elevation per unit horizontal distance (e.g. ft/ft).

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Imminent threat to human health or safety or the environment" means a condition that creates a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate the actual or potential damages to human health or safety or the environment.

"Installation of a new motor fuel dispenser system" means the installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the system. It does not mean the installation of a motor fuel dispenser installed separately from the equipment needed to connect the dispenser to the tank system. For purposes of these rules, the equipment necessary to connect the motor fuel dispenser to the tank system may include check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are beneath the dispenser and connect the dispenser to the underground piping.

"Insurer" or "qualified insurer" means an insurer or group that is authorized to transact the business of insurance or authorized to provide insurance as an excess or surplus lines insurer in Colorado.

"Light non-aqueous phase liquid" (LNAPL) refers to a regulated substance that is present in soil and on groundwater as a non-aqueous phase liquid (e.g., liquid not dissolved in water.)

"Liquid" is any material that has a fluidity greater than that of 300 penetration asphalt when tested in accordance with ASTM D 5, Test for Penetration for Bituminous Materials. When not otherwise identified, the term "liquid" shall mean both flammable and combustible liquids.

[Note 1: Class I flammable liquids include all grades of Gasoline, and most motor fuels blended using alcohol and MTBE (methyl-tertiary-butyl-ether).]

[Note 2: Class II combustible liquids include #1 and #2 Diesel Fuels, #1 and #2 Heating Oil, Kerosene, and Jet-A grade Jet fuel.]

[Note 3: Class III combustible liquids include most Lubricating Oils, and Heavy Fuel oils.]

"Liquid, combustible" is a liquid having a flash point at or above 100°F (37.8°C). Combustible Liquids are classified as follows:

- (1) CLASS II liquids have a flash point at or above 100°F (37.8°C) and below 140°F (60°C).
- (2) CLASS IIIA liquids have a flash point at or above 140°F (60°C) and below 200°F (93°C).
- (3) CLASS IIIB liquids have a flash point at or above 200°F (93°C).

"Liquid, flammable" is a liquid having a flash point below 100°F (37.8°C) and having a Reid vapor pressure not exceeding 40 psia (2068 mmHg) at 100°F (37.8°C). Flammable Liquids are classified as Class I liquids. Class I liquids are further subclassified as follows:

- (1) CLASS IA liquids have a flash point below 73°F (22.8°C) and a boiling point below 100°F (37.8 ° C).
- (2) CLASS IB liquids have a flash point below 73°F (22.8°C) and a boiling point at or above 100°F (37.8°C).
- (3) CLASS IC liquids have a flash point at or above 73°F (22.8°C) and below 100°F (37.8°C).

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"Marine service station" is that portion of a property where liquids used as fuels are stored and dispensed from fixed equipment on shore, piers, wharves, or floating docks into the fuel tanks of self-propelled craft, including all facilities used in connection therewith.

"Media" are intervening substances through which something is transmitted or carried (e.g. soil, water, or air).

"Mortgagee" refers to a mortgagee or the holder of an evidence of debt secured by a mortgage or deed of trust.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, fuel products as defined in C.R.S. § 8-20.5-101(6), or any grade of gasohol, and is typically used in the operation of a motor engine.

"Motor fuel dispensing facility" means that portion of a property where motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles or marine craft or into approved containers, including all equipment used in connection therewith.

- (a) "Fleet vehicle motor fuel dispensing facility" means a motor fuel dispensing facility at a commercial, industrial, governmental, or manufacturing property where motor fuels are dispensed into the fuel tanks of motor vehicles that are used in connection with the business or operation of that property by persons within the employ of such business or operation.

"Net worth" means the assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing economic benefits obtained or controlled by an owner/operator.

"Noncommercial purposes" with respect to motor fuel at farms and residences means not for resale.

"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed.

"Operator" means any person in control of, or having responsibility for the **daily** operation of an underground or above ground storage tank system.

"Orphaned tank" means an underground storage tank which is owned or operated by an unidentified owner or no longer in use and was not closed and the property has changed ownership prior to December 22, 1988, and such property is no longer used to dispense fuels.

"Out of service" means that the tank is not being operated in accordance with its intended purpose.

"Overfill" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

- (1) In the case of an underground storage tank in use on or after November 8, 1984, or brought into use after that date, any person who owns an underground storage tank **system** used for the storage, use, or dispensing of regulated substances;
- (2) In the case of an underground storage tank **system** in use before November 8, 1984, but no longer in use on or after November 8, 1984, any person who owned such tank immediately before the discontinuation of its use; or
- (3) Any person who owns an aboveground storage tank.
- (4) Regarding reporting and responding to releases of regulated substances, Owner means the person who owned the tank system at the time of the release. The term "owner" does not

include any person who, without participating in the management of an underground storage tank and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect a security interest in or lien on the tank or the property where the tank is located.

"Owner(s)/operator(s)" means that the task to which this phrase is attached may be performed by either the owner or the operator. If neither the owner nor the operator performs the task, both shall be in violation of these regulations. Duplication of the task is not required.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation, state, municipality, commission, political subdivision of a state, or any interstate body. "Person" also includes a consortium, a joint venture, a commercial entity, and the United States Government.

"Petroleum" means crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

"Pipe" or "Piping" means a hollow cylinder or tubular conduit that is constructed of non-earthen materials and in accordance with NFPA or other nationally recognized piping standards for petroleum storage tanks. Piping routinely contains and conveys regulated substances from the underground tank(s) to the dispenser(s) or other end-use equipment. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the underground tank(s) to the dispenser(s). This definition does not include vent, vapor recovery, or fill lines not connected to remote fills.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

"Point of exposure " (POE) is the location at which a person or sensitive environment is assumed to be exposed to a chemical of concern. POEs for benzene, toluene, ethyl benzene and xylenes are: property boundaries, surficial soils, subsurface utilities, structures, groundwater wells, surface water, and sensitive environments. POEs for MTBE are: water supply wells that are used for human consumption and surface water features that are used for human consumption.

"Product deliverer" means any person who delivers or deposits product into an UST. This term may include major oil companies, jobbers, petroleum transportation companies, or other product delivery entities.

"Property damage" shall have the meaning given this term by applicable Colorado laws. This term shall not include those liabilities, which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include corrective action associated with releases from tanks, which are covered by the policy.

"Protected tank" is an atmospheric AST with integral secondary containment and thermal insulation that has been evaluated for resistance to physical damage and for limiting the heat transferred to the primary tank when exposed to a hydrocarbon pool fire and is listed in accordance with ANSI/UL 2085 or an equivalent test procedure, and meets the additional requirements of NFPA.

"Provider of financial assurance" means an entity that provides financial assurance to an owner/operator of an UST through one of the mechanisms listed below, including but not limited to an insurer, issuer of a letter of credit, or the trustee of a trust fund.

"Red Tag" means a tag, device, or mechanism on the tank's fill pipes that clearly identifies an UST as ineligible for product delivery. The tag or device is easily visible to the product deliverer and clearly states and conveys that it is unlawful to deliver to, deposit into, or accept product into the ineligible UST. The tag, device, or mechanism is generally tamper resistant.

"Reimbursement" means an assignment of money from the Fund to reimburse a person for approved costs incurred in remediating petroleum contamination.

"Registered Service Agency (RSA)" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial weighing or measuring device and that voluntarily registers with the division. Under agency registration, identification of individual servicepersons shall be required.

"Regulated substance" for UST systems has the same meaning as in C.R.S. § 8-20.5-101(13) as follows:

- (1) Any substance defined in Section 101 (14) of the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", as amended, but not including any substance regulated as a hazardous waste under subtitle (C) of Title II of the federal "Resource Conservation and Recovery Act of 1976", as amended.
- (2) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).
- (3) Alternative fuel
- (4) Renewable fuel

"Regulated substance" for AST systems means regulated fuel products as defined in C.R.S. § 8-20.5-101(6), including alternative fuels and renewable fuels as defined in CRS 8-20.5-101(2.5) and (14.5) as follows:

- (1) All gasoline, aviation gasoline, diesel, aviation turbine fuel, jet fuel, fuel oil, biodiesel, biodiesel blends, kerosene, all alcohol blended fuels, gas or gaseous compounds, and other volatile, flammable, or combustible liquids, produced, compounded, and offered for sale or used for the purpose of generating heat, light, or power in internal combustion engines or fuel cells, for cleaning or for any other similar usage.
- (2) Alternative fuel
- (3) Renewable fuel

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing of a regulated substance from a regulated tank system into the environment.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST or AST system into the environment or a leak has occurred into the interstitial space between the UST or AST system and its secondary barrier or secondary containment around it.

"Remediation" means actions taken to reduce concentrations of chemicals of concern (including natural attenuation), or prevent migration of chemicals of concern to POEs. Remediation shall be implemented for sites where no further action is not appropriate.

"Renewable fuel" means a motor vehicle fuel that is produced from plant or animal products or wastes, as opposed to fossil fuel sources.

"Repair" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other system component that has caused a release of product from an AST or UST system or has failed to function properly.

"Replace" This term applies to underground storage tanks and piping.

For underground storage tanks – Replace means to remove an existing underground storage tank and install a new underground storage tank.

For underground piping – Replace means to remove and put back in any amount of piping connected to a tank system. The secondary containment requirements for replaced piping are triggered when a minimum of 50% or 50 feet (whichever is less) of the total length of piping connected to a single tank is replaced. The total length of piping connected to a single tank includes the length piping from that tank to the farthest connected dispenser, including piping runs between dispensers connected to that tank.

"Reportable quantity" means quantities of a released regulated substance which equal or exceed the reportable quantity under the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", as amended, and petroleum products in quantities of twenty-five gallons or more.

"Residential tank" is a tank located on property used primarily for dwelling purposes.

"Retail motor fuel device" (RMFD) means a device designed for the measurement and delivery of liquid fuel products for internal-combustion engines. The term "motor-fuel dispenser" means the same as "motor-fuel device".

"Risk-based corrective action (RBCA)" means a consistent decision making process for the assessment and response to a petroleum release, based on the protection of human health and the environment according to ASTM 1739.

"Secondary containment" This term applies to AST and UST Systems

For AST systems secondary containment is containment which prevents any release from an AST system from reaching land or waters outside of the containment area, and can include remote impounding, diking, or different types of AST construction. Where underground piping is connected to an AST, the definition of "secondary containment" for UST systems also applies to the piping.

For UST systems secondary containment is a release prevention and release detection system for an underground tank and/or piping. The release prevention part of secondary containment is an underground tank and/or piping having an inner and outer barrier. Between these two barriers is a space for monitoring. The release detection part of secondary containment is a method of monitoring the space between the inner and outer barriers for a leak or release of regulated substances from the underground tank and/or piping (called interstitial monitoring). This term includes containment sumps when used for interstitial monitoring of piping.

"Secondary containment tank" is a shop fabricated AST which includes a steel or reinforced concrete secondary shell that will provide containment of the entire capacity of the inner tank in case of leaks or ruptures of the inner tank and having means for monitoring the interstitial space for a leak.

"Sensitive environment" is an area of particular environmental value where regulated petroleum contamination could pose a greater threat than in other less sensitive areas. Sensitive environments include: critical habitat for federally endangered or threatened species, national parks, national monuments, national recreation areas, national wildlife refuges; national forests, campgrounds; recreational areas, game management areas, wildlife management areas, designated federal wilderness areas, wetlands, wild and scenic rivers, state parks, state wildlife refuges, habitat designated for state endangered species, fishery resources, state designated natural areas, wellhead protection areas, classified groundwater areas, and county or municipal parks.

"Septic tank" is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer where the effluent from such

receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Service station" is a place where motor fuels are sold to the general public for cash or credit and are dispensed into the fuel tanks of motor vehicles or approved containers. This does not include unattended cardlock system facilities at bulk plants which only use proprietary cards specific to the cardlock system in question.

"Significant violation" means the failure of a person to comply with any requirement of Article 2 of 7 C.C.R. 1101-14, which includes any of the following:

- (a) A violation that is causing, or threatens to cause a liquid release of a regulated substance from an UST system, including, but not limited to: the failure of any required overfill prevention system, where the failure is causing or threatens to cause a release; or the failure of a required spill containment structure, where the failure is causing or threatens to cause a release to the environment due to a spill or an overfill.
- (b) A violation that impairs the ability of an UST system to detect a liquid leak or contain a liquid release of a regulated substance in the manner required by law, including, but not limited to: tampering with leak detection equipment so that the equipment is no longer capable of detecting a leak at the earliest possible opportunity.
- (c) A chronic violation or a violation that is committed by a recalcitrant violator.

"Site check" means collecting soil and/or groundwater samples for laboratory analysis from locations most likely to demonstrate the presence of a release from a regulated storage tank system.

"Site classification" is a qualitative evaluation of a site based on known or readily available information to identify the need for interim remedial actions and further information gathering.

"Source concentration" is the highest concentration, in soil and/or groundwater and /or vapor, of the chemicals of concern.

"State inspector" is a person who is employed or authorized by the division to perform inspections of facilities storing regulated substances.

"Storm-water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Subsurface soils" are all soils located at a depth of greater than one meter below the ground surface.

"Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Surficial soils" are all soils located from the ground surface to a depth of one meter below ground surface.

"System test" means a test of tank system components, including any associated delivery piping, secondary containment or spill control component, to identify releases of regulated substances.

"Temporary closure" means a period of time that a storage tank is empty but is not permanently closed or has not changed service to store a non-regulated substance. This term does not apply when a tank system is emptied for repair.

"Tier I risk-based screening levels (RBSLs)" are the default maximum concentrations for COCs used to determine whether remediation (cleanup) is required.

"Tier II site-specific target level(s) (SSTLs)" are the risk-based remedial action target levels for COCs developed for a particular site using site-specific geological and hydrogeological data in a predictive model.

"Tier III closure criteria" establishes conditions where all exposure pathways have been eliminated, even though dissolved-phase COCs remain above Tier I RBSLs beyond the release property boundary and beneath, but not beyond the adjoining public roadway.

"Tier IV closure criteria" establishes conditions where all exposure pathways have been eliminated, even though dissolved-phase COCs remain above Tier I RBSLs beyond the release property boundary irrespective of land use and where no storage tanks remain on the release property.

"Training program" means any program that provides information to and evaluates the knowledge of a Class A, Class B, or Class C operator through testing, practical demonstration, or another approach acceptable to the implementing agency regarding requirements for UST systems that meet the requirements of Section 2-3-1.

"Transportation-related facilities" as used in these regulations means facilities where all ASTs with capacities from 660 to 39,999 gallons are regulated by the USDOT.

"Trustee" is a member of a Trust that is an applicant to the Fund. A trustee can be an individual or a company that acts on behalf of the Trust.

"Ullage" is the portion of a storage tank that does not contain liquid.

"Unattended cardlock system" is a vehicle fueling facility, which uses a mechanical or electronic method of tracking fuel deliveries using an identification card.

"Under-dispenser containment (UDC)" means containment underneath a dispenser that will prevent leaks from the dispenser and piping within or above the UDC from reaching soil or groundwater.

"Underground storage tank" (UST) means any one or combination of tanks, including underground pipes connected thereto, except those exempted in statute and these regulations, that is used to contain an accumulation of regulated substances and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground and is not permanently closed.

"Underground storage tank (UST) system" refers to an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Upgrade" means the addition or retrofit of some systems (such as cathodic protection, lining, modification of the system piping, or spill and overfill controls, etc.) to improve the ability of an UST or AST system to prevent the release of product.

"Vault" means an enclosure (other than a secondary containment tank), either above or below-grade, that completely encloses an AST.

"Wastewater treatment tank" means a tank that is designed to receive and treat influent wastewater through physical, chemical, or biological methods.

"Working days" consecutive days excluding weekends and nationally recognized holidays.

Section 1-6 Glossary of Acronyms and Initializations

ANSI	American National Standards Institute	NFPA	National Fire Protection Association
API	American Petroleum Institute	NIOSH	National Institute of Occupational Safety and Health
AST	Aboveground storage tank	NIST	National Institute of Standards and Technology
ASTM	ASTM International	NTEP	National Type Evaluation Program
BTEX	Benzene, Toluene, Ethyl Benzene, Xylene	OPS	Division of Oil and Public Safety
CAP	Corrective Action Plan	PAH	Poly-aromatic hydrocarbons
CC	Certificate of Conformance	PP	Pressurized piping
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act	Psig	Pounds per square inch gauge
CFR	Code of Federal Regulations	PSTF	Petroleum Storage Tank Fund
COC	Chemicals of concern	RBCA	Risk-based corrective actions
C.R.S.	Colorado Revised Statutes	RBSL	Risk-based screening level
EPA	United States Environmental Protection Agency	RMFD	Retail Motor Fuel Dispenser/Device
FRP	Fiberglass reinforced plastic	RD	Release Detection
FR	Financial responsibility	SCR	Site Characterization Report
ICC	International Code Council	SIR	Statistical Inventory Reconciliation
IRA	Initial Risk Assessment	SPCC	Spill Prevention, Control, and Countermeasure
LNAPL	Light Non-Aqueous Phase Liquid	SSTL	Site Specific Target Level
LPG	Liquid petroleum gas	STP	Submersible Turbine Pump
MRR	Monitoring and Remediation Report	TPH	Total Petroleum hydrocarbons
MTBE	Methyl-tertiary-butyl-ether	VP	Vapor Pressure
NACE	National Association of Corrosion Engineers	UDC	Under Dispenser Containment
NFA	No further action	UL	Underwriters Laboratories/Underwriters Laboratories of Canada
NFAR	No Further Action Report	UST	Underground storage tank

Section 1-7 Codes, Documents or Standards incorporated by reference

The following codes, documents or standards are incorporated by reference:

American National Standards Institute (ANSI)

<http://webstore.ansi.org/>

Standard B31, American National Standard Code for Pressure Piping, published October 14, 2003.

Standard B31.3, Petroleum Refinery Piping, published February 14, 2002.

Standard B31.4, Liquid Petroleum Transportation Piping System, published August 5, 2002.

American Petroleum Institute (API)

<http://www.techstreet.com/api>

Recommended Practice 1604, Removal and Disposal of Used Underground Petroleum Storage Tanks, published November 2001.

Publication 650, Welded Steel Tanks for Oil Storage, 11th Edition.

Publication 1615, Installation of Underground Petroleum Storage Systems, published November 2001.

Publication 1621, Recommended Practice for Bulk Liquid Stock Control at Retail Outlets, published 1993.

Publication 1626, Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations, published January 18, 2000.

Publication 1627, Storage and Handling of Gasoline-Methanol/Co-solvent Blends at Distribution Terminals and Service Stations, published January 18, 2000.

Publication 1631, Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks, published June 2001.

Publication 1632, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, published June 2002.

Publication 2015, Cleaning Petroleum Storage Tanks, published August 2001.

Publication 2015A, Lead Hazard Associated with Tank Entry, published 1982.

Publication 2015B, Cleaning Open Top and Floating Roof Tanks, published August, 1981.

Publication 2200, Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines, published May 1999.

Standard 653, Tank Inspection, Repair, Alteration, and Reconstruction, published November 1, 2014.

Standard 2000, Venting Atmospheric and Low-Pressure Storage Tanks, published March 1, 2014.

American Society of Testing and Materials (ASTM)

<https://www.astm.org/Standard/standards-and-publications.html>

Standard D5, Test for Penetration for Bituminous Materials, published June 1, 2005.

Standard D4021-86, Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks, published June 15, 1992.

Standard D4814-16a, Standard Specification for Automotive Spark-Ignition Engine Fuel, published February 2016.

Association for Composite Tanks (ACT)

<http://www.steeltank.com/Publications/STISPFASStore/tabid/487/rvdsfcid/act-100-technology-14/Default.aspx>

ACT-100, Specification for the Fabrication of FRP Clad Underground Storage Tanks, published 1989.

Environmental Protection Agency (EPA)

<https://www.epa.gov/ust>

EPA Form 50 FR 46602, published November 8, 1985

Hazardous and Solid Waste Amendments of 1984, Public Law 98-616

National Association of Corrosion Engineers (NACE)

<http://www.nace.org/Publications/>

Standard RP-01-69, Control of External Corrosion on Submerged Metallic Piping Systems, published April 11, 2002.

Standard RP-02-85, Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems, published April 6, 2002.

National Fire Protection Association (NFPA)

<http://www.nfpa.org/codes-and-standards>

Publication NFPA 30, Flammable and Combustible Liquids Code, 2008 Edition.

Publication NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2008 Edition.

Publication NFPA 70, National Electrical Code, published August 18, 2005.

Publication NFPA 80, Standard for Fire Doors and Fire Windows, published 1999.

Publication NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems, published January 2, 2003.

Publication NFPA 91, Standard for the Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying, published August 4, 2004.

Publication NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, published 1990.

National Institute for Occupational Safety and Health (NIOSH)

<https://www.cdc.gov/niosh/docs/80-106/>

Criteria for a Recommended Standard, Working in Confined Spaces, DHHS (NIOSH) Publication No.80-106, December 1979.

National Institute of Standards and Technology

<https://www.nist.gov/publications>

NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices", published 2012

NIST Handbook 130, "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality", published 2012

National Leak Prevention Association (NLPA)

<http://www.nlpa-online.org/standards.html>

National Leak Prevention Association Standard 631, Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection, published 1991.

Petroleum Equipment Institute (PEI)

<http://www.pei.org/recommended-practices-exams>

Publication RP100, Recommended Practices for Installation of Underground Liquid Storage Systems, published 2005.

Steel Tank Institute (STI)

<http://www.steeltank.com/Publications/STISPFASStore/tabid/487/Default.aspx>

Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks, published July 2005.

SP001, Standard for the Inspection of Aboveground Storage Tanks, 5th Edition

Underwriters Laboratories/Underwriters Laboratories of Canada (UL)

<https://standardscatalog.ul.com/>

Standard 142, Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids, published December 28, 2006.

Standard 2080, Standard for Fire Resistant Tanks for Flammable and Combustible Liquids, published March 14, 2000.

Standard 2085, Standard for Protected Aboveground Tanks for Flammable and Combustible Liquids, published December 30, 1997.

Subject 971, UL Listed Non-Metal Pipe, published January 2, 2004.

Standard 58, Standard for Steel Underground Tanks for Flammable and Combustible Liquids, published July 27, 1998.

Standard 567, Pipe Connectors for Flammable and Combustible and LP Gas, published October 22, 2004.

Standard 1316, Standard for Glass- Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, published April 2, 1996.

Standard 1746, Corrosion Protection Systems for Underground Storage Tanks, published February 8, 2002.

CAN4-S603-M85, Standard for Steel Underground Tanks for Flammable and Combustible Liquids, published 2000.

CAN4-S603.1-M85, Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable and Combustible Liquids, November 2003.

CAN4-S615-M83, Standard for Reinforced Plastic Underground Tanks for Petroleum Products, published 1998.

CAN4-S631-M84, Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems, published 1998.

CAN4-S633-M81, Flexible Underground Hose Connectors, published August 1999.

Guide ULC-107, Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids,
published 1993.

Section 1-8 Inspection of incorporated codes

Interested parties may inspect the referenced incorporated materials by contacting the Division of Oil and Public Safety [at 633 17th Street, Suite 500, Denver, Colorado 80202](#).

Section 1-9 Later amendments not included

This rule does not include later amendments to or editions of the incorporated material.

ARTICLE 1.5 MOTOR FUEL DISPENSING AND PRODUCT QUALITY

The method of sale and quality of motor fuels are regulated by the Director to ensure consumer protection and equity in the marketplace. This article lists the minimum specifications and tolerances for dispensing equipment and motor fuel quality to ensure compliance with Colorado statutes and adopted codes and standards. Further description of these requirements can be found in guidance documents, policies and procedures provided by the Director.

Section 1.5-1 Applicability

- (a) The requirements of Sections 1.5-2 and 1.5-3 shall apply to dispensers and product quality at retail facilities.
- (b) All retail and non-retail motor fuel dispensers must comply with the minimum standards as prescribed by the applicable sections of National Fire Protection Association (NFPA) 30A "Code for Motor Fuel Dispensing Facilities and Repair Garages".

Section 1.5-2 Retail Motor Fuel Dispensers Inspection and Testing

- (a) All retail motor fuel dispensers (RMFD) shall be suitable for their intended use, properly installed, and accurate, and shall be maintained in that condition by their owner/operator.
- (b) All RMFDs shall have an active National Type Evaluation Program (NTEP) Certificate of Conformance (CC) prior to its installation or use for commercial purposes.
- (c) The division shall be notified when any new or remanufactured RMFD is placed in service at a new or existing installation.
 - (1) Notification shall be submitted using a placed in service report provided by the division.
- (d) No owner/operator of any RMFD shall use the RMFD for the measurement of liquid fuel products unless it has been proved in a manner acceptable to the Director and sealed as correct by a state inspector or registered service agency.
- (e) If any RMFD fails to comply with any of the provisions of this regulation, a state inspector shall seal it in such a manner as to prohibit its use, and it shall remain sealed until it complies with all of the provisions of this regulation.
 - (1) When an RMFD is brought back into compliance with this regulation it must be placed back in service by a state inspector or registered service agency.
- (f) All RMFDs shall comply with the minimum standards as prescribed by the applicable sections of NFPA 30A "Code for Motor Fuel Dispensing Facilities and Repair Garages", NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices," NIST Handbook 130, "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality" except as modified or rejected by this regulation or by the Director.
- (g) All RMFDs shall be labeled in accordance with the minimum standards as prescribed by the applicable sections of NFPA 30A "Code for Motor Fuel Dispensing Facilities and Repair Garages" and NIST Handbook 130, "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality", United States Environmental Protection Agency regulations, and Colorado Statutes, except as modified or rejected by this regulation or by the director.

Section 1.5-3 Product Quality

- (a) All liquid fuel products in Classes I, II, and III shall comply with the applicable specifications of ASTM, which are found in Section 5 of that organization's publication "Petroleum Products, Lubricants, and Fossil Fuels" (ASTM 4814).

[Note 1: Class I flammable liquids include all grades of gasoline, and most motor fuels blended using alcohol and MTBE (methyl-tertiary-butyl-ether).]

[Note 2: Class II combustible liquids include #1 and #2 diesel fuels, #1 and #2 heating oil, kerosene, and Jet-A grade jet fuel.]

[Note 3: Class III combustible liquids include most lubricating oils and heavy fuel oils.]

- (b) If gasoline is blended with ethanol, the ASTM D 4814 specifications shall apply to the base gasoline prior to blending. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard, except that, if the ethanol is blended at nine percent or higher but not exceeding ten percent, the blend may exceed the ASTM D 4814 vapor pressure standard by no more than 1.0 PSI.
- (c) In addition to the above, all liquid fuel products shall comply with the requirements published in the NIST Handbook 130 "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality" except as modified or rejected by this regulation.
- (d) The allowable reductions in vehicle antiknock requirements for altitude are 4.5 for less than 89 Antiknock Index (AKI), and 3.0 for greater than 89 AKI. Fuel may be marketed using these reductions, but actual AKI minimum must be posted.

ARTICLE 2 UNDERGROUND STORAGE TANKS

Section 2-1 UST Program Scope and Applicability

UST systems in Colorado are regulated to protect the people and environment of Colorado from the potentially harmful effects of the regulated substances contained within UST systems. The purpose of this article is to present to owner/operators of UST systems a description of the minimum general standards for design, construction, installation and operation of these systems to be in compliance with these regulations and Colorado statutes. Further description of these requirements can be found in guidance documents, policies and procedures provided by the Director.

2-1-1 Applicability

(a) Regulated UST systems

These UST regulations apply to all owners/operators of an UST system except as otherwise provided in paragraphs (b), (c), and (d) of this section.

(1) Previously deferred UST systems. Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of this section as follows:

(i) Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must meet the requirements in Section 2.5 (UST Systems with Field Constructed Tanks and Airport Hydrant Distribution Systems).

(ii) UST systems that store fuel solely for use by emergency power generators installed on or before January 1, 2017 must meet the release detection requirements of §2.3.4 on or before January 1, 2020.

[Note: UST systems storing fuel solely for use by emergency power generators that existed on or before January 1, 2017 were already required to meet all other applicable requirements of this article.]

(iii) UST systems that store fuel solely for use by emergency power generators installed after January 1, 2017 must meet all applicable requirements of this section at installation

(2) Any UST system listed in paragraph (c) of this section must meet the requirements of Section 2-1-1-(d) (Installation Requirements for Partially Excluded UST Systems).

(b) Excluded UST Systems

The following UST systems or installations are excluded from these UST regulations:

- (1) Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;
- (2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;
- (3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;
- (4) Any UST system whose capacity is 110 gallons or less;
- (5) Any UST system that contains a de minimis concentration of regulated substances;

- (6) Any emergency spill or overflow containment UST system that is expeditiously emptied after use;
- (7) Any farm or residential UST with a capacity of 1,100 gallons or less that is used for storing motor fuel for non-commercial purposes;
- (8) Any tank used for storing heating oil for consumptive use on the premises where it is located;
- (9) Any septic tank;
- (10) Any pipeline facility, including its gathering lines, which is regulated under chapter 601 of Title 49 U.S.C., or which is an intrastate pipeline facility regulated under state laws as provided in chapter 601 of Title 49 U.S.C. and which is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;
- (11) Any surface impoundment, pit, pond, lagoon, or landfill;
- (12) Any storm-water or Wastewater collection system;
- (13) Any flow-through process tank;
- (14) Any liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
- (15) Any storage tank situated in an underground area, such as a basement, cellar, mine-working, drift, shaft, or tunnel area, if the tank is situated upon or above the surface of the floor.

[Note: Section 2-1-1(b)(1) through (6) are excluded from these UST regulations per CFR 280.10 (b). Section 2-1-1(b) (7) through (15) are excluded from these UST regulations per C.R.S. § 8-20.5-101(17)(b).]

(c) Partially Excluded UST Systems

The following types of UST systems are deferred from all parts of these regulations except for release response (Article 5) and financial responsibility (Article 7).

- (1) Wastewater treatment tank systems not covered under 2-1-1(b)(2).
- (2) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. § 2011 and following).
- (3) Any UST system that is part of an emergency generator system at nuclear power generation facilities licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to 10 CFR Part 50.
- (4) Aboveground storage tanks associated with airport hydrant fuel distribution systems.
- (5) Aboveground storage tanks associated with UST systems with field-constructed tanks.

(d) Installation Requirements for Partially Excluded UST Systems

(1) Owners and operators must install an UST system listed in 2-1-1(c) (1), (2), or (3) storing regulated substances (whether of single- or double- wall construction) that meets the following requirements:

- (a) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(b) Is cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a non-corrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

(c) Is constructed or lined with material that is compatible with the stored substance.

(2) Notwithstanding paragraph (1) of this section, an UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this paragraph for the remaining life of the tank.

[Note: The following codes of practice may be used as guidance for complying with this section:

(A) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection";

(B) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(C) American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; or

(D) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems".

2-1-2 Determination of Ownership and Use

An UST that was in use before December 22, 1988 and which was not closed in accordance with national fire codes in effect at the time is considered to be in use until it is permanently closed in accordance with these regulations. An UST that is in use on or after December 22, 1988 is considered to be in use until it is permanently closed in accordance with these regulations.

Section 2-2 UST Design, Construction, Installation and Registration

2-2-1 Design and Performance standards for new and replaced UST systems

In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners/operators of new and replaced UST systems must meet the following requirements.

(a) Tanks. Secondary containment and interstitial monitoring is required for all new underground tank installations. Secondary containment must be able to contain regulated substances leaked from the primary containment until they are detected and removed and prevent the release of regulated substances to the environment at any time during the operational life of the UST system. If an existing underground tank is replaced, the secondary containment and interstitial monitoring requirements apply only to the replaced underground tank. The secondary containment requirements do not apply to repairs meant to restore an underground tank to operating condition. Each tank must be properly designed and constructed, and any portion of an underground tank that routinely contains product must be protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below.

(1) The tank is constructed of fiberglass-reinforced plastic; or

[Note: The following codes of practice may be used to comply with paragraph (a)(1) of this section:

(A) Underwriters Laboratories Standard 1316, "Glass- Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols and Alcohol-Gasoline Mixtures"; or

(B) Underwriter's Laboratories of Canada S615, "Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids".]

(2) The tank is constructed of steel and cathodically protected in the following manner:

(i) The tank is coated with a suitable dielectric material;

(ii) Field-installed cathodic protection systems are designed by a corrosion expert;

(iii) Impressed current systems are designed to allow determination of current operating status as required in 2-3-3(b); and

(iv) Cathodic protection systems are operated and maintained in accordance with 2-3-3(a); or

[Note: The following codes of practice may be used to comply with paragraph (a)(2) of this section:

(A) Steel Tank Institute "sti-P3 Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks ";

(B) Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks";

(C) Underwriters Laboratories of Canada S603 "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and S603.1 "Standard for External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids," and S631 "Standard for Isolating Bushings for Steel Underground Tanks Protected with External Corrosion Protection Systems"; or

(D) NACE International Standard Practice SP 0285"External Corrosion Control of Underground Storage Systems by Cathodic Protection," and Underwriters Laboratories Standard 58, Standard for Steel Underground Tanks for Flammable and Combustible Liquids.]

(3) The tank is constructed of steel and clad or jacketed with a non-corrodible material; or

[Note: The following codes of practice may be used to comply with paragraph (a)(3) of this section:

(A) Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks,"

(B) Steel Tank Institute ACT-100® Specification F894, "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks."

(C) Steel Tank Institute ACT-100-U® Specification F961, "Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks"; or

(D) Steel Tank Institute Specification F922, "Steel Tank Institute Specification for Permatank®".]

(4) The tank is constructed of metal without additional corrosion protection measures provided that:

(i) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

[Note: The National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," may be used as guidance for complying with paragraph (4)(i) of this section.]

(ii) Owners/operators maintain records that demonstrate compliance with the requirements of paragraph (a)(4)(i) of this section for the remaining life of the tank; or

(5) The tank construction and corrosion protection are determined by the Director to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than paragraphs (a)(1) through (4) of this section.

(b) Piping. Secondary containment and interstitial monitoring is required for all new piping installations, including piping to remote fills. Secondary containment must be able to contain regulated substances leaked from the primary containment until they are detected and removed and prevent the release of regulated substances to the environment at any time during the operational life of the UST system. For replaced piping, secondary containment and interstitial monitoring is required for the total length of piping connected to a single UST whenever more than 50% or 50 feet (whichever is less) of the piping connected to that tank is replaced. Installation of new or replaced piping will require the installation of containment sumps (under-dispenser [UDC], submersible turbine pump [STP] or transition) on both ends of the secondarily contained pipe for interstitial monitoring. These secondary containment requirements do not apply to repairs meant to restore piping to operating condition. For the purposes of determining when secondary containment is required by these rules, a repair is any activity that does not meet the definition of "replace". These secondary containment requirements also do not apply to vent piping, vapor recovery piping, and fill pipes not connected to remote fills.

The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below.

(1) The piping is constructed of non-corrodible material; or

[Note: The following codes and standards may be used to comply with paragraph (b)(1) of this section:

(A) Underwriters Laboratories Standard 971, "Nonmetallic Underground Piping for Flammable Liquids"; or

(B) Underwriters Laboratories of Canada Standard S660, "Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids".]

(2) The piping is constructed of steel and cathodically protected in the following manner:

(i) The piping is coated with a suitable dielectric material;

- (ii) Field-installed cathodic protection systems are designed by a corrosion expert;
- (iii) Impressed current systems are designed to allow determination of current operating status as required in 2-3-3(b); and
- (iv) Cathodic protection systems are operated and maintained in accordance with 2-3-3(a); or

[Note: The following codes and standards may be used to comply with paragraph (b)(2) of this section:

(A)

American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"

(B) Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe";

(C) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems";

(D) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."; or

(E) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection".]

(3) The piping is constructed of metal without additional corrosion protection measures provided that:

- (i) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and
- (ii) Owners/operators maintain records that demonstrate compliance with the requirements of paragraph (b)(3)(i) of this section for the remaining life of the piping; or

(4) The piping construction and corrosion protection are determined by the Director to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in paragraphs (b)(1) through (3) of this section.

(c) Spill and overfill prevention equipment.

(1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, to prevent spilling and overfilling associated with product transfer to the UST system, owners/operators must use the following spill and overfill prevention equipment:

- (i) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (e.g., a spill catchment basin); and
- (ii) Overfill prevention equipment that will:

- (A) Automatically shut off flow into the tank when the tank is more than 95 percent full; or
 - (B) Alert the transfer operator when the tank is more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm.
 - (2) Owners/operators are not required to use the spill and overfill prevention equipment specified in paragraph (c)(1) of this section if:
 - (i) Alternative equipment is used that is determined by the Director to be no less protective of human health and the environment than the equipment specified in paragraph (c)(1)(i) or (ii) of this section; or
 - (ii) The UST system is filled by transfers of no more than 25 gallons at one time.
 - (3) Flow restrictors used in vent lines may not be used to comply with paragraph (c)(1)(ii) of this section when overfill prevention is installed or replaced after January 1, 2017.
 - (4) Spill and overfill prevention equipment must be periodically tested or inspected in accordance with Section 2-3-5.
- (d) Dispensers.
- (1) Under-dispenser containment shall be required for all new motor fuel dispenser systems. A motor fuel dispenser system is considered new when:
 - (i) A dispenser is installed at a location where there previously was no dispenser (new UST system or new dispenser location at an existing UST system);
 - (ii) An existing dispenser is removed and replaced with another dispenser and the equipment used to connect the dispenser to the UST system is replaced at any point below the fire valve. This equipment may include unburied flexible connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping; or
 - (iii) An existing dispenser is removed and replaced with another dispenser and the dispenser island has to be modified (i.e., concrete is broken) to install the dispenser.
 - (2) Under-dispenser containment must be liquid-tight on its sides, bottom, and at any penetrations. Under-dispenser containment must allow for visual inspection and access to the components in the containment system or be periodically monitored for leaks from the dispenser system.
 - (3) Under-dispenser containment shall not be required when an existing dispenser is removed and replaced with another dispenser that is not considered a new dispenser.
- (e) Minimum Secondary Containment Requirements. At a minimum, secondary containment systems must be designed, constructed, and installed to:
- (1) Contain regulated substances released from the tank system until they are detected and removed. To meet this requirement, all secondary containment systems, including containment sumps, shall be tested for leaks at the time of installation and within 30 calendar days of a year thereafter using a testing method listed by the National Workgroup on Leak Detection Evaluations (NWGLDE) or an alternate testing method approved by the Director.

- (2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system. Periodic testing of the secondary containment system is required in accordance with Section 2-3-5. Also, if free product is detected in a containment sump, the sump shall be tested at that time for leaks using a testing method listed in Section 2-3-5r.
- (3) Be checked for evidence of a release at least every 30 calendar days.
- (4) Include interstitial monitoring that meets the requirements of 7 C.C.R. 1101-14 §2-3-4-2(g). If interstitial monitoring is the sole method of release detection for the UST system, sump sensors shall be installed and each sensor shall be tested for functionality by manual tripping on an annual basis.

(f) Compatibility.

- (1) Owners/operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST.
- (2) Owners and operators must notify the implementing agency at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the implementing agency. In addition, owners and operators with UST systems storing these regulated substances must meet one of the following:
 - (i) Demonstrate compatibility of the UST system (including the tank, piping, containment sumps, pumping equipment, release detection equipment, spill equipment, and overfill equipment). Owners and operators may demonstrate compatibility of the UST system by using one of the following options:
 - (A) Certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory for use with the regulated substance stored; or
 - (B) Equipment or component manufacturer approval. The manufacturer's approval must be in writing, indicate an affirmative statement of compatibility, specify the range of biofuel blends the equipment or component is compatible with, and be from the equipment or component manufacturer; or
 - (C) Use another option determined by the implementing agency to be no less protective of human health and the environment than the options listed in paragraphs (A) or (B) of this section.
- (3) Owners and operators must maintain records in accordance with Section 2-3-7(b) documenting compliance with paragraph (i) of this section for as long as the UST system is used to store the regulated substance.

[Note: Owners/operators storing alcohol blends may use the following codes to comply with the requirements of this section:

- (A) American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Filling Stations"; and
- (B) American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."]

2-2-2 Installation

No person may install, or cause to be installed, a new or replacement UST system or facility until:

- (a) An application, as described in 2-2-2-1 has been approved by the Director and an installation permit has been issued by the Director;
- (b) The installation plan has been reported to the local Fire Department having jurisdiction; and
- (c) The application/inspection fee described in 2-2-2-1(c) has been paid.

2-2-2-1 Installation Application

The Director will make available an application form to facilitate submission of required information. A complete installation application must be received by the Director no less than 20 working days prior to construction. The application must be approved before beginning construction:

- (a) On any new UST system used to store regulated substances.
- (b) On an UST system that is being upgraded to the standards described in these regulations or applicable statutes.
- (c) For each UST installation or upgrade construction plan submitted, the owner/operator must remit a fee of one hundred fifty (\$150) dollars to the Director to cover the costs of the site plan review and installation inspection.
- (d) Denial, Revocation, or Modification of Permit.
 - (1) An UST permit application may be denied if the UST installation or operation is not in conformance with these regulations; or is not in conformance with both Code 30 and Code 30-A of the National Fire Protection Association.
 - (2) An UST permit application may be denied if the permit application is not complete or is determined to be inaccurate.
 - (3) An UST installation permit may be revoked if the UST installation or operation is not in conformance with these regulations or is not in conformance with either Code 30 or Code 30-A of the National Fire Protection Association. If installation activities have not begun within six months of the issuance of the UST installation permit, the UST installation permit will be automatically revoked unless the Director grants an extension in writing.
 - (4) Six months or later after an UST installation permit is issued, the permit may be modified by subsequent statutory or regulatory changes.

2-2-2-2 Installation Requirements

- (a) Installation. The UST system must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

[Note: Tank and piping system installation practices and procedures described in the following codes may be used to comply with the requirements of paragraph (a) of this section:

- (A) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System";
- (B) Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or
- (C) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" and Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages."]

- (b) Effective January 1, 2009 all tanks and piping must be properly installed by an installer certified by the Director. To obtain certification from the Director, applicants shall submit a completed Installer Certification Application with a copy of a current certificate issued by the International Code Council (ICC) indicating he or she has passed the ICC UST Installation/Retrofitting examination, or the installer has been certified by the tank and piping manufacturers, or the installer provides certification documentation from other states that have equivalent certification requirements.
- (c) Certification of installation. All owners/operators must demonstrate compliance with paragraph (a) of this section by providing a certification of compliance on the UST registration form in accordance with 2-2-3.

2-2-2-3 Installation Inspection

The Director will inspect the UST system before completion of installation activities to verify the requirements of Section 2-2 are being met.

- (a) The owner/operator shall provide the Director with a 72 hour notice prior to the time of inspection. (b) Any duly authorized agent or employee of the Director shall have authority to enter in or upon the premises of any facility that contains an UST system, containing a regulated substance, for the purpose of verifying that such UST system and its required records are in compliance with these regulations.

2-2-3 UST System Registration

- (a) Each owner/operator of a regulated UST system must register each UST system with the Director within 30 calendar days after the first day on which the system is actually used to contain a regulated substance. This registration must be renewed annually, on or before the calendar date of the initial registration, in each succeeding year after 1989. The owner/operator is required to pay a registration fee as set by statute for each tank registered.
- (b) All regulated UST systems and facilities must be registered on a form provided by the Director, regardless of use, size, or type of regulated substance stored therein; and regardless of whether the tanks and facilities are in service or in temporary closure.

[Note: Owners/operators of UST systems that were in the ground on or after May 8, 1986, unless taken out of operation on or before January 1, 1974, were required to notify the Colorado Department of Health in accordance with the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616, on a form published by EPA on November 8, 1985 (50 FR 46602) unless notice was given pursuant to Section 103(c) of CERCLA. Owners/operators who have not complied with the notification requirements may use the registration form described in 2-2-3(b)]

- (c) Owners required to register tanks under paragraph (a) of this section must register each tank they own. Owners may register several tanks using one registration form, but owners who own tanks located at more than one place of operation must file a separate registration form for each separate place of operation.
- (d) Any time there is a change in operation, including upgrading of the UST system, changes in operation including a change of owner or operator, or completed closure of an UST system, the owner/operator is required to submit an updated registration within 30 calendar days.
- (e) Registration forms required to be submitted under (a) and (d) of this section must provide all of the required information for each tank.
- (f) All owners/operators of new UST systems must certify in the registration form, compliance with the following requirements:
 - (1) Installation of tanks and piping under 2-2-2-2(a);

- (2) Cathodic protection of steel tanks and piping under 2-2-1(a)(2);
 - (3) Financial responsibility under Article 7 of these regulations; and
 - (4) Release detection under 2-3-4.
- (g) All owners/operators of new UST systems must certify in the registration form that the method used to install the UST system complies with the requirements in Section 2-2-2-2(a).
 - (h) After July 1, 1989, any person who sells a tank intended to be used as an UST must notify the purchaser of such tank of the owner's registration obligations under (a) of this section.
 - (i) The registration form supplied by the Director will meet the requirements of Section 9002 of the federal Solid Waste Disposal Act as amended.
 - (j) The required fee for UST registration is \$35.00 per tank per year as authorized by C.R.S. § 8-20.5-102; and the fee for the installation plan review and the installation inspection is set at \$150.00, as authorized by C.R.S. § 8-20.5-204, to cover the costs of administering this section.

2-2-4 Upgrading existing UST System

Owners and operators must permanently close (in accordance with Section 2-4) any UST system that does not meet the new UST system performance standards in Section 2-2 or has not been upgraded in accordance with paragraphs (b) through (d) of this section. This does not apply to previously deferred UST systems described in Section 2-1-1-(a)(1) of this section and where an upgrade is determined to be appropriate by the implementing agency.

- (a) Alternatives allowed. All existing UST systems must comply with one of the following:
 - (1) New UST system performance standards under Section 2-2-1; or
 - (2) Upgrading requirements in (b) through (d) of this section; or
 - (3) Closure requirements under Section 2-4 of these regulations, including applicable requirements for corrective action under Article 5.
- (b) Tank upgrading requirements. Steel tanks must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:
 - (1) Internal lining. Tanks upgraded by internal lining must meet the following: ~~A tank may be upgraded by internal lining if::~~
 - (i) The lining ~~was is~~ installed in accordance with the requirements of Section 2-2-5, and
 - (ii) Within 10 years after lining, and every 5 years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, then the lined tank must be permanently closed in accordance with Section 2-4.
 - (2) Cathodic protection. Tanks upgraded by cathodic protection must meet the requirements of Section 2-2-1(a)(2) and the integrity of the tank must have been ensured using one of the following methods:

- (i) The tank was internally inspected and assessed to ensure that the tank was structurally sound and free of corrosion holes prior to installing the cathodic protection system; or
 - (ii) The tank had been installed for less than 10 years and is monitored monthly for releases in accordance with Section 2-3-4-2(d) through (i); or
 - (iii) The tank had been installed for less than 10 years and was assessed for corrosion holes by conducting two (2) tightness tests that meet the requirements of Section 2-3-4-2(c). The first tightness test must have been conducted prior to installing the cathodic protection system. The second tightness test must have been conducted between three (3) and six (6) months following the first operation of the cathodic protection system; or
 - (iv) The tank was assessed for corrosion holes by a method that is determined by the Director to prevent releases in a manner that is no less protective of human health and the environment than (b)(2)(i) through (iii) of this section.
- (3) Internal lining combined with cathodic protection. Tanks upgraded by both internal lining and cathodic protection must meet the following:
- (i) The lining was installed in accordance with the requirements of Section 2-2-5; and
 - (ii) The cathodic protection system meets the requirements of Section 2-2-1(a)(2).

[Note: The following historical codes of practice were listed as options for complying with this section:

- (A) American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";
- (B) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection";
- (C) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and
- (D) American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."]

- (c) Piping upgrading requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of Section 2-2-1(b)(2).

[Note: The codes and standards listed in the note following Section 2-2-4(b)(3)(ii) may be used to comply with this requirement.]

- (d) Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with new UST system spill and overfill prevention equipment requirements specified in Section 2-2-1(c).

2-2-5 Repairs

Owners/operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

- (a) Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

[Note: The following codes and standards may be used to comply with paragraph (a) of this section:

- (A) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";
 - (B) American Petroleum Institute Recommended Practice 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines";
 - (C) American Petroleum Institute Recommended Practice RP 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";
 - (D) National Fire Protection Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair",
 - (E) National Leak Prevention Association Standard 631, Chapter A, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks.",
 - (F) Steel Tank Institute Recommended Practice R972, "Recommended Practice for the Addition of Supplemental Anodes to STI-P3® Tanks",
 - (G) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection.", or
 - (H) Fiberglass Tank and Pipe Institute Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks".]
- (b) Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.
 - (c) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Non-corrodible pipes and fittings may be repaired in accordance with the manufacturer's specifications.
 - (d) If a release of regulated substance is identified during repairs to UST system equipment, the owner/operator shall report the release according to Article 4.
 - (e) Post-repair testing
 - (1) Repairs to secondary containment areas of tanks and piping used for interstitial monitoring and to containment sumps used for interstitial monitoring of piping must have the secondary containment tested for tightness according to the manufacturer's instructions, a code of practice developed by a nationally recognized association or independent testing laboratory, or according to requirements established by the implementing agency within 30 days following the date of completion of the repair. All other repairs to tanks and piping must be tightness tested in accordance with 2-3-4-2(c) and 2-3-4-3 within 30 calendar days following the date of the completion of the repair unless:

- (i) The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or
- (ii) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in Section 2-3-4-2(d) through (i); or
- (iii) Another test method is used that is determined by the Director to be no less protective of human health and the environment than those listed above.

[Note: The following codes of practice may be used to comply with paragraph (e)(1) of this section:

- (A) Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks"; or
 - (B) Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple-Wall Tanks with Dry Annular Space"; or
 - (C) Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".]
- (2) Within 6 months following the repair of any cathodically protected UST system the cathodic protection system must be tested in accordance with Section 2-3-3(a) and (b) to ensure that it is operating properly.
 - (3) Within 30 days following any repair to spill or overfill prevention equipment, the repaired spill or overfill prevention equipment must be tested or inspected, as appropriate, in accordance with Section 2-2-5(e)(3) to ensure it is operating properly.

Section 2-3 Operation

2-3-1 Operator Training

UST Operator Training is a requirement designed to ensure knowledge regarding operating and maintaining UST systems. These requirements apply to UST systems regulated under Subtitle I, except those excluded by these regulations.

2-3-1-1 Classes of Operators

For purposes of implementing the operator training requirements, these regulations establish Colorado specific operator training, testing and certification requirements for three classes of operators identified as Class A, Class B, and Class C. Owners/operators are required to identify and designate, for each UST system or group of UST systems at a facility, at least one named individual for each class of operator outlined in these regulations. All individuals designated as a Class A, B, or C operator must, at a minimum, be trained and certified according to these regulations by December 31, 2009.

Separate individuals may be designated for each class of operator described above or an individual may be designated to more than one of the above operator classes. An individual who is designated to more than one operator class must be trained in each operator class for which he or she is designated. Because an individual may be designated for more than one operator class, the Director will allow a training approach that encompasses training for more than one operator class.

To assist in identifying responsible individuals to be trained pursuant to these regulations, the following sections characterize, in general terms, each class of operator. These sections also identify general training requirements pertaining to operating and maintaining UST systems.

2-3-1-2 Class A Operator

A Class A operator has primary responsibility to operate and maintain the UST system. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements. The general and minimum requirements for a Class A operator are as follows:

(a) General Requirements: This individual focuses on the broader aspects of the statutory and regulatory requirements and standards necessary to operate and maintain the UST system. For example, this individual typically ensures that appropriate individual(s):

- (1) Properly operate and maintain the UST system.
- (2) Maintain appropriate records.
- (3) Are trained to operate and maintain the UST system and keep records.
- (4) Properly respond to emergencies caused by releases or spills from UST systems at the facility.
- (5) Make financial responsibility documents available to the Director as required.

(b) Minimum Requirements: The Class A operator must be trained in the following:

(1) A general knowledge of UST system requirements so he or she can make informed decisions regarding compliance and ensure appropriate individuals are fulfilling operation, maintenance, and recordkeeping requirements and standards of these regulations regarding:

- (i) Spill prevention
- (ii) Overfill prevention
- (iii) Release detection
- (iv) Corrosion protection
- (v) Emergency response
- (vi) Product compatibility

- (2) Financial responsibility documentation requirements.
- (3) Notification requirements.
- (4) Release and suspected release reporting.
- (5) Temporary and permanent closure requirements.
- (6) Class B and C operator training requirements.

2-3-1-3 Class B Operator

A Class B operator implements applicable UST regulatory requirements and standards in the field. This individual implements day-to-day aspects of operating, maintaining, and recordkeeping for USTs at one or more facilities. The general and minimum requirements for a Class B operator are as follows:

(a) General Requirements: This individual typically monitors, maintains, and ensures:

- (1) Release detection method, recordkeeping, and reporting requirements are met.
- (2) Release prevention equipment, recordkeeping, and reporting requirements are met.
- (3) All relevant equipment complies with performance standards.
- (4) Appropriate individuals are trained to properly respond to emergencies caused by releases or spills from UST systems at the facility.

(b) Minimum Requirements: Compared with training for the Class A operator, training for the Class B operator will provide a more in-depth understanding of operation and maintenance aspects, but may cover a more narrow breadth of applicable regulatory requirements. The Class B operators training must encompass the following:

- (1) Components of UST systems.
- (2) Materials of UST system components.
- (3) Methods of release detection and release prevention applied to UST components.
- (4) Operation and maintenance requirements of these regulations that apply to UST systems and include:
 - (i) Spill prevention
 - (ii) Overfill prevention
 - (iii) Release detection
 - (iv) Corrosion protection
 - (v) Emergency response
 - (vi) Product compatibility
- (5) Reporting and recordkeeping requirements.
- (6) Class C operator training requirements.

2-3-1-4 Class C Operator

A Class C operator is an employee and is, generally, the first line of response to events indicating emergency conditions. This individual is responsible for responding to alarms or other indications of emergencies caused by spills or releases from UST systems. This individual notifies the Class B or Class A operator and appropriate emergency responders when necessary. It is not necessary that all employees of the facility are Class C operators, although at least one Class C Operator must be present during operating hours at attended facilities.

(a) General Requirements: This individual typically:

- (1) Controls or monitors the dispensing or sale of regulated substances, or
 - (2) Is responsible for initial response to alarms or releases.
- (b) Minimum Requirements: At a minimum, the Class C operator must be trained to:
- (1) Take action in response to emergencies (such as, situations posing an immediate danger or threat to the public or to the environment and that require immediate action) or alarms caused by spills or releases from an UST system.

2-3-1-5 Acceptable Training and Certification Processes

Operator training must evaluate operator knowledge of the minimum training requirements described for each class of operator in Section 2-3-1(2), (3) and (4). The following is a list of acceptable approaches to meet training requirements stated in these regulations:

- (a) Possession of a current certificate issued by the International Code Council (ICC) indicating he or she has passed the Colorado UST System Class A or B Operator exam.
- (b) For Class C operator training, possession of a current certificate issued by the owner indicating that he or she has successfully completed training conducted by a certified Class A or Class B operator.
- (c) An operator training program that has received prior approval from the Director. The program may include in-class, on-line, or hands-on training. Such a program must include an evaluation of operator knowledge through testing, practical demonstration, or other tools determined as acceptable by the state.
- (d) To address operators responsible for UST systems in multiple states, the Director may accept operator training certification verification from other states that have equivalent operator training requirements.

2-3-1-6 Training and Certification Deadlines and Schedules

- (a) Effective January 1, 2010, designated Class A and B operators shall be trained and possess a current certificate issued by a Director-approved trainer indicating he or she has passed the Colorado UST System Class A or B operator exam.
- (b) Effective January 1, 2010, designated Class C operators shall be trained and possess a current certificate issued by a Class A or B operator that developed or conducted the training.
- (c) By January 1, 2010, owners of UST systems shall submit a signed statement to the Director indicating that the owner understands and is in compliance with all applicable UST requirements, and identifying the designated Class A or B operator(s) for each facility owned. The owner shall inform the Director of any change of designated Class A or B operator(s) no later than 30 calendar days after the change. Documentation identifying the designated Class C operators shall be maintained on site.
- (d) After January 1, 2010 new operators shall be trained within the following timeframes:
 - (1) Class A and Class B operators must be trained within 30 calendar days after assuming full operation and maintenance responsibilities at the UST system.
 - (2) Class C operators must be trained before assuming full responsibility for responding to emergencies.

2-3-1-7 Retraining Requirements

If the Director determines an UST system is out of compliance, the Class A and/or Class B operator must be retrained and recertified within 90 calendar days. At a minimum, an UST system is out of compliance if the system:

- (a) Meets any of the delivery prohibition criteria outlined in Section 6-2, or
- (b) Is not in significant compliance with other requirements, such as temporary or permanent closure, tank registration or financial responsibility.

2-3-1-8 Documentation

Owners and operators of underground storage tank systems must maintain a list of designated Class A, Class B, and Class C operators and maintain records verifying that training and retraining, as applicable, have been completed, in accordance with 2-3-7 as follows:

(a) The list must:

- (1) Identify all Class A, Class B, and Class C operators currently designated for the facility; and
- (2) Include names, class of operator trained, date assumed duties, date each completed initial training, and any retraining.

(b) Records verifying completion of training or retraining must be a paper or electronic record for Class A, Class B, and Class C operators. The records, at a minimum, must identify name of trainee, date trained, operator training class completed, and list the name of the trainer or examiner and the training company name, address, and telephone number. Owners and operators must maintain these records for as long as Class A, Class B, and Class C operators are designated. The following requirements also apply to the following types of training:

- (1) Records from classroom or field training programs (including Class C operator training provided by the Class A or Class B operator) or a comparable examination must, at a minimum, be signed by the trainer or examiner;
- (2) Records from computer based training must, at a minimum, indicate the name of the training program and web address, if Internet based; and
- (3) Records of retraining must include those areas on which the Class A or Class B operator has been retrained.

2-3-2 Spill and Overfill Prevention

- (a) Owners/operators must ensure that releases due to spilling or overfilling do not occur. The owner/operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.
- (b) The owner/operator must report, investigate, and clean up any spills and overfills in accordance with Articles 4 and 5.
- (c) Owners/operators must maintain spill and overfill equipment according to Section 2-2-1(c).

[Note: The transfer procedures described in National Fire Protection Association Publication 385 may be used to comply with this section. Further guidance on spill and overfill prevention appears

in American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."]

2-3-3 Corrosion Protection

All owners/operators of steel UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances or permanently closed in accordance with Section 2-4-2.

- (a) All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:
 - (1) Frequency. All cathodic protection systems must be tested within 6 months of installation and at least every 3 years thereafter or according to another reasonable time frame established by the Director; and
 - (2) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association.

[Note: National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," may be used to comply with paragraph (a)(2) of this section.]

- (b) UST systems with impressed current cathodic protection systems must also be inspected every 60 calendar days to ensure that the equipment is running properly.
- (c) Where internal lining was installed to satisfy corrosion protection requirements, the tank must meet the requirements listed in 2-2-4(b).
- (d) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

2-3-4 Release Detection

2-3-4-1 General requirements for all UST systems

- (a) Owners/operators of UST systems that contain a regulated substance or hazardous substance must provide a method, or combination of methods, of release detection that:
 - (1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;
 - (2) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition. Beginning on January 1, 2020, electronic and mechanical components must be tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the two options listed above. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:

- (i) Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup;
- (ii) Probes and sensors: inspect for residual buildup; ensure floats move freely; ensure shaft is not damaged; ensure cables are free of kinks and breaks; test alarm operability and communication with controller;
- (iii) Automatic line leak detector: test operation to meet criteria in 2-3-4-3(a)(1) by simulating a leak;
- (iv) Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and
- (v) Hand-held electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

[Note: The following code of practice may be used to comply with paragraph (a)(2) of this section: Petroleum Equipment Institute Publication RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".]

, and

- (3) Meets the performance requirements in 2-3-4-2, 2-3-4-3 or 2-5 as applicable, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, the methods , must be capable of detecting the leak rate or quantity specified for that method in 2-3-4-2(b), (c), (d), (h), or (i), 2-3-4-3(a)(1) or (2), or 2-5 with a probability of detection of 0.95 and a probability of false alarm of 0.05.
- (b) When a release detection method operated in accordance with the performance standards in 2-3-4-2, 2-3-4-3 or 2-5 indicates a release may have occurred, owners/operators must notify the Director in accordance with Article 4.
- (c) Any ~~existing~~ UST system that does not apply a method of release detection that complies with the requirements of this section must complete the closure procedures in 2-4 immediately. For previously deferred UST systems described in Sections 2-1 and 2-5, this requirement applies after the effective dates described in 2-1-1(a)(1)(ii) and (iii) and Section 2-5-2(a).

2-3-4-2 Requirements for regulated substance UST Systems

Owners/operators of UST system must provide release detection for tanks at least every 30 calendar days or as otherwise specified in these regulations. The methods that satisfy release detection requirements are listed below:

- (a) Inventory Control.
 - (1) Product inventory control can be used as the sole method for release detection:
 - (i) Until 10 years after the tank is installed or upgraded according to 2-2-4, and
 - (ii) If tank tightness testing as described in (c) of this section is performed at least every 5 years after the tank is installed or upgraded.
 - (2) Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis in the following manner:

- (i) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;
- (ii) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- (iii) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
- (iv) Deliveries are made through a drop tube that extends to within one foot of the tank bottom;
- (v) Product dispensing is metered and recorded within an accuracy of 6 cubic inches for every 5 gallons of product withdrawn; and
- (vi) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month.

[Note: Practices described in the American Petroleum Institute "Recommended Practice RP 1621 for Bulk Liquid Stock Control at Retail Outlets," may be used, where applicable, as guidance in meeting the requirements of this subsection.]

(b) Manual tank gauging.

(1) Manual tank gauging may be used as the sole method of release detection:

- (i) For the life of a tank that has a nominal capacity of 1,000 gallons or less that meet the tank diameter criteria in the table in paragraph (3)(iv) of this section, or
- (ii) For a tank with a nominal capacity of 1,001 to 2,000 gallons:
 - (A) Until 10 years after the tank is installed or upgraded according to 2-2-4, and
 - (B) If tank tightness testing as described in (c) of this section is performed at least every 5 years after the tank is installed or upgraded.

(2) For tanks of greater than 2,000 gallons nominal capacity, manual tank gauging may not be used to satisfy release detection requirements of this section.

(3) Manual tank gauging must meet the following requirements:

- (i) Tank liquid level measurements are taken at the beginning and ending of a period using the appropriate minimum duration of test value in the table below during which no liquid is added to or removed from the tank;
- (ii) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;
- (iii) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- (iv) A release is suspected and subject to the requirements of Article 4 if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal Tank Capacity (Gallons)	Tank Dimensions	Weekly Standard 1 Test (Gallons)	Monthly Standard Average of 4 Tests (Gallons)	Minimum Rest Period Duration
Up to 550	N/A	10	5	36 hours
551-1,000	64" diameter	9	4	44 hours
551-1,000	48" (diameter	12	6	58 hours
551-1,000 (also requires periodic tank tightness testing)	N/A	13	7	36 hours
1,000	64" (diameter) x 73" (length)	9	4	44 hours
1,000	48" (diameter) x 128" (length)	12	6	58 hours
1,001 - 2,000 (also requires periodic tank tightness testing)	N/A	26	13	36 hours

- (c) Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate, with a probability of detection of 0.95, from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.
- (d) Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:
- (1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product;
 - (2) The automatic tank gauging equipment must meet the inventory control (or other test of equivalent performance) requirements of (a) of this section; and
 - (3) The test must be performed with the system operating in one of the following modes:
 - (i) In-tank static testing conducted at least once every 30 days; or
 - (ii) Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every 30 days.
- (e) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:
- (1) The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

- (2) The stored regulated substance, or a tracer compound placed in the UST system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;
 - (3) The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 calendar days;
 - (4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;
 - (5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the UST system, a component or components of that substance, or a tracer compound placed in the UST system;
 - (6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in paragraphs (e)(1) through (4) of this section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and
 - (7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
- (f) Groundwater monitoring. Testing or monitoring for liquids on the groundwater must meet the following requirements:
- (1) The regulated substance is immiscible in water and has a specific gravity of less than one;
 - (2) Groundwater is never more than 20 vertical feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);
 - (3) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;
 - (4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;
 - (5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;
 - (6) The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;
 - (7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in paragraphs (f)(1)-(5) of this section and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and
 - (8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
- (g) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed

and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

- (1) For double-walled UST systems, the sampling or testing method can detect a leak through the inner wall in any portion of the tank that routinely contains product;
- (2) For tanks with an internally fitted liner, an automated device can detect a leak between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.
- (3) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a leak between the UST system and the secondary barrier;
 - (i) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (not more than 0.000001 cm/sec for the regulated substance stored) to direct a leak to the monitoring point and permit its detection;
 - (ii) The barrier is compatible with the regulated substance stored so that a leak from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;
 - (iii) For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;
 - (iv) The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 calendar days;
 - (v) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and,
 - (vi) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
- (h) Statistical inventory reconciliation: Release detection methods based on the application of statistical principles to inventory data similar to those described in 2-3-4-2(a) must meet the following requirements:
 - (1) Report a quantitative result with a calculated leak rate;
 - (2) Be capable of detecting a leak rate of 0.2 gallon per hour or a release of 150 gallons within 30 days; and
 - (3) Use a threshold that does not exceed one-half the minimum detectable leak rate.
- (i) Other methods. Any other type of release detection method, or combination of methods, can be used if:
 - (1) It can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or
 - (2) The Director may approve another method if the owner/operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in paragraphs (c)-(h) of this section. In comparing methods, the Director shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner/operator must comply with any conditions

imposed by the Director on its use to ensure the protection of human health and the environment.

2-3-4-3 Requirements for Piping

Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:

(a) Pressurized piping. Underground piping that conveys regulated substances under pressure must:

(1) Be equipped with automatic line leak detectors which alert the owner/operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector must be conducted in accordance with Section 2-3-4-1(a)(2); and

(2) Conduct periodic line release detection which will consist of:

(i) An annual test of piping that can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure; or

(ii) An applicable tank method conducted on a monthly basis. Except as described in 2-3-4-2(a), (b), and (c), any of the methods in 2-3-4-2(e) through (i) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances. Automatic tank gauges (ATG) as described in subsection 2-3-4-2(d) may be considered an applicable tank method to be used for release detection on lines if the ATG is connected to equipment that allows the capability for this type of monitoring.

(b) Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least once every 3 years and in accordance with 2-3-4-3(a)(2)(i), or use a monthly monitoring method conducted in accordance with 2-3-4-3(a)(2)(ii). No release detection is required for suction piping that is designed and constructed to meet the following standards:

(1) The below-grade piping operates at less than atmospheric pressure;

(2) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(3) Only one check valve is included in each suction line;

(4) The check valve is located directly below and as close as practical to the suction pump; and

(5) A method is provided that allows compliance with paragraphs (b)(1) – (4) of this section to be readily determined.

2-3-4-4 Requirements for hazardous substance UST systems

Owners/operators of hazardous substance UST systems must provide containment that meets the following requirements and monitor these systems using 2-3-4-2(g) at least every 30 days:

(a) Secondary containment systems must be designed, constructed and installed to:

(1) Contain regulated substance leaks from the primary containment until they are detected and removed;

- (2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and
- (3) Be checked for evidence of a release at least every 30 calendar days.

[Note: The provisions of 40 CFR 265.193, Containment and Detection of Releases, may be used to comply with these requirements for tanks installed on or before January 1, 2017.]

(b) Double-walled tanks must be designed, constructed, and installed to:

- (1) Contain a leak from any portion of the inner tank within the outer wall; and
- (2) Detect the failure of the inner wall.

(c) External liners (including vaults) must be designed, constructed, and installed to:

- (1) Contain 100 percent of the capacity of the largest tank within its boundary;
- (2) Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and
- (3) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

(d) Underground piping must be equipped with secondary containment that satisfies the requirements of this section (e.g., trench liners, double-walled pipe). In addition, underground piping that conveys hazardous substances under pressure must be equipped with an automatic line leak detector in accordance with 2-3-4-3(a)(1).

(e) For hazardous substance UST systems installed on or before January 1, 2017 other methods of release detection may be used if owners/operators:

- (1) Demonstrate to the Director that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in 2-3-4-2(b)-(j) can detect a release of petroleum;
- (2) Provide information to the Director on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and,
- (3) Obtain written approval from the Director to use the alternate release detection method before the installation and operation of the new UST system.

[Note: Pursuant to 40 CFR § 302.6 and 355.40, a release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986.]

2-3-5 Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.

(a) Owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements to ensure the equipment is operating properly and will prevent releases to the environment:

(1) Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment by meeting one of the following:

(i) The equipment is double walled and the integrity of both walls is periodically monitored at a frequency not less than the frequency of the compliance inspections described in 2-3-6. Owners and operators must begin meeting paragraph (a)(1)(ii) of this section and conduct a test within 30 days of discontinuing periodic monitoring of this equipment; or

(ii) The spill prevention equipment and containment sumps used for interstitial monitoring of piping are tested at least once every three years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

(A) Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements);

(B) Code of practice developed by a nationally recognized association or independent testing laboratory; or

(C) Requirements determined by the implementing agency to be no less protective of human health and the environment than the requirements listed in paragraphs (a)(1)(ii)(A) and (B) of this section.

(2) Overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in 2-2-1(c) and will activate when regulated substance reaches that level. Inspections must be conducted in accordance with one of the criteria in paragraph (a)(1)(ii)(A)-(C) of this section.

(b) Owners and operators must begin meeting these requirements as follows:

(1) For UST systems in use on or before January 1, 2017, the initial spill prevention equipment test, containment sump test and overfill prevention equipment inspection must be conducted not later than January 1, 2020; or

(2) For UST systems brought into use after January 1, 2017, these requirements apply at installation.

(c) Owners and operators must maintain records as follows (in accordance with 2-3-7) for spill prevention equipment, containment sumps used for interstitial monitoring of piping, and overfill prevention equipment:

(1) All records of testing or inspection must be maintained for three years; and

(2) For spill prevention equipment and containment sumps used for interstitial monitoring of piping not tested every three years, documentation showing that the prevention equipment is double walled and the integrity of both walls is periodically monitored must be maintained for as long as the equipment is periodically monitored.

[Note: The following code of practice may be used to comply with paragraphs (a)(1)(ii) and (a)(2) of this section: Petroleum Equipment Institute Publication RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".]

2-3-6 Compliance Inspections

This section describes the inspections required to be conducted by the owner or operator of the UST system, as well as periodic inspections completed by the Director.

2-3-6-1 Monthly Compliance Inspections

- (a) The designated Class A or B operator or a delegated designee shall perform monthly visual inspections of all UST systems for which they are designated. The results of each inspection shall be recorded on a monthly inspection checklist. The monthly visual inspection shall include the following:
 - (1) Check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present. Ensure records of release detection testing are reviewed and current.
 - (2) Visually check spill containment or manholes for damage (cracks, holes, bulges etc.). Remove liquid or debris from spill containers (fill and vapor recovery). Check for and remove obstructions in the fill pipe. Check the fill cap to make sure it is securely on the fill pipe. For double-walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area.
 - (3) Inspect hanging hardware on dispensers and/or other visible piping for the presence of regulated substance leakage.
- (b) The designated operator(s) or delegated designee shall provide the owner or operator with a copy of each monthly inspection checklist, and alert the owner or operator of any condition discovered during the monthly visual inspection that may require follow-up actions.
- (c) The owner or operator shall maintain a copy of the monthly inspection checklist and all attachments for the previous twelve months. Records must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries. The records shall be made available for review to OPS upon request.

[Note: The following code of practice may be used to comply with this section: Petroleum Equipment Institute Recommended Practice RP 900, "Recommended Practices for the Inspection and Maintenance of UST Systems".]

2-3-6-2 Annual Operational Compliance Inspections

- (a) The designated Class A or B operator(s) shall perform an annual operational compliance inspection of all UST systems for which they are designated. The annual operational compliance inspection shall include, but is not limited to, the following:
 - (1) Compile and review monthly release detection, visual inspection and corrosion protection records from the prior twelve months.
 - (2) Compile and review the alarm history report or log for the prior twelve months, and checking that each alarm condition was documented and responded to appropriately, including the reporting of suspected or confirmed releases.
 - (3) Conduct functionality testing on all line leak detectors, sump sensors and overfill prevention equipment in accordance with manufacturer's specifications to ensure proper installation and operation. Also check hand held release detection equipment such as tank gauge sticks or groundwater bailers for operability and serviceability.

- (4) Conduct visual inspection of containment sumps. Check for damage, leaks to the containment area, or releases to the environment. Remove liquid (in contained sumps) or debris. For double-walled sumps with interstitial monitoring, check for a leak in the interstitial area. (5) Check that all required testing and maintenance for the UST system has been completed, and document the dates these activities occurred.
- (6) Verify that all designated Class C operators have been trained in accordance with 2-3-1-4 and 2-3-1-5 of these regulations.
- (7) Complete an Annual Operational Compliance Inspection Report and Certification Form for each facility using forms provided by OPS.
- (b) The designated Class A or B operator(s) shall provide the owner or operator with a copy of the annual operational compliance inspection report, and alert the owner or operator of any condition discovered during the annual compliance inspection that may require follow-up actions. The report must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries.
- (c) The owner or operator shall submit a copy of the annual operational compliance inspection report and all attachments for the previous twelve months to OPS on an annual basis or within 60 calendar days of an OPS request for records.

2-3-6-3 Inspections Conducted by the Director

- (a) Any duly authorized agent or employee of the Director shall have authority to enter in or upon the premises of any facility that contains an UST system, containing a regulated substance, for the purpose of verifying that such UST system and its required records are in compliance with these regulations.
- (b) Per CRS Section 8-20-223.5, the Director shall conduct an emission inspection of all USTs that are located in the geographical area designated by Regulation #7 of the Colorado Department of Public Health and Environment 5 C.C.R. 1001-9 and which contain petroleum distillate such as gasoline, to insure pollution control equipment is installed and is in operating condition.

2-3-7 Reporting and Record Keeping

Owners/operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the Director, as well as requests from OPS for document submission, testing, and monitoring pursuant to Section 9005 of Subtitle I of the Solid Waste Disposal Act, as amended.

- (a) Reporting. Owners and operators must submit the following information to the implementing agency:
 - (1) Notification for all UST systems (Section 2-2-3), which includes certification of installation for new UST systems (Section 2-2-2-2) and notification when any person assumes ownership of an UST system (Section 2-2-3(d));
 - (2) Notification prior to UST systems switching to certain regulated substances (Section 2-2-1(f));
 - (3) Reports of all releases including suspected releases, spills, and overfills (Section 4-1), and confirmed releases (Section 4-3);
 - (4) Corrective actions planned or taken including initial abatement measures (Section 5-1-1), initial site characterization (Section 5-1-2), free product removal (Section 5-1-1), investigation of soil and groundwater cleanup (Section 5-2), and corrective action plan (Section 5-3); and

- (5) A notification before permanent closure or change-in-service (Section 2-4).
- (b) Record keeping. Owners/operators must maintain the following information **until the UST system is permanently closed or undergoes a change-in-service, unless another timeframe is noted:**
- (1) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used 2-2-1(a)(4) and (b)(3)).
 - (2) Documentation of operation of corrosion protection equipment as required in 2-2-1(a) and (b) and 2-2-3;
 - (i) The results of the last three 60-day inspections; and
 - (ii) The results from the last two system tests.
 - (3) Documentation of compatibility for UST systems (Section 2-2-1(f));
 - (4) Documentation of UST system repairs (Section 2-2-5);
 - (5) Documentation of compliance for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (Section 2-3-5);
 - (6) Documentation of periodic compliance inspections (Section 2-3-6);
 - (7) Compliance with release detection requirements (Section 2-3-4);
 - (i) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for 5 years, or for another reasonable period of time determined by the Director, from the date of installation. Not later than January 1, 2020, records of site assessments required under Section 2-3-4-2(e)(6) and (f)(7) must be maintained for as long as the methods are used. Records of site assessments developed after January 1, 2017, must be signed by a professional engineer or professional geologist, or equivalent licensed professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the implementing agency;
 - (ii) The results of any sampling, testing, or monitoring must be maintained for at least 1 year, or for another reasonable period of time determined by the Director, except as follows:
 - (a) that the results of tank tightness testing conducted in accordance with 2-3-4-2(c) must be retained until the next test is conducted; and
 - (iii) Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least one year after the servicing work is completed, or for another reasonable time period determined by the Director. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for 5 years from the date of installation.
 - (8) Records in accordance with this section that are capable of demonstrating compliance with closure requirements under Section 2-4. The results of the excavation zone assessment required in 2-4-3(b) must be maintained for at least 3 years after completion of permanent closure or change-in-service in one of the following ways:

- (i) By the owners/operators who closed the UST system;
- (ii) By the current owners/operators of the UST system site; or
- (iii) By mailing these records to the Director if they cannot be maintained at the closed facility.

[Note: All applicants to the Fund may be required to maintain closure records until reimbursement is complete.]

- (9) Documentation of the emptying of a tank following seasonal operation, temporary closure, or prior to a repair.
- (10) Documentation of operator training (Section 2-3-1-8).
- (c) Availability and Maintenance of Records. Owners/operators are required, upon request, to provide all records referenced in these regulations to the Director. Owners/operators must keep the required records either:
 - (1) At the UST site and immediately available for inspection by the Director; or
 - (2) At a readily available alternative site so they can be sent to the Director upon request; or
 - (3) In the case of permanent closure records required under this section, owners/operators are also provided with the additional alternative of mailing closure records to the Director if they cannot be kept at the site or an alternative site as indicated above.
- (d) Notwithstanding the above, for Fund reimbursement purposes, persons may be required to maintain the above or other records in accordance with Fund requirements.

Section 2-4 Closure of UST Systems

2-4-1 Temporary Closure

- (a) Owners/operators shall notify the Director in writing at least 10 calendar days prior to placing an UST system in temporary closure, and at that same time submit records documenting the prior 12 months of release detection and corrosion protection testing (if applicable) for tanks and lines. In lieu of submitting these records, owner/operator may conduct a precision tightness test on the tanks and lines and complete a site assessment in accordance with 2-4-3, and submit these results with the temporary closure notification.
- (b) A temporarily closed UST system must be emptied by removing all materials using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remains in the system.
- (c) When an UST system is temporarily closed, owners/operators must continue operation and maintenance of corrosion protection in accordance with 2-3-4. Because the tanks must be emptied, release detection is not required.
- (d) When an UST system is temporarily closed, vent lines must be left open and functioning. If the temporary closure period is 3 months or more, all pumps, manways, ancillary equipment and lines other than vent lines must be capped and secured, unless an alternate schedule is approved by the Director.
- (e) When an UST system is temporarily closed for more than 12 months, owners/operators must permanently close the UST system in accordance with 2-4-2, unless the Director provides a written extension of the 12-month temporary closure period. Before requesting this extension, owners/operators must complete a site assessment as required by the Director.

- (f) Owner/operators shall notify the Director in writing no more than 30 calendar days prior to placing an UST back in service, and at that same time submit corrosion protection records (if applicable) for the period of temporary closure, and documentation of passing tightness tests to include ullage for the tanks conducted within the past 30 calendar days. The owner/operator shall obtain passing line tests immediately following the introduction of fuel into the lines and submit documentation of testing to the Director within 10 calendar days.
- (g) If an owner/operator operates a facility which has a specific period of time or season during the year when the tank system is empty, as described in (b) of this section, the requirements for maintaining corrosion protection and the following requirements below will apply:
 - (1) The owner/operator shall notify the Director that the facility does include seasonal operation on a form provided by the Director. If this information changes, the owner/operator shall complete and submit the form to the Director.
 - (2) The period may not exceed 6 consecutive months.
 - (3) The owner/operator shall maintain manifest documentation completed during emptying of the tank.
 - (4) At the end of the seasonal period, the owner/operator must conduct one of the following actions:
 - (i) Return the tank to service.
 - (ii) Place the tank into proper temporary closure. The owner/operator must notify the Director in writing within 10 calendar days, submit records according to (a) as applicable and complete requirements in (d) immediately.
 - (iii) Permanently close the tank as required by 2-4-2.

2-4-2 Permanent Closure

At least 10 calendar days before beginning either permanent closure or a change-in-service under this section, owners/operators must notify the Director of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action required by the Director. In addition to the requirements of this section, the owner/operator should contact local municipal officials, such as the fire department, to inform them of the intended closure activities.

(a) Removal

To permanently close a tank by removal, owners/operators must empty the tank by removing all liquids and accumulated sludges and inert the tank prior to removal. A site assessment must be conducted according to 2-4-3(b).

[Note: The following cleaning and closure procedures may be used to comply with this section:

- (A) American Petroleum Institute Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks";
- (B) American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks";
- (C) American Petroleum Institute Recommended Practice 1631, "Interior Lining of Underground Storage Tanks," may be used as guidance for compliance with this section; and
- (D) The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard...Working in Confined Space" may be used as

guidance for conducting safe closure procedures at some hazardous substance tanks.]

(b) Closure in Place

All tanks permanently closed in place must be filled with an inert solid material **or closed in place in a manner approved by the Director**, and a site assessment must be conducted according to 2-4-3(b).

(c) Change in Service

Continued use of an UST system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners/operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with 2-4-3.

2-4-3 Site Assessment

- (a) Before an extension to temporary closure, permanent closure or a change-in-service is completed, owners/operators must measure for the presence of a release where contamination is most likely to be present at the UST site. The requirements of this section are satisfied if one of the external release detection methods allowed in 2-3-4-2(e) or (f) is operating in accordance with the requirements in 2-3-4-2 at the time of closure, and indicates no release has occurred.
- (b) For assessments during storage tank system removal, the owner/operator must collect soil samples from beneath each tank, beneath each dispenser island, beneath areas of piping, and beneath any loading racks. For assessments during storage tank temporary closure, closure in-place or change-in-service, the owner/operator shall collect samples of the type and at locations as specified by the Director.
- (c) Samples collected at all sites must be analyzed for individual chemicals of concern (COC) as described in 5-2.
- (d) If contaminated soils, contaminated groundwater, petroleum vapor or free product as a liquid is discovered under this section, or by any other manner, owners/operators must report the discovery in accordance with Articles **4 and 5**.
- (e) If the tank closure assessment does not identify a release, the owner/operator must submit documentation of the assessment to the Director within 30 calendar days of the tank closure.
- (f) **When requested by the Director, the owner/operator of a UST system permanently closed before December 22, 1988, must assess the excavation zone and close the UST system in accordance with Section 2-4 if releases from the UST may, in the judgment of the Director, pose a current or potential threat to human health and the environment.**

Section 2-5 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems

2-5-1 Definitions

For purposes of this section, the following definitions apply:

Airport hydrant fuel distribution system (also called airport hydrant system) means an UST system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

Field-constructed tank means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

2-5-2 General requirements

- (a) Implementation of requirements. Owners and operators must comply with the requirements of this section for UST systems with field-constructed tanks and airport hydrant systems as follows: (1) For UST systems installed on or before January 1, 2017, the requirements are effective according to the following schedule:

Requirement	Effective Date
Upgrading UST systems; general operating requirements; and operator training	January 1, 2020
Release detection	January 1, 2020
Release reporting, response, and investigation; closure; financial responsibility and notification (except as provided in paragraph (b) of this section)	January 1, 2017

- (2) For UST systems installed after January 1, 2017, the requirements apply at installation.
- (b) Not later than January 1, 2020, all owners of previously deferred UST systems must submit a one-time notice of tank system existence to the implementing agency, using the form described in Section 2-2-3(b). Owners and operators of UST systems in use as of January 1, 2017, must demonstrate financial responsibility at the time of submission of the notification form.
- (c) Except as provided in Section 2-5-3, owners and operators must comply with the requirements of these regulations.
- (d) In addition to the codes of practice listed in Section 2-2-1, owners and operators may use military construction criteria, such as Unified Facilities Criteria (UFC) 3-460-01, Petroleum Fuel Facilities, when designing, constructing, and installing airport hydrant systems and UST systems with field-constructed tanks.

2-5-3 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems

- (a) Exception to piping secondary containment requirements. Owners and operators may use single walled piping when installing or replacing piping associated with UST systems with field-constructed tanks greater than 50,000 gallons and piping associated with airport hydrant systems. Piping associated with UST systems with field-constructed tanks less than or equal to 50,000 gallons not part of an airport hydrant system must meet the secondary containment requirement when installed or replaced.
- (b) Upgrade requirements. Not later than January 1, 2020, airport hydrant systems and UST systems with field-constructed tanks where installation commenced on or before January 1, 2017 must meet the following requirements or be permanently closed pursuant to 2-4 of this section.
- (1) Corrosion protection. UST system components in contact with the ground that routinely contain regulated substances must meet one of the following:
- (i) Except as provided in paragraph (a) of this section, the new UST system performance standards for tanks at 2-2-1(a) and for piping at 2-2-1(b); or
 - (ii) Be constructed of metal and cathodically protected according to a code of practice developed by a nationally recognized association or independent testing laboratory and meets the following:

(A) Cathodic protection must meet the requirements of 2-2-1(a)(2)(ii), (iii) and (iv) for tanks, and 2-2-1(b)(2)(ii), (iii), and (iv) for piping.

(B) Tanks greater than 10 years old without cathodic protection must be assessed to ensure the tank is structurally sound and free of corrosion holes prior to adding cathodic protection. The assessment must be by internal inspection or another method determined by the implementing agency to adequately assess the tank for structural soundness and corrosion holes.

[Note: The following codes of practice may be used to comply with this paragraph:

(A) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection";

(B) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(C) National Leak Prevention Association Standard 631, Chapter C, "Internal Inspection of Steel Tanks for Retrofit of Cathodic Protection"; or

(D) American Society for Testing and Materials Standard G158, "Standard Guide for Three Methods of Assessing Buried Steel Tanks".]

(2) Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all UST systems with field-constructed tanks and airport hydrant systems must comply with new UST system spill and overfill prevention equipment requirements specified in 2-2-1(c).

(c) Compliance inspections. In addition to the compliance inspection requirements in 2-3-6, owners and operators must inspect the following additional areas for airport hydrant systems at least once every 30 days if confined space entry according to the Occupational Safety and Health Administration (see 29 CFR part 1910) is not required or at least annually if confined space entry is required and keep documentation of the inspection according to 2-3-6-1(c).

(1) Hydrant pits – visually check for any damage; remove any liquid or debris; and check for any leaks, and

(2) Hydrant piping vaults – check for any hydrant piping leaks.

(d) Release detection. Owners and operators of UST systems with field-constructed tanks and airport hydrant systems must begin meeting the release detection requirements described in this section not later than January 1, 2020.

(1) Methods of release detection for field-constructed tanks. Owners and operators of field-constructed tanks with a capacity less than or equal to 50,000 gallons must meet the release detection requirements in Section 2-3-4. Owners and operators of field-constructed tanks with a capacity greater than 50,000 gallons must meet either the requirements in 2-3-4 (except 2-3-4-2(e) and (f) must be combined with inventory control as stated below) of this section or use one or a combination of the following alternative methods of release detection:

(i) Conduct an annual tank tightness test that can detect a 0.5 gallon per hour leak rate;

(ii) Use an automatic tank gauging system to perform release detection at least every 30 days that can detect a leak rate less than or equal to one gallon per hour. This method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every three years;

- (iii) Use an automatic tank gauging system to perform release detection at least every 30 days that can detect a leak rate less than or equal to two gallons per hour. This method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every two years;
- (iv) Perform vapor monitoring (conducted in accordance with 2-3-4-2(e) for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two years;
- (v) Perform inventory control (conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures) at least every 30 days that can detect a leak equal to or less than 0.5 percent of flow-through; and
 - (A) Perform a tank tightness test that can detect a 0.5 gallon per hour leak rate at least every two years; or
 - (B) Perform vapor monitoring or groundwater monitoring (conducted in accordance with 2-3-4-2(e) or (f), respectively, for the stored regulated substance) at least every 30 days; or
- (vi) Another method approved by the implementing agency if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in paragraphs (i) through (v) of this section. In comparing methods, the implementing agency shall consider the size of release that the method can detect and the frequency and reliability of detection.

(2) Methods of release detection for piping. Owners and operators of underground piping associated with field-constructed tanks less than or equal to 50,000 gallons must meet the release detection requirements in Section 2-3-4. Owners and operators of underground piping associated with airport hydrant systems and field-constructed tanks greater than 50,000 gallons must follow either the requirements in 2-3-4 (except 2-3-4-2(e) and (f) must be combined with inventory control as stated below) of this section or use one or a combination of the following alternative methods of release detection:

- (i)(A) Perform a semiannual or annual line tightness test at or above the piping operating pressure in accordance with the table below.

Maximum Leak Detection Rate Per Test Section Volume		
Test Section Volume (Gallons)	Semiannual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)	Annual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)
< 50,000	1.0	0.5
≥ 50,000 to < 75,000	1.5	0.75
≥ 75,000 to < 100,000	2.0	1.0
≥ 100,000	3.0	1.5

- (B) Piping segment volumes ≥ 100,000 gallons not capable of meeting the maximum 3.0 gallon per hour leak rate for the semiannual test may be tested at a leak rate up to 6.0 gallons per hour according to the following schedule:

Phase In For Piping Segments ≥ 100,000 Gallons In Volume	
First test	Not later than January 1, 2020 (may use up to 6.0 gph leak rate)
Second test	Between January 1, 2020, and January 1, 2023 (may use up to 6.0 gph leak)
Third test	Between January 1, 2023, and January 1, 2024 (must use 3.0 gph)

	for leak rate)
Subsequent tests	After January 1, 2024, begin using semiannual or annual line testing according to the Maximum Leak Detection Rate Per Test Section Volume table above

- (ii) Perform vapor monitoring (conducted in accordance with 2-3-4-2(e) for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two years;
 - (iii) Perform inventory control (conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures) at least every 30 days that can detect a leak equal to or less than 0.5 percent of flow-through; and
 - (A) Perform a line tightness test (conducted in accordance with paragraph (i) of this section using the leak rates for the semiannual test) at least every two years; or
 - (B) Perform vapor monitoring or groundwater monitoring (conducted in accordance with 2-3-4-2(e) or (f), respectively, for the stored regulated substance) at least every 30 days; or
 - (iv) Another method approved by the implementing agency if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in paragraphs (i) through (iii) of this section. In comparing methods, the implementing agency shall consider the size of release that the method can detect and the frequency and reliability of detection.
- (3) Recordkeeping for release detection. Owners and operators must maintain release detection records according to the recordkeeping requirements in 2-3-6.
- (e) Applicability of closure requirements to previously closed UST systems. When directed by the implementing agency, the owner and operator of an UST system with field-constructed tanks or airport hydrant system permanently closed before January 1, 2017, must assess the excavation zone and close the UST system in accordance with Section 2-4 if releases from the UST may, in the judgment of the implementing agency, pose a current or potential threat to human health and the environment.

ARTICLE 3 ABOVEGROUND STORAGE TANKS

Section 3-1 AST Program Scope and Applicability

Aboveground storage tank (AST) systems in Colorado are regulated to protect the people and environment of Colorado from the potentially harmful effects of the regulated substances contained within AST systems. The purpose of this article is to present to owner/operators of AST systems a description of the minimum general standards for design, construction, location, installation and operation of these systems to be in compliance with these regulations and Colorado statutes. Further description of these requirements can be found in guidance documents, policies and procedures provided by the Director.

(a) The provisions in these regulations apply to all regulated substance AST systems unless specifically restricted to a specific system. It is the owner/operator's responsibility to ensure compliance with all requirements.

(1) Aside from meeting these regulatory requirements:

(i) All AST systems must meet local fire district rules, zoning rules, and requirements of other authorities having jurisdiction over AST systems.

(ii) C.R.S. § 8-20-231 requires that the design, construction, location, installation, and operation of all liquid fuel product tank systems greater than 60 gallons conform to the minimum standards prescribed by the applicable sections of NFPA fire code. This includes the testing and inspection requirements contained therein.

(2) For the purposes of these regulations, a tank's capacity is determined by the aggregate capacity of all individual primary tank compartments contained within the outer shell or structure of the tank, whether there is a shared bulkhead or not. Each compartment of an AST must meet the operational requirements contained herein individually (e.g. venting, overfill prevention, release detection, etc.)

Example: A single concrete-encased UL 2085 AST whose construction consists of two individual 500 gallon UL 142 ASTs wrapped in a polyethylene liner is considered as having a capacity of 1,000 gallons. Each compartment (tank) must be equipped to meet operational requirements

(b) Per C.R.S. § 8-20.5-101(2)(b), the following ASTs or AST systems are excluded from these AST regulations:

(1) Notwithstanding requirements listed in (a)(1) of this section, any AST whose capacity is greater than 39,999 gallons or less than 660 gallons;

(2) Any AST system that contains a de minimis concentration of regulated substances;

(3) Any AST systems containing radioactive material that are regulated under the Atomic Energy Act;

(4) Any AST system that is part of an emergency generator system at nuclear power generation facilities;

(5) ASTs used to store liquefied petroleum gases that are not liquid at standard temperature and pressure;

(6) ASTs used to store liquids whose fluidity is less than that of 300 penetration asphalt when tested in accordance with ASTM D 5.

- (7) A wastewater treatment tank system that is part of a wastewater treatment facility;
- (8) Equipment or machinery that contains regulated substances for operational purposes;
- (9) Farm and residential tanks or tanks used for horticultural or floricultural operations.
- (10) Aboveground storage tanks located at natural gas pipeline facilities that are regulated under state or federal natural gas pipeline acts;
- (11) Aboveground storage tanks associated with natural gas liquids separation, gathering, and production;
- (12) Aboveground storage tanks associated with crude oil production, storage, and gathering;
- (13) Aboveground storage tanks at transportation-related facilities regulated by the federal department of transportation;
- (14) Aboveground storage tanks used to store heating oil for consumptive use on the premises where stored
- (15) Aboveground storage tanks used to store flammable and combustible liquids at mining facilities and construction and earthmoving projects, including gravel pits, quarries, and borrow pits where, in the opinion of the Director, tight control by the owner or contractor and isolation from other structures make it unnecessary to meet the requirements of this article.

Section 3-2 AST System Design, Construction, Location and Installation

These performance standards apply to regulated AST systems that store stable liquids in atmospheric ASTs where internal operating pressures do not exceed 2.5 psi. Requirements for the storage of other liquids in other types of ASTs at greater operating pressures are found in NFPA 30, and must be followed.

3-2-1 Design

(a) Tank Design and Materials of Construction

- (1) All tanks shall be designed and built in accordance with recognized good engineering standards for the material of construction being used and shall be of steel or approved noncombustible material, with the following limitations and exceptions:
 - (i) The material of tank construction shall be compatible with the liquid to be stored. In case of doubt about the properties of the liquid to be stored, the supplier, producer of the liquid, or other competent authority shall be consulted.
 - (A) Tanks designed and intended for above ground use shall not be used as underground tanks.
 - (B) Tanks designed and intended for underground use shall not be used as aboveground tanks.
 - (ii) Tanks constructed of combustible materials shall be subject to the approval of the Director and limited to:
 - (A) Use where required by the properties of the liquid stored, or
 - (B) Storage of Class IIIB liquids above ground in areas not exposed to spill or leak of Class I or Class II liquid, or

(C) Storage of Class IIIB liquids inside a building protected by an approved automatic fire extinguishing system.

- (iii) Atmospheric tanks shall not be used for the storage of a liquid at a temperature at or above its boiling point. Atmospheric tanks shall be labeled and shall be built, installed, and used within the scope of a nationally recognized construction standard; such as U.L. 142, or API Standard 650, or an equivalent standard.

(b) Vent Piping

The design, fabrication, assembly, testing, and inspection of all piping systems for flammable and combustible liquids shall be in conformance with the applicable sections of ANSI B31, *American National Standard Code for Pressure Piping* and installed in conformance with the following requirements:

- (1) Where vent pipe outlets for tanks storing Class I liquids are adjacent to buildings or public ways, they shall be located so that the vapors are released at a safe point outside of buildings and not less than 12 ft (3.6 m) above the adjacent ground level. In order to aid their dispersion, vapors shall be discharged upward or horizontally away from closely adjacent walls. Vent outlets shall be located so that flammable vapors will not be trapped by eaves or other obstructions and shall be at least 5 ft (1.5 m) from building openings.

- (i) Vent piping that it is attached to or within a canopy or its supporting structure must extend a minimum of 5 ft (1.5 m) above the highest projection of the canopy, including the canopy fascia. When modifications to the canopy are made, this distance must be maintained.

Exception: Where the canopy or canopy modifications were installed before January 1, 2004, changes to existing vent piping are not required.

- (2) The manifolding of tank vent piping shall be avoided except where required for special purposes such as vapor recovery, vapor conservation, or air pollution control. When tank vent piping is manifolded, pipe sizes shall be such as to discharge, within the pressure limitations of the system, the vapors they may be required to handle when manifolded tanks are subject to the same fire exposure.
- (3) Vent piping for tanks storing Class I liquids shall not be manifolded with vent piping for tanks storing Class II or Class III liquids unless means are provided to prevent the vapors from Class I liquids from entering tanks storing Class II or Class III liquids, to prevent possible change in classification of the less volatile liquid.

(c) Normal Venting

- (1) Atmospheric tanks shall be adequately vented to prevent the development of vacuum or pressure that can distort or damage the tank or that exceeds the design pressure, as a result of filling or emptying the tank or atmospheric temperature changes.
- (2) For ASTs installed after September 30, 1994, normal vents shall be:
- (i) sized in accordance with American Petroleum Institute Standard No. 2000, Venting Atmospheric and Low-Pressure Storage Tanks, or another accepted standard; or
- (ii) at least as large as the filling or withdrawal connection, whichever is larger, but in no case less than 1 1/4 in. (3 cm) nominal inside diameter.
- (3) If any AST installed after September 30, 1994 has more than one fill or withdrawal connection and simultaneous filling or withdrawal can be made, the vent size shall be based on the maximum anticipated simultaneous flow.

- (4) Except for tanks containing Class III liquids, vents shall be equipped with venting devices.
 - (i) Tanks containing Class IA liquids shall be equipped with venting devices that are closed, except when venting under pressure or vacuum conditions.
 - (ii) Tanks containing Class IB and IC liquids shall be equipped with venting devices that are closed, except when venting under pressure or vacuum conditions, or with listed flame arresters.
 - (iii) Tanks containing Class II liquids shall be equipped with venting devices that will protect the tank against the intrusion of water, debris, or insects.
- (5) Adequate ventilation either natural or forced must exist to guarantee that flammable liquid vapors cannot build up to 25% of the lower flammable limit anywhere, because of the presence of the tank facility in question.

(d) Emergency Relief Venting

- (1) Every AST shall have some form of construction or device that will relieve excessive internal pressure caused by exposure to fires.
 - (i) This requirement shall also apply to each compartment of a compartmented tank, the interstitial space of secondary containment-type tanks, and the enclosed space of closed-top dike tanks, except where the tank was constructed prior to the publication of the 1996 edition of NFPA 30.

Exception: Tanks larger than 12,000 gallons capacity storing Class IIIB liquids do not require emergency relief venting unless they are within the diked area or the drainage path of Class I or Class II liquids.

- (2) In a vertical tank, the construction referred to in 3-2-1(d)(1) may take the form of a floating roof, lifter roof, a weak roof-to-shell seam, or other approved pressure-relieving construction. The weak roof-to-shell seam shall be constructed to fail preferential to any other seam. Design methods that will provide a weak roof-to-shell seam construction are contained in API 650, Welded Steel Tanks for Oil Storage, and UL 142, Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids.
- (3) Where entire dependence for emergency relief is placed upon pressure-relieving devices, the total venting capacity of both normal and emergency vents shall be enough to prevent rupture of the shell or bottom of the tank if vertical, or of the shell or heads if horizontal.
- (4) The total capacity of both normal and emergency venting devices shall not be less than the requirements of NFPA 30.
- (5) Emergency relief vent devices shall be vapor tight and shall be permitted to be a self-closing manway cover, a manway cover provided with long bolts that permit the cover to lift under internal pressure, or additional or larger relief valve or valves.
- (6) Each commercial tank venting device shall be stamped with the operational pressures and capacities required by NFPA 30.
- (7) For the extension of emergency vent piping, piping to or from approved emergency vent devices shall be sized to provide emergency vent flows that limit the back pressure to less than the maximum pressure permitted by the design of the tank.
- (8) The required emergency relief venting capacities for tanks and devices, requirements for tanks storing unstable liquids, additional requirements for tanks other than atmospheric, and other requirements for emergency relief venting design are found in NFPA 30.

(e) Tank Openings Other than Vents

- (1) Each connection to an AST through which liquid can normally flow shall be provided with an internal or an external valve located as close as practical to the shell of the tank.
- (2) Each connection below the liquid level through which liquid does not normally flow shall be provided with a liquid-tight closure. This may be a valve, plug, or blind, or a combination of these.
- (3) Openings for gauging on tanks storing Class I liquids shall be provided with a vapor-tight cap or cover. Such covers shall be closed when not gauging.
- (4) Fill pipes that enter the top of a tank shall terminate within 6 in (15 cm) of the bottom of the tank. Fill pipes shall be installed or arranged so that vibration is minimized.

Exception: Fill pipes in tanks whose vapor space, under normal operating conditions, is not in the flammable range need not meet this requirement.

- (5) Filling and emptying connections for Class I, Class II, and Class IIIA liquids that are made and broken shall be located outside of buildings at a location free from any source of ignition and not less than 5 ft. (1.5 m) away from any building opening. Such connections for any liquid shall be closed and liquid tight when not in use and shall be properly identified.

(f) Static Protection for all ASTs

(1) Grounding Required

All equipment such as tanks, machinery and piping, where an ignitable mixture may be present shall be bonded or connected to a ground.

(2) Bonding Facilities Required

The bond or ground or both shall be physically applied or shall be inherently present by the nature of the installation; and

- (i) Bonding facilities for protection against static sparks during the loading of tank vehicles through open domes shall be provided:

(A) Where Class I liquids are loaded, or

(B) Where Class II or Class III liquids are loaded into vehicles that may contain vapors from previous cargoes of Class I liquids; and

- (ii) Bonding facilities shall consist of a metallic bond wire permanently electrically connected to the fill stem, or to some part of the rack structure in electrical contact with the fill stem. The free end of such wire shall be provided with a clamp or equivalent device for convenient attachment to some metallic part in electrical contact with the cargo tank of the tank vehicle. (This can be a simple ground clamp used while loading).

(g) Standards for Piping, Valves, and Fittings

(1) General and Suction Systems.

- (i) For the purpose these regulations, piping connected to an AST is considered to be suction piping when the entire length of piping is at a higher elevation than the

AST it is connected to, and where there is no pump installed between the tank and piping. All other piping connected to an AST is pressurized piping.

- (A) ASTs with underground piping must meet **all** of the requirements for underground pressurized piping contained in Article 2 of these regulations, including the construction, corrosion protection, and installation requirements of 2-2-1 (b), the secondary containment requirements of 2-2-1(e) for piping installed after April 14, 2011, and release detection requirements of 2-3-4-3.
- (ii) Liquid shall not be dispensed from a tank by pressurization of the tank. Means shall be provided to prevent the release of liquid by siphon flow.
- (iii) On or after October 14, 2012, where an AST is at an elevation that produces a gravity head on a motor fuel dispensing device, the tank outlet shall be equipped with a device (such as a normally closed solenoid valve) that will prevent gravity flow from the tank to the dispenser. This device shall be located adjacent to and downstream of the main valve specified by 3-2-1(e)(1) of these regulations. The device shall be installed and adjusted so that liquid cannot flow by gravity from the tank to the dispenser in the event of failure of the piping or hose when the dispenser is not in use.
- (iv) Where a suction-type dispensing system includes a booster pump or where a suction-type dispensing system is supplied by a tank in a manner that produces a gravity head on the dispensing device, a listed, vacuum-actuated shutoff valve with a shear section or equivalent type valve shall be installed directly under the dispensing device.
 - (A) Suction-type dispensing systems installed before April 14, 2011 that include a solenoid valve at the tank outlet, and a listed, rigidly anchored emergency shutoff valve incorporating a fusible link or other thermally actuated device, designed to close automatically in event of severe impact or fire exposure are deemed to meet this requirement.
- (v) For ASTs installed after September 30, 1994, shutoff and check valves shall be equipped with a pressure-relieving device that will relieve the pressure generated by thermal expansion back to the tank.
- (vi) Piping shall be routed so that exposure to physical damage is minimized.
- (vii) Piping systems shall be supported and protected against physical damage, including damage from stresses arising from settlement, vibration, expansion, or contraction.

(2) Remote Pumping Systems

This section shall apply to systems for dispensing Class I liquids and Class II liquids where such liquids are transferred from storage to individual or multiple dispensing devices by pumps located other than at the dispensing devices.

- (i) Pumps shall be listed and designed or equipped so that no part of the system will be subjected to pressures above its allowable working pressure.
- (ii) Each pump shall have installed, on the discharge side, a listed leak detection device that will provide an indication if the piping and dispensers are not essentially liquid tight. Each leak-detecting device shall be checked and tested at least annually according to the manufacturer's specifications.

- (iii) Pumps installed above-grade and outside of buildings shall be located not less than 10 ft. (3 m) from lines of adjoining property that can be built upon and not less than 5 ft. (1.5 m) from any building opening. Pumps shall be substantially anchored and protected against physical damage.
- (iv) A listed rigidly anchored emergency shutoff valve, incorporating a fusible link or other thermally actuated device designed to close automatically in event of severe impact or fire exposure, shall be installed in accordance with the manufacturer's instructions in the supply line at the base of each individual island-type dispenser or at the inlet of each overhead dispensing device. An emergency shutoff valve incorporating a slip-joint feature shall not be used. The automatic closing feature of this valve shall be checked at the time of initial installation and at least once a year thereafter by manually tripping the hold-open linkage.
- (v) Any vapor return pipe inside the dispenser housing shall have a shear section or flexible connector so that the liquid emergency shutoff valve will function as described above.

(3) Breakaway devices

A listed emergency breakaway device designed to retain liquid on both sides of the breakaway point shall be installed on each hose dispensing Class I and Class II liquids. Such devices are not required at marine service stations.

(h) Compatibility Requirements

Owners/operators must use an AST system made of or lined with materials that are compatible with the substance stored in the AST.

[Note: Owners/operators storing alcohol blends may use the following codes to comply with the requirements of this section: (a) American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"; and (b) American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Co-solvent Blends at Distribution Terminals and Service Stations."]

(i) Security

- (1) Where tanks are supported above the foundations, tank supports shall be installed on firm foundations. Steel supports or exposed piling supports for tanks storing Class I, Class II, or Class IIIA liquids shall be protected by materials having a fire resistance rating of not less than 2 hours.
- (2) Every tank shall be supported to prevent the excessive concentration of loads on the supporting portion of the tank shell.
- (3) The area within the fence (if applicable) and within any dike shall be kept free of vegetation, debris, and any other material that is not necessary to the proper operation of the tank and piping system.
- (4) After December 22, 1996, tanks that are not listed as UL 2085 Protected Tanks where fuel is dispensed into vehicles shall be protected against vehicular collision by suitable barriers, which may include buildings and open space which the Director approves in writing.
- (5) Tanks which are not enclosed in vaults shall be enclosed with a chain link fence at least 6 ft. high. The fence shall be separated from the tanks by at least 10 ft. and shall have a gate that is secured against unauthorized entry. This requirement applies to:

- (i) Tanks at motor fuel dispensing facilities, and

- (ii) Tanks at all other facilities that have an individual or aggregate capacity of 12,000 gallons or more.

Exception: Tanks are not required to be enclosed with a fence if the property on which the tanks are located has a perimeter security fence.

- (6) Tanks that are unsupervised for any period of time, or are located in isolated/remote areas, shall be secured and shall be marked to identify the fire hazards of the tank and the tank's contents to the general public. Where necessary to protect the tank from tampering or trespassing, the area where the tank is located shall be secured.
- (7) For ASTs installed after September 30, 1994, tank supports and foundations shall be designed to minimize the possibility of uneven settling of the tank and to minimize corrosion to any part of the tank.

3-2-2 Location and Installation

3-2-2-1 Service Stations (Motor Fuel Dispensing Facilities and Repair Garages)

After September 30, 1994, new ASTs may only be installed at service stations if they meet all the general requirements for ASTs, and the service station requirements of this section. After December 22, 1996, tanks designed and built for underground use shall not be used as ASTs. All of the provisions in this section also apply to marine service stations and airport service stations.

- (a) For ASTs installed after September 30, 1994, tanks storing Class I and Class II liquids at an individual site shall be limited to a maximum individual capacity of 12,000 gallons and an aggregate capacity of 48,000 gallons unless such tanks are installed in vaults complying with 3-2-2-5, in which case the maximum individual capacity shall be permitted to be 15,000 gallons.
- (b) For ASTs installed after September 30, 1994, and before April 14, 2011, tanks shall be located in accordance with Table 1 in this section, except that for secondary containment tanks, "fire tested" tanks, "fire resistant" tanks or tanks installed in a vault, the distance requirement from tank to dispenser is waived, provided that all tanks, pipes and dispensers are satisfactorily protected from vehicular traffic.
- (c) For ASTs installed on or after April 14, 2011, ASTs shall be located in accordance with Table 1 below.

TABLE 1		AST Separation at Motor Fuel Dispensing Facilities and Repair Garages				
		Minimum Distance (ft)				
Type of Tank	Individual Tank Capacity (gal)	From Nearest Important Building on the Same Property	From Nearest Fuel Dispensing Device	From Property Line That Is or Can Be Built Upon Including Opposite Side of Public Way	From Nearest Side of Any Public Way	Between Tanks
Tanks in vaults (measured from vault perimeter)	0 – 15,000	0	0	0	0	Separate vault compartments for each AST
Protected ASTs (UL 2085)	≤ 6,000	5	0	15	5	3
	6,001 – 12,000	15	0	25	15	3
Fire-resistant ASTs (UL 2080)	0 – 12,000	25	25	50	25	3
Other ASTs meeting NFPA 30 requirements	0 – 12,000	50	50	100	50	3

(d) Bulk Plants with Motor Fuel Dispensing.

This section does not include facilities that meet the requirements of 3-2-2-3.

(1) For facilities existing before April 14, 2011:

- (i) ASTs shall meet the location and installation requirements of 3-2-2-4.
- (ii) Where the 50 ft distance requirement from tank to dispenser is met, the following shall apply to the ASTs used for both motor fuel dispensing **and** bulk operations:

ASTs storing Class I liquids shall be limited to a maximum individual capacity of 12,000 gallons, ASTs storing Class II liquids shall be limited to a maximum individual capacity of 20,000 gallons, and the aggregate capacity for all tanks shall be 80,000 gallons.

[Note: There are no individual or aggregate capacity limits for ASTs used **solely** for bulk operations.]

- (iii) Where the 50 ft distance requirement from tank to dispenser is not met, the following shall apply to the ASTs used for both motor fuel dispensing **and** bulk operations:

ASTs storing Class I and Class II liquids shall be limited to a maximum individual capacity of 12,000 gallons, and an aggregate capacity of 48,000 gallons.

[Note: There are no individual or aggregate capacity limits for ASTs used **solely** for bulk operations.]

(2) For new facilities installed on or after April 14, 2011:

- (i) ASTs used for motor fuel dispensing shall meet the capacity and location requirements of 3-2-2-1, except that the maximum individual tank capacity of 12,000 gallons, indicated in Table 1, shall be permitted to be increased to 20,000 gallons for Class II liquids, and the aggregate capacity for all tanks shall be 80,000 gallons.

[Note: ASTs that are used for motor fuel dispensing shall not be used for bulk operations.]

- (ii) ASTs used for bulk operations shall meet the location and installation requirements of 3-2-2-4.

[Note: ASTs that are used for bulk operations shall not be used for motor fuel dispensing.]

- (3) ASTs used solely for bulk operations shall not be connected by piping to ASTs or USTs used for motor fuel dispensing, and shall not supply dispensing devices used for motor vehicle fueling.

Exception: Where the total capacity of all ASTs used for motor fuel dispensing and all ASTs used solely for bulk operations is within the aggregate capacities allowed by 3-2-2-1 (d)(1) (ii) or (iii), changes to connected piping are not required.

- (4) The motor fuel dispensing operations shall be separated from areas in which bulk plant operations are conducted by a fence or an approved structure (building, retaining wall, etc.), preventing direct access from one area to the other.

3-2-2-2 Governmental, Industrial and Commercial AST Facilities (Fleet Vehicle Motor Fuel Dispensing)

AST installations are permitted at commercial, industrial, governmental, and manufacturing facilities where motor fuels are dispensed into vehicles used in connection with their business by employees, but only under one of the following conditions:

- (a) For ASTs installed before April 14, 2011, existing restricted-capacity fleet vehicle motor fuel dispensing operations that meet the following requirements are allowed:
- (1) The facility has been inspected and approved by the Director;
 - (2) No more than two (2) ASTs are in service at the facility;
 - (3) No AST at the facility has a capacity greater than 6,000 U.S. gallons;
 - (4) There is not more than one (1) tank at the facility containing Class I liquids; and
 - (5) The spacing requirements of Table 2 below are met.

TABLE 2		AST Separation at Restricted-Capacity Fleet Motor Fuel Dispensing Facilities (Before April 14, 2011)			
		<i>Minimum Distance (ft)</i>			
<i>Tank Capacity (gal)</i>	<i>From Nearest Important Building on the Same Property</i>	<i>From Nearest Fuel Dispensing Device</i>	<i>From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way</i>	<i>From Nearest Side of Any Public Way</i>	<i>Between Tanks</i>
660 - 750	5	0	10	5	3
751 - 6,000	5	0	15	5	3

- (b) On or after April 14, 2011, new restricted-capacity fleet vehicle motor fuel dispensing operations shall be allowed where the following requirements are met:
- (1) The requirements of 3-2-2-2(a)(1) – (4) are met; and
 - (2) The spacing requirements of Table 3 below are met.

TABLE 3		AST Separation at Restricted-Capacity Fleet Motor Fuel Dispensing Facilities (On or after April 14, 2011)			
		<i>Minimum Distance (ft)</i>			
<i>Tank Capacity (gal)</i>	<i>From Nearest Important Building on the Same Property</i>	<i>From Nearest Fuel Dispensing Device</i>	<i>From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way</i>	<i>From Nearest Side of Any Public Way</i>	<i>Between Tanks</i>
660 - 2,000	25	0	50	25	3
2,001 - 6,000	25	0	75	35	3

- (c) For ASTs installed before April 14, 2011, if the AST system meets the requirements of 3-2-2-1(b) it can operate under the service station capacity allowances.
- (d) On or after April 14, 2011, fleet vehicle motor fuel dispensing operations shall be allowed where the following requirements are met:
- (1) The spacing requirements of Table 4 below are met.

- (i) The maximum individual tank capacity of 12,000 gallons, indicated in Table 4 below, shall be permitted to be increased to 20,000 gallons for Class II and Class III liquids, and the aggregate capacity for all tanks shall be 80,000 gallons; and
- (ii) No minimum separation shall be required between the dispensing device and a tank in a vault, a protected aboveground tank, or a fire-resistant tank.

TABLE 4		AST Separation at Fleet Motor Fuel Dispensing Facilities				
		Minimum Distance (ft)				
Type of Tank	Individual Tank Capacity (gal)	From Nearest Important Building on the Same Property	From Nearest Fuel Dispensing Device	From Property Line That Is or Can Be Built Upon Including Opposite Side of Public Way	From Nearest Side of Any Public Way	Between Tanks
Tanks in vaults (measured from vault perimeter)	0 – 15,000	0	0	0	0	Separate vault compartments for each AST
Protected ASTs (UL 2085)	≤ 6,000	5	0	15	5	3
	6,001 – 12,000	15	0	25	15	3
Fire-resistant ASTs (UL 2080)	0 – 12,000	25	0	50	25	3
Other ASTs meeting NFPA 30 requirements	0 – 12,000	50	50	100	50	3

3-2-2-3 Unattended Cardlock Systems

- (a) On or after April 14, 2011, unattended cardlock systems are those motor fuel dispensing facilities already in existence which are located at bulk plants, governmental, industrial, and commercial facilities where only proprietary cards (or keys) issued by the facility, and that are specific to the facility's fuel management or point of sale system, can be used to dispense fuel. Proprietary cards do not include cards that are available for regional or national fleet fueling.
 - (1) Cardlock systems installed before October 1, 1994 shall meet the AST separation distances of 3-2-2-4(a).
 - (2) Cardlock systems installed on October 1, 1994 or thereafter shall meet the AST separation distances of 3-2-2-4(a), and the tank-to-dispenser separation distances of 3-2-2-1(b).
 - (3) Persons that are issued proprietary cards (or keys) must be knowledgeable in site-specific operating and emergency procedures for dispensing operations.

3-2-2-4 Bulk Plants (And Other Facilities Without Motor Fuel Dispensing)

This section applies to ASTs storing regulated substances, including emergency generator tanks, outdoors at bulk plants and other facilities (except those facilities covered by 3-2-2-1) where there is no motor fuel dispensing.

The following requirements and tables showing required minimum separation distances apply to facilities in this section that store stable liquids in atmospheric ASTs where internal operating pressures do not exceed 2.5 psi. Requirements for the storage of other liquids in other types of ASTs at greater operating pressures are found in NFPA 30, and must be followed.

- (a) Every AST which is installed after September 30, 1994 and used for the storage of Class I, Class II, or Class IIIA stable liquids and operating at pressures not in excess of 2.5 psig (17.2 kPa) and designed with a weak roof-to-shell seam, or equipped with emergency venting devices that will

not permit pressures to exceed 2.5 psig (17.2 kPa), shall be located in accordance with Table 5 in this section. Where tank spacing is contingent on a weak roof-to-shell seam design, the user shall present evidence certifying such construction to the Director, upon request.

Exception: Vertical tanks with weak roof-to-shell seams that store Class IIIA liquids shall be permitted to be located at one-half the distances specified in Table 5, provided the tanks are not within the same diked area as, or within the drainage path of, a tank storing a Class I or Class II liquid.

- (b) Every AST which is installed after September 30, 1994 and used for the storage of Class I, Class II, or Class IIIA stable liquids and operating at pressures exceeding 2.5 psig (17.2 kPa) or equipped with emergency venting that will permit pressures to exceed 2.5 psig (17.2 kPa), shall be located in accordance with, and meet the requirements of NFPA 30.
- (c) Every AST which is installed after September 30, 1994 and used for the storage of liquids with boil-over characteristics shall be located in accordance with, and meet the requirements of NFPA 30.
- (d) Every AST which is installed after September 30, 1994 and used for the storage of unstable liquids shall be located in accordance with, and meet the requirements of NFPA 30.
- (e) For ASTs installed before April 14, 2011, spacing (Shell-to-Shell) between any two adjacent ASTs, where one AST is installed after September 30, 1994, with tanks storing Class I, II, or IIIA stable liquids shall be separated in accordance with Table 5 in this section.
- (f) On or after April 14, 2011, tanks used only for storing Class IIIB liquids shall not be required to be separated by more than 3 ft provided they are not within the same diked area as, or within the drainage path of, a tank storing a Class I or II liquid. If located within the same diked area as, or within the drainage path of, a tank storing a Class I or II liquid, the tank storing Class IIIB liquid shall be spaced in accordance with the requirements for Class IIIA liquids in Table 5.
- (g) Every AST which is installed after September 30, 1994 and used for the storage of Class IIIB stable liquids shall be located in accordance with Table 7 in this section.

Exception: If located within the same diked area as, or within the drainage path of, a tank storing a Class I or Class II liquid, the tank storing Class IIIB liquid shall be located in accordance with 3-2-2-4(a).

TABLE 5	Location of Atmospheric ASTs Storing Stable Liquids (Class I, II, IIIA) Internal Pressure Not to Exceed a Gauge Pressure of 2.5 psi			
		Minimum Distance (ft)		
Type of Tank	Protection	From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way	From Nearest Side of Any Public Way or from Nearest Important Building on the Same Property	Minimum Tank Shell-to-Shell Spacing
Floating Roof	Protection for exposures	1/2 x tank diameter	1/6 x tank diameter	Greater of 1/6 x sum of adjacent tank diameters or 3 ft
	None	Tank diameter	1/6 x tank diameter	
Vertical with weak roof-to-shell seam	Approved foam or inerting system	1/2 x tank diameter	1/6 x tank diameter	Greater of 1/6 x sum of adjacent tank diameters or 3 ft
	Protection for exposures	Tank diameter	1/3 x tank diameter	
	None	2 x tank diameter	1/3 x tank diameter	
Horizontal and vertical tanks with emergency relief venting to limit pressures to 2.5 psi	Approved foam or inerting system	1/2 x value in table 6	1/2 x value in table 6	Greater of 1/6 x sum of adjacent tank diameters or 3 ft
	Protection for exposures	Value in table 6	Value in table 6	
	None	2 x value in table 6	Value in table 6	
Protected aboveground tank	None	1/2 x value in table 6	1/2 x value in table 6	Greater of 1/6 x sum of adjacent tank diameters or 3 ft
In most cases “protection for exposures” will apply.		Greater of values shown above or 5 ft		3 ft min. where sum of adjacent tank diameters is ≤ 18 ft
PROTECTION FOR EXPOSURES - Fire protection for structures on property adjacent to liquid storage that is provided by (1) a public fire department or (2) a private fire brigade maintained on the property adjacent to the liquid storage, either of which is capable of providing cooling water streams to protect the property adjacent to the liquid storage.				

TABLE 6	Distances for Use with Table 5 (Above)	
	Minimum Distance (ft)	
Tank Capacity (gal)	From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way	From Nearest Side of Any Public Way or from Nearest Important Building on the Same Property
660 - 750	10	5
751 – 12,000	15	5
12,001 – 30,000	20	5
30,001 – 39,999	30	10

TABLE 7	Location of ASTs Storing Class IIIB Liquids	
	Minimum Distance (ft)	
Tank Capacity (gal)	From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way	From Nearest Side of Any Public Way or from Nearest Important Building on the Same Property
12,000 or less	5	5
12,000 - 30,000	10	5
30,001 - 39,999	10	10

3-2-2-5 ASTs in Vaults

The provisions in this section apply only to ASTs installed after September 30, 1994.

- (a) There shall be no openings in the vault enclosure except those necessary for access to, inspection of, and filling, emptying, and venting of the tank. The walls and floor of the vault shall be constructed of reinforced concrete at least 6 inches (15 cm) thick. The top shall be constructed of non-combustible material constructed to be weaker than the walls. The top, floor, and tank foundation shall be designed to withstand the anticipated loading. The vault shall be substantially liquid tight (able to contain the product for enough time until any release therein can be cleaned up) and there shall be no backfill material around the tank. There shall be sufficient space between the tank and vault to allow for inspection of the tank and its appurtenances.
- (b) Each vault and its tank shall be suitably anchored to withstand uplifting by groundwater or flooding, including when the tank is empty.
- (c) A vault shall be designed to be wind and earthquake resistant in accordance with good engineering practice. The vault shall be resistant to damage from the impact of a motor vehicle, or suitable collision barriers shall be provided.
- (d) Each tank shall be in its own vault. Adjacent vaults may share a common wall.
- (e) Connections shall be provided to permit venting of each vault to dilute, disperse, and remove any vapors prior to personnel entering the vault.
- (f) Vaults that contain tanks of Class I liquids shall be provided with continuous ventilation at a rate of not less than 1 cubic foot per minute per square foot of floor area ($0.3\text{m}^3/\text{min-m}^2$), but not less than 150 cfm ($4\text{m}^3/\text{min}$). Failure of the exhaust air flow shall automatically shut down the dispensing system. The exhaust system shall be designed to provide air movement across all parts of the vault floor. Supply and exhaust ducts shall extend to within 3 in. (7.6 cm), but not more than 12 in. (30.5 cm), of the floor. The exhaust system shall be installed in accordance with the provisions of NFPA 91, *Standard for Exhaust Systems for Air Conveying of Materials*. Means shall be provided to automatically detect any flammable vapors and to automatically shut down the dispensing system upon detection of such flammable vapors in the exhaust duct at or above a concentration of 25 percent of the lower flammable limit.
- (g) Each vault shall be equipped with a detection system capable of detecting liquids, including water, and of activating an alarm.
- (h) Means shall be provided to recover liquid from the vault. If a pump is used to meet this requirement, the pump shall not be permanently installed in the vault. Electric powered portable pumps shall be suitable for use in Class I, Division 1 locations, as defined in NFPA 70, National Electrical Code.
- (i) Vent pipes that are provided for normal tank venting shall terminate at least 12 ft. (3.6m) above ground level.
- (j) Emergency vents shall be vapor tight and shall be permitted to discharge inside the vault. Long-bolt manhole covers shall not be permitted for this purpose.
- (k) Each vault shall be provided with a means for personnel entry. At each entry point, a warning sign indicating the need for procedures for safe entry into confined spaces shall be posted. Each entry point shall be secured against unauthorized entry and vandalism.
- (l) Each vault shall be provided with a suitable means to admit a fire suppression agent.

- (m) The interior of any vault containing a tank that stores a Class I liquid shall be designated a Class I, Division 1 location, as defined in NFPA 70, *National Electrical Code*.

3-2-2-6 Tanks Inside Buildings

Exception: Tanks storing Class IIIB liquids need not comply with these provisions.

Tanks shall not be permitted inside of buildings unless the storage of liquids in outside aboveground or underground tanks is not practical because of government regulations, temperature considerations or production considerations. Tanks may be permitted inside of buildings or structures only when permitted by the Director and only under the following conditions:

- (a) ASTs installed after September 30, 1994 inside buildings shall be permitted only in areas at or above grade that have adequate drainage and are separated from other parts of the building by construction having a fire resistance rating of at least 2 hours. Day tanks, running tanks, and surge tanks are permitted in process areas. Class I, Class II and Class IIIA liquids that may be heated above their flash points shall not be stored in basements. Openings to other rooms or buildings shall be provided with noncombustible liquid tight raised sills or ramps at least 4 in. (10 cm) in height, or the floor in the storage area shall be at least 4 in. (10 cm) below the surrounding floor. As a minimum, each opening shall be provided with a listed, self-closing 1 1/2-hr (B) fire door installed in accordance with the current versions of NFPA 80, *Standard for Fire Doors and Fire Windows*; NFPA 90A *Standard for the Installation of Air Conditioning and Ventilating Systems*, or NFPA 91, *Standard for the Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying*. The room shall be constructed without floor drains and with seals between walls and floor of the room in order to contain the product in case of leakage or spillage from the tank.
- (1) Secondary containment tanks do not remove the requirement for the raised sills or ramps at openings to other rooms or buildings, or lowered floor requirements described in (a) above. An open-grated trench across the width of the opening inside of the room that drains to a safe location shall be permitted to be used as an alternative to a sill or ramp.
- (2) The room shall be liquid tight where the walls join the floor and for at least 4 in. above the floor.
- (3) Access aisles of at least 3 ft. width shall be maintained for movement of firefighting personnel and fire protection equipment.
- (b) Each connection to a tank inside buildings through which liquid can normally flow shall be provided with an internal or an external valve located as close as practicable to the shell of the tank; and connections for all tank openings shall be liquid tight.
- (c) Tanks for storage of Class I or Class II liquids inside buildings shall be provided with either:
- (1) A normally closed remotely activated valve,
- (2) An automatic-closing heat-activated valve, or
- (3) Another approved device on each liquid transfer connection below the liquid level, except for connections used for emergency disposal, to provide for quick cutoff of flow in the event of fire in the vicinity of the tank. This function can be incorporated in the valve required in subsection (b) above and, if a separate valve, shall be located adjacent to the valve required in subsection (b).
- (d) Vents for tanks inside of buildings shall be as required in 3-2-1(c), 3-2-1(d), 3-2-2-5, except that emergency venting by the use of weak roof seams on tanks shall not be permitted. Vents shall terminate outside the buildings.

- (1) Section 3-2-1(c)(5) requires that adequate ventilation exist to guarantee that flammable liquid vapors cannot build up to 25% percent or more of the lower flammable limit, including inside buildings.
- (e) Vent piping shall be constructed and equipped as in 3-2-1(b) and 3-2-1(c).
- (f) Openings for manual gauging of Class I or Class II liquids, if independent of the fill pipe, shall be provided with a vapor tight cap or cover. Openings shall be kept closed when not gauging. Each such opening for any liquid shall be protected against liquid overflow and possible vapor release by means of a spring-loaded check valve or other approved device. Substitutes for manual gauging include, but are not limited to, heavy-duty flat gauge glasses, magnetic, hydraulic, or hydrostatic remote reading devices, and sealed float gauges.
- (g) The inlet of the fill pipe and the outlet of a vapor recovery line for which connections are made and broken shall be located outside of buildings at a location free from any source of ignition and not less than 5 ft. (1.5 m) away from any building opening. Such connections shall be closed and tight when not in use and shall be properly identified.
- (h) Tanks storing Class I, Class II, and Class IIIA liquids inside buildings shall be equipped with a device, or other means shall be provided to prevent overflow into the building. Suitable devices include, but are not limited to, a float valve, a preset meter on the fill line, a valve actuated by the weight of the tank contents, a low head pump incapable of producing overflow, or a liquid tight overflow pipe at least one pipe size larger than the fill pipe, discharging by gravity back to the outside source of liquid or to an approved location.
- (i) Tank openings provided for purposes of vapor recovery shall be protected against possible vapor release by means of a spring-loaded check valve or dry-break connections, or other approved device, unless the opening is pipe-connected to a vapor processing system. Openings designed for combined fill and vapor recovery shall also be protected against vapor release unless connection of the liquid delivery line to the fill pipe simultaneously connects the vapor recovery line. All connections shall be vapor tight.

3-2-2-7 Separation from Propane ASTs

- (a) The minimum horizontal separation between an LP-Gas container and a Class I, Class II or Class IIIA liquid storage tank installed after September 30, 1994 shall be 20 ft (6 m). When flammable or combustible liquids storage tanks are within a diked area, the LP-Gas containers shall be outside the diked area and at least 10 ft (3 m) away from the centerline of the wall of the diked area. For all tanks, suitable measures shall be taken to prevent the accumulation of Class I, Class II, or Class IIIA liquids under adjacent LP-Gas containers such as by dikes, diversion curbs, or grading.
- (b) Subsection (a) shall not apply when LP-Gas containers of 125 gal (475 L) or less capacity are installed adjacent to fuel oil supply tanks of 660 gal (2498 L) or less capacity. No horizontal separation is required between aboveground LP-Gas containers and underground flammable and combustible liquids tanks installed in accordance with UST rules.

3-2-3 Installation, Upgrade, and Repairs

- (a) Application for Permit for ASTs

- (1) An application must be submitted to and approved by the Director before beginning construction;
- (i) On any new or used/reinstalled AST system that will store a regulated substance; or
- (ii) Before beginning construction on any existing regulated substance AST system at a facility that is being upgraded to the standards described in these regulations or applicable statutes.

- (A) This requirement applies to alterations made to tanks, piping, or equipment affecting their operation, to containment (diking or impounding), and to the security provisions of 3-2-1(i)(5) or (6).

[Note: Where a tank will be moved from and returned to its original location in order to allow an alteration to its containment (e.g., changing from bare earthen diking to lined earth or concrete diking), or where a tank will be moved to a new location outside of its current footprint, a permanent closure must be performed in accordance with 3-4-2, and an application must be submitted for its reinstallation. For tanks installed before October 1, 1994 that will be moved from and returned to their original location, requests for variance from separation requirements of 3-2-2 that cannot be met must be made in writing at the time of application.]

(2) The application must include:

- (i) Site Plan - A dimensioned drawing of the facility, showing the name and address of the facility, the location of existing tanks and piping that will remain at the facility, as well as new tanks and piping proposed in the application, the location of dispensers and buildings at the facility, the location of loading/unloading facilities, the location of guard posts and fences, the location of property lines, and the location and names of streets adjacent to the facility; and
- (ii) A written application, using the form supplied by the Director, containing information about the proposed construction.

[Note: If a used AST will be installed/reinstalled, the requirements of 3-2-3(d) apply, and the results of the required inspections and testing must be submitted with the application.]

(b) AST Facility Inspections Required

- (1) Except in emergencies, if underground piping will be replaced or added to the AST system, the Director must be notified at least 72 hours prior to beginning the air pressure/soap solution test of the piping in order that an inspection of the system may be scheduled at that time. Emergency situations will be dealt with individually by the Director, possibly by delegation of the inspection.
- (2) The Director will make an inspection of the AST system, to verify that the facility was constructed according to plan. This inspection will be as detailed as practicable, but does not exempt the owner/operator from certifying that the installation was made according to all the requirements of these regulations. The owner/operator shall provide the Director with a 72 hour notice prior to the filling of the tank system.

(c) Denial or Revocation of Permit

- (1) An AST permit application may be denied or revoked if the AST installation or operation is not in conformance with these AST regulations or is not in conformance with all applicable sections of the National Fire Protection Association codes.
- (2) An AST permit may be denied or revoked if the AST permit application is not complete or is determined to be inaccurate.
- (3) An AST permit may be revoked if the AST installation or operation is not in conformance with the NFPA Codes in effect at the time of installation, and may be revoked for misrepresentation of facts in the application.

- (4) An AST permit may be revoked if an inspection by the Director reveals that the construction performed is not in accordance with the installation plan submitted for approval; and may be revoked for failure to meet the operating or fire safety rules established by these regulations or established by the various provisions of the NFPA Codes that apply to the AST facility.
- (5) An AST system permit is automatically revoked six months after the date of issue unless the Director grants an extension in writing.
- (6) Six months or later, after an AST permit is issued, the permit may be modified by subsequent statutory or regulatory changes.

(d) Reinstallation of ASTs

- (1) Used ASTs being installed to store a regulated substance must meet the following requirements:
 - (i) The AST itself must meet all of the fabrication, construction and performance requirements, and be equipped with all of the required equipment listed in 3-2 of these regulations.
 - (ii) The tank must be inspected per 3-3-4-2, and manufacturer reinstallation/relocation requirements.
 - (iii) The AST installation and registration requirements of 3-2-3 and 3-2-4.
 - (iv) Emergency relief vent devices must be tested and certified to be in good working order.

(e) Upgrading AST Systems

The deadlines for the upgrading of AST systems that existed prior to AST regulations being promulgated have expired. This section remains in this revision for historical reference.

- (1) On or before December 22, 1996, AST systems must meet the requirements of these regulations or permanently close the tanks in accordance with these regulations. The following requirements take effect December 22, 1996:
 - (i) Each AST must be sound and have an emergency relief venting device which is equivalent to those described in these regulations. The owner/operator is required to provide proof that the tank meets this requirement.
 - (ii) Secondary containment methods or devices must be provided and in regular use at the facility as described in 3-3-1.
 - (iii) The facility must meet the security requirements of 3-2-1(i).
- (2) By December 22, 1998 certain AST systems must be equipped with a solenoid valve or a vacuum-actuated shutoff valve, with a shear section as described in 3-2-1(g).

[Note: In applying these requirements, the following quotation will be carefully considered by the Director - "Existing plants, equipment, buildings, structures, and installations for the storage, handling or use of flammable or combustible liquids that are not in strict compliance with the terms of this code may be continued in use at the discretion of the Director provided they do not constitute a recognized hazard to life or adjoining property. The existence of a situation that might result in an explosion or sudden escalation of a fire, such as inadequate ventilation of confined spaces, lack of adequate emergency

venting of a tank, failure to fireproof the supports of elevated tanks, or lack of drainage or dikes to control spills, may constitute such a hazard."]

(f) Repairs Allowed

- (1) If an AST system is damaged, it must be repaired to meet applicable requirements, or be properly closed. Owners/operators of AST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the AST system is used to store regulated substances.
- (2) The repairs must meet the following requirements:
 - (i) Repairs to AST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. [Note: The following codes and standards may be used to comply with this section: National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; American Petroleum Institute Publication 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines"];
 - (ii) Above ground metal pipe that has released product must be immediately repaired or replaced and appropriately tested. [Note: repaired piping that has previously contained flammable liquid must not be subjected to an air pressure test unless the piping has been completely cleaned and rendered vapor free]
 - (iii) Underground metal pipe sections and fittings connected to an AST that have released product as a result of corrosion or other damage must be replaced immediately and protected from future corrosion. Fiberglass pipes and fittings may be repaired in accordance with the equipment manufacturer's specifications.
 - (iv) Repaired AST underground piping must be tightness tested in accordance with 2-3-4-3(a)(2)(i) within 30 calendar days following the date of the completion of the repair. New replacement piping runs that have never contained product may be tested by an air pressure/soap bubble test at 1.5 times operating pressure if inspected and approved by the Director.
- (3) If a release of regulated substance is identified during repairs to AST system equipment, the owner/operator shall report the release according to Article 4.

3-2-4 AST System Registration and Transfer of Ownership

(a) Registration and Notification for ASTs.

- (1) AST Registration Required. All ASTs and facility data must be registered, re-registered or updated on a form provided by the Director, regardless of whether the ASTs and facilities are currently in service or in temporary closure, according to the following provisions:
 - (i) The registration form must be filled out as completely as possible by the owner/operator of the AST; and must include each tank owned or operated at the facility.
 - (ii) Owners/operators may provide notice for several tanks at a single facility using one notification form, but owners/operators who own or operate tanks located at more than one facility must file a separate notification form for each separate facility.

- (2) **Registration Timing.** Each owner/operator of an AST must register each AST with the Director as follows:
- (i) By July 1, 1993 if the tanks were not registered previously.
 - (ii) Within 30 calendar days after the first day on which any AST is actually used to contain a regulated substance.
 - (iii) This registration information must be updated within 30 calendar days after any additional tank construction, AST system upgrading, temporary or permanent closure, or changes in operation including a change of owner or operator, has been completed.
 - (iv) This registration must be renewed annually during the month designated by the Director, and during the same month in each succeeding year thereafter.
- (3) **Registration Fee Required.** The owner/operator is required to pay an annual registration fee in the amount allowed by the current state law for each regulated tank owned or operated, until the regulated AST is permanently closed as in 3-4-2 or until the owner/operator has instituted a change-in-service to a substance other than a regulated substance as in 3-4-3.
- (4) **Tank Vendor Responsibility.** Any person who sells a tank intended to be used as an AST must notify the purchaser of such tank of the purchaser's registration and registration fee obligations under this section.

Section 3-3 Operation

3-3-1 Spill and Overfill Protection

(a) General Requirements

- (1) After December 22, 1996, facilities shall be provided so that any accidental discharge of any Class I, II or IIIA liquids will be prevented from endangering important facilities, and adjoining property, or reaching waterways, as provided for in subsections (b) or (c) except that tanks storing Class IIIB liquids do not require special drainage or diking provisions for fire protection purposes.
- (2) Owners/operators of ASTs must ensure that releases due to spilling or overfilling do not occur. The owner/operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made; and that the transfer operation is monitored constantly to prevent overfilling and spilling.
 - (i) Where electronic or mechanical gauges are used for determining tank volume (ground-level tape gauges, clock face gauges, etc.), the gauge shall be calibrated annually, per manufacturer instructions. These calibrations shall be documented and maintained.
- (3) Spill and overfill prevention equipment is required for all ASTs installed after September 30, 1994. Means shall be provided for determining the liquid level in each tank and be accessible to the delivery operator. Specifically, for all ASTs installed after September 30, 1994 at service stations, and for all secondary containment type tanks without diking or impounding protection, the equipment shall automatically stop the delivery of liquid to the tank when the liquid level in the tank reaches 95 percent of capacity or sound an audible alarm when the liquid level in the tank reaches 90 percent of capacity.
- (4) Delivery operations shall comply with the following requirements:

- (i) The delivery vehicle shall be separated from any AST by at least 25 ft. (7.6 m) for class I liquids and by at least 15 ft. for class II and class III liquids, measured from the nearest fill spout or transfer connection.
 - (ii) Tank filling shall not begin until the delivery operator has determined tank ullage (available capacity) based on direct liquid level measurement converted to gallons or some equivalent method.
 - (A) Where spill and overfill prevention equipment that will automatically stop the delivery of liquid to the tank or sound an audible alarm that can be heard by the delivery operator described in 3-3-1-(a)(3) does not exist, tank ullage and the amount of product delivered must be documented and maintained.
 - (iii) For ASTs installed after September 30, 1994, a check valve and a shutoff valve with a quick-connect coupling or a check valve with a dry-break valve shall be installed in the piping at a point where connection and disconnection is made for delivery from the bulk delivery vehicle to the AST. This device shall be protected from tampering and physical damage.
- (5) The owner/operator must report, investigate, and clean up any spills and overfills in accordance with Articles 4 and 5 of these Regulations.

(b) Remote Impounding.

Where protection of adjoining property or waterways is by means of drainage to a remote impounding area, so that impounded liquid will not be held against tanks, such systems shall comply with the following:

- (1) A slope of not less than 1 percent away from the tank shall be provided for at least 50 ft. toward the impounding area.
- (2) The impounding area shall have a net capacity not less than that of the largest tank that can drain into it plus an allowance for precipitation.
- (3) The route of the drainage system shall be so located that, if the liquids in the drainage system are ignited, the fire will not seriously expose tanks or adjoining property.
- (4) The confines of the impounding area shall be located so that, when filled to capacity, the liquid level will not be closer than 50 ft. from any property line that can be built upon, or from any tank.

(c) Impounding Around Tanks by Diking

Exception: Size and spacing requirements for dikes enclosing existing ASTs may be reduced or waived by the Director if he determines that there are equivalent safety measures at the facility.

When protection of adjoining property or waterways is by means of impounding by diking around the tanks, such system shall comply with the following:

- (1) For ASTs installed after September 30, 1994, a slope of not less than 1 percent away from the tank shall be provided for at least 50 ft. or to the dike base, whichever is less.
- (2) After December 22, 1996, the volumetric capacity of the diked area shall not be less than the greatest amount of liquid that can be released from the largest tank within the diked area, assuming a full tank. To allow for volume occupied by tanks, the capacity of the diked area enclosing more than one tank shall be calculated after deducting the volume of the tanks, other than the largest tank, below the height of the dike.

- (3) For ASTs installed after September 30, 1994, to permit access, the outside base of the dike at ground level shall be no closer than 10 ft. to any property line that is, or can be, built upon.
- (4) After December 22, 1996, walls of the diked area shall be of non-permeable earth, steel, concrete, or solid masonry designed to be liquid tight and to withstand a full hydrostatic head for enough time until any release therein can be cleaned up. For all AST dikes installed after September 30, 1994, the floor of the diked area must be impervious enough to contain the product for enough time until any release therein can be cleaned up. Earthen walls 3 ft. or more in height shall have a flat section at the top not less than 2 ft. wide. The slope of an earthen wall shall be consistent with the angle of repose of the material of which the wall is constructed. Diked areas for tanks containing Class I liquids located in extremely porous soils may require special treatment to prevent seepage of hazardous quantities of liquids to low-lying areas or waterways in case of spills.
- (5) Except as provided in subsection (6) below, the walls of the diked area shall be restricted to an average interior height of 6 ft. above interior grade.
- (6) Dikes may be higher than an average of 6 ft. above interior grade where provisions are made for normal access and necessary emergency access to tanks, valves, and other equipment, and safe egress from the diked enclosure.
 - (i) Where the average height of the dike containing Class I liquids is over 12 ft high, measured from interior grade, or where the distance between any tank and the top inside edge of the dike wall is less than the height of the dike, provisions shall be made for normal operation of valves and access to tank roof without entering below the top of the dike. These provisions may be met through the use of remote-operated valves, elevated walkways, etc.
 - (ii) Piping passing through dike walls shall be designed to prevent excessive stresses as a result of settlement or fire exposure.
 - (iii) For ASTs installed after September 30, 1994, the minimum distance between tanks and toe of interior dike walls shall be 5 ft.
- (7) Where provision is made for draining water from diked areas, such drains shall be controlled in a manner so as to prevent flammable or combustible liquids from entering natural water courses, public sewers, or public drains. Control of drainage shall be accessible under fire conditions from outside the dike.
- (8) Storage of combustible materials, empty or full drums, or barrels, shall not be permitted within the diked area.
- (d) Secondary Containment Tanks may be installed without special drainage or diking if they are constructed to meet all the following requirements:
 - (1) The capacity of the tank shall not exceed 12,000 gallons for Class I liquids or 20,000 gallons for Class II and IIIA liquids; and
 - (2) All piping connections to the tank are made above the normal maximum liquid level; and
 - (3) Means are provided to prevent the release of liquid from the tank by siphon flow; and
 - (4) The outer tank must contain a release from any portion of the inner tank within the outer wall; and
 - (5) For ASTs installed after September 30, 1994, spacing between adjacent tanks shall be not less than three (3) feet (0.9 M); and

- (6) Tanks that are not listed as UL 2085 Protected Tanks must be protected from collisions as described in 3-2-1(i); and
- (7) The system must prevent spills by being equipped with:
 - (i) A check valve and a shutoff valve with a quick-connect coupling or a check valve with a dry-break valve which is installed in the piping at a point where connection and disconnection is made for delivery from the vehicle to any AST; or
 - (ii) If the delivery hose is connected directly to the tank, the fill line at the tank shall be equipped with a tight-fill device for connecting the hose to the tank to prevent or contain any spill at the fill opening during delivery operations; and
- (8) ASTs must prevent overfills by means of equipment that will shut off liquid flow to the tank when the liquid level in the tank reaches 95% of capacity or sound an audible alarm when the liquid level in the tank reaches 90% of capacity.
- (e) Secondary containment areas must be maintained free of accumulations of water, leaves, weeds, flammable material, non U.L. listed tanks or drums, and anything else that might interfere with the containment purpose of such areas.

3-3-2 Corrosion Protection

- (a) Internal Corrosion Protection For ASTs Installed After September 30, 1994.

When ASTs installed after September 30, 1994, are not designed in accordance with the American Petroleum Institute, American Society of Mechanical Engineers, or the Underwriters Laboratories Inc. Standards, or if corrosion is anticipated beyond that provided for in the design formulas used, additional metal thickness or suitable protective coatings or linings shall be provided to compensate for the corrosion loss expected during the design life of the tank.

- (b) External Corrosion Protection for ASTs installed after September 30, 1994.

For those portions of an AST system installed after September 30, 1994, including the product pipelines that normally contain regulated substances and are in contact with the soil or with an electrolyte that may cause corrosion of the AST system, tanks and piping must be protected by either:

- (1) A properly engineered, installed and maintained cathodic protection system in accordance with recognized standards of design, such as:
 - (i) National Association of Corrosion Engineers Standard RP-01-69, *"Control of External Corrosion of Underground or Submerged Metallic Piping Systems"* ;
 - (ii) National Association of Corrosion Engineers Standard RP-02-85 , *"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"* ; or;
- (2) Approved or listed corrosion-resistant materials or systems, which may include special alloys, fiberglass reinforced plastic, or fiberglass reinforced plastic coatings.

- (c) External Coating of all Elevated Tanks.

For installations where tanks and piping are not in contact with soil or with an electrolyte, corrosion protection may consist of an appropriate external coating.

- (d) Cathodic Protection Requirements.

Owners/operators must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as a cathodically protected AST system is used to store regulated substances:

- (1) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.
 - (2) Performance criteria - The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association.
 - (3) Periodic Inspections - AST systems with impressed current cathodic protection systems must be inspected every 60 calendar days to ensure that the equipment is running properly.
- (e) Tanks that are not cathodically protected must be tested within 5 years after October 1, 1994; and once every two years thereafter by either;
- (1) An external visual inspection, that includes the bottom of the tank, for corrosion or other visible damage; or
 - (2) A leakage test of any type approved by the Director; or
 - (3) An internal inspection for corrosion or other visible damage; or
 - (4) Comply with some other alternative test for corrosion or leakage as specified by and approved by the Director in the future.

3-3-3 Release Detection

- (a) General Requirements for all AST Systems.
- (1) ASTs that are not in contact with the ground or any electrolyte that might cause corrosion of the tank must be visually inspected at least once per month by operating personnel to detect any leakage from tank seams, connections, and fittings, including piping. Any such leakage must be repaired immediately and reported under the repair and reporting requirements of these regulations.
 - (2) ASTs, including metal supporting structures, that are in contact with the soil or that are in contact with an electrolyte that may promote corrosion of the tank must be inspected as in subsection (1) above and be protected from corrosion or tested periodically to prove that they are not seriously corroded, as described in 3-3-2(e).
 - (3) AST system piping that is not in contact with the soil or with an electrolyte that might cause corrosion of the piping must be inspected at least once each month to detect leakage from pipe seams, connections, and fittings. Any such leakage that may exceed the reportable quantity (25 gallons) must be repaired immediately and reported as in Article 4.
 - (4) Underground AST piping shall meet the release detection requirements in 2-3-4-3.
 - (i) Pressurized piping described in 3-2-1 (g)(1)(i) shall meet the release detection requirements (automatic leak detector and line tightness testing) in 2-3-4-3(a), except that where there is no pump installed between the tank and underground piping, the requirement for an automatic line leak detector in 2-3-4-3(a)(1) does not apply.

(ii) Suction piping described in 3-2-1(g)(1)(A) shall meet the release detection requirements in 2-3-4-3(b).

(5) Inventory control shall be performed and documented for all single-wall ASTs installed on earthen materials, and all ASTs connected to underground pressurized piping that is not being monitored for releases in accordance with 2-3-4-3(a)(2)(ii). Accurate daily inventory records shall be maintained and reconciled for all applicable storage tanks.

(b) Release Detection for Secondary Containment Tanks

Secondary Containment tanks that are installed without special drainage or diking according to 3-3-1(b) or (c) must be visually inspected at least once each month to ensure that there has been no failure of the outer wall of the secondary containment tank. An interstitial liquid detector or some other positive means of leak detection must be installed to detect leaks from the inner wall of the tank; and operation of that leak detector must be verified at least monthly. A record of the inspection must be maintained [See § 3-3-5].

(c) All AST system tank and piping fittings, connections, valves, auxiliary equipment that contains product, secondary containment areas, etc. must be maintained free of obstructions that would interfere with visual detection of leaks and spills.

3-3-4 Testing and Compliance Inspections

3-3-4-1 Testing

(a) Initial Testing

(1) All new ASTs shall be tested before they are placed in service in accordance with the requirements of the standard or code under which they were built.

(i) An AST marked with an approved listing is considered to be in compliance with this requirement, as the testing is part of the standard to which it was constructed. Tanks not marked with an approved listing shall be tested before they are placed in service in accordance with recognized engineering standards.

(b) Tightness Testing

(1) In addition to the initial testing of 3-3-4-1(a), all new and used tanks and connections shall be tested for tightness after installation/reinstallation and before being placed in service in accordance with manufacturer instructions, or NFPA 30 where no manufacturer instructions exist. This test shall be made at operating pressure with air, inert gas, or water.

(i) Air pressure shall not be used to test tanks that contain flammable or combustible liquids or vapors.

(ii) Where the vertical length of the fill and vent pipes is such that, when filled with liquid, the static head imposed on the bottom of the AST exceeds a gauge pressure of 10 psi, the tank and its related piping shall be tested hydrostatically to a pressure equal to the static head, using recognized engineering standards. Under no circumstances should the test pressure exceed the design pressure of the AST.

3-3-4-2 Inspections

(a) All steel ASTs shall be inspected and maintained in accordance with STI SP001, *Standard for the Inspection of Aboveground Storage Tanks*, or API Standard 653, *Tank Inspection, Repair, Alteration, and Reconstruction*, whichever is applicable.

(b) Monthly Visual Inspections

The owner/operator must conduct visual inspections of the tank system each month and document the results of the inspection on a form provided by the Director or on an equivalent form. These monthly visual inspections satisfy the requirements described in 3-3-3 (a)(1) through (3).

(c) Annual Visual Inspections

(1) Annual inspections of all steel ASTs shall be performed, documented, and retained according to the requirements of STI SP001.

(i) This inspection does not include ultrasonic testing (UT), and can be performed by an individual knowledgeable of storage facility operations, the type of AST and its associated components, and characteristics of the liquid stored.

(ii) Annual inspections shall be performed within 12 months after April 14, 2011, and during the same month in each year thereafter.

(d) Periodic Inspections

(1) External and internal inspections, and leak testing, shall be performed and documented according to the requirements of the standard being followed.

(i) These inspections shall be performed by inspectors meeting the qualifications required by the standard being followed.

(ii) The applicability and frequency of these inspections is determined by the AST type, capacity, type of installation, corrosion rate, inspection history, and standard being followed according to guidance provided by OPS.

(iii) For any new or used AST being installed, and all existing ASTs, the first inspections and testing required by this subsection are due as indicated in Table 8 below.

[Note: For Table 8, inspection frequency shall be determined based on the requirements in the selected inspection standard listed in (c)(1).]

TABLE 8		First External and Internal Inspections, and Leak Testing Due			
Type of AST		Age of AST	Previous inspections conducted?	Re-inspection due date is exceeded ?	The inspection is due
AST Installations	New	at the time of installation is new	No	N/A	when the age of the AST = the inspection frequency
	Used	at the time of installation is ≤ the inspection frequency	Yes	Yes	before installation **
	Used	at the time of installation is ≤ the inspection frequency	Yes **	No	re-inspect per subsection (iv) below
	Used	at the time of installation is ≤ the inspection frequency	No	N/A	when the age of the AST = the inspection frequency
	Used	at the time of installation is > the inspection frequency	Yes	Yes	before installation **
	Used	at the time of installation is > the inspection frequency	Yes **	No	re-inspect per subsection (iv) below
	Used	at the time of installation is > the inspection frequency	No	N/A	before installation **
Existing		on 10/14/2012 is ≤ the inspection frequency	Yes	Yes	before 10/14/2012
Existing		on 10/14/2012 is ≤ the inspection frequency	Yes	No	re-inspect per subsection (iv) below
Existing		on 10/14/2012 is ≤ the inspection frequency	No	N/A	when the age of the AST = the inspection frequency
Existing		on 10/14/2012 is > the inspection frequency	Yes	Yes	before 10/14/2012
Existing		on 10/14/2012 is > the inspection frequency	Yes	No	re-inspect per subsection (iv) below
Existing		on 10/14/2012 is > the inspection frequency	No	N/A	before 10/14/2012

****A copy of the inspection report must be included with the installation application required by 3-2-3(a).**

(iv) Re-inspection of all ASTs shall occur in the same month as the previous inspection, during the next inspection year established by the applicable inspection frequency.

(e) The Director shall have authority to enter in or upon the premises of any facility that contains an AST system containing a regulated substance, for the purpose of verifying that such AST system and its required records are in compliance with these regulations.

3-3-5 Record Keeping

(a) Owners/operators must maintain the following records for an AST site as applicable:

- (1) Installation permits for newly installed tanks, reinstalled used tanks or permits for upgrading existing tanks must be maintained for 5 years.
- (2) Tank registration records or record of facility ID number retained until closure.
- (3) Records of repairs that have been performed within the last 5 years.
- (4) Monthly and annual visual inspection records of the AST system must be kept for one year. Formal inspection reports and supporting documents shall be retained for the life of the tank.
- (5) Most recent underground piping precision test records must be maintained.
- (6) Records showing the history of each AST in terms of which Class and type of product has been stored in that tank, shall be maintained for at least one year.
- (7) Electronic/mechanical tank gauge calibration documentation required by 3-3-1(a)(2)(i) must be kept for one year.

- (8) Tank ullage documentation required by 3-3-1(a)(4)(ii)(A) must be kept for one year.
- (9) Inventory control records required by 3-3-3(a)(5) must be kept for one year.
- (10) Free product removal records must be maintained to document proper operation following any release of product within the last five years.
- (11) Records showing the changes in status of tanks that have been temporarily closed at times then returned to service, should be maintained for at least two (2) years. Records need not be kept for tanks that have been permanently closed.
- (12) Records of the operation of the cathodic protection system including results of 60-day inspection as required in 3-3-2 (d)(3).
- (b) Records must be maintained at the AST site and immediately available for inspection by the Director; or at a readily available alternative site and be provided for inspection within 24 hours to the Director upon request.
- (c) Notwithstanding the above, to be eligible for the Fund, persons may be required to maintain the above or other records in accordance with Fund requirements.

Section 3-4 Closure of AST Systems

3-4-1 Temporary Closure

- (a) Owners/operators shall notify the Director in writing at least 10 calendar days prior to placing an AST system in temporary closure, and at that same time submit records documenting the prior 12 months of monthly visual inspections, inventory control, ullage records, piping release detection records, and corrosion protection testing (if applicable) for tanks and piping. In lieu of submitting these records, the owner/operator may conduct a tightness test of the tanks and underground piping, and complete a site assessment as required by the Director, and submit these results with the temporary closure notification.
- (b) Temporarily closed tanks must be emptied of liquid, rendered vapor free and safeguarded against trespassing by means of locked gates, fences etc. When an AST system is temporarily closed, owners/operators must continue the operation, maintenance, inspection, and testing of corrosion protection in accordance with these regulations. Because the tanks must be emptied, release detection is not required.
- (c) When an AST system is temporarily closed, vent lines must be left open and functioning. If the temporary closure period is 3 months or more, all pumps, manways, ancillary equipment and lines other than vent lines must be capped and secured, unless an alternate schedule is approved by the Director.
- (d) When an AST system is temporarily closed for more than 12 months, owners/operators must permanently close the AST system in accordance with 3-4-2, unless the Director provides a written extension of the 12-month temporary closure period. Before requesting this extension, owners/operators must complete a site assessment as required by the Director.
- (e) Owner/operators shall notify the Director in writing no more than 30 calendar days prior to placing an AST back in service, and at that same time submit corrosion protection records (if applicable) for the period of temporary closure, and documentation of passing tightness tests for the AST conducted within the past 30 calendar days. The owner/operator shall obtain passing tightness tests for underground lines immediately upon introduction of fuel into the lines and submit documentation of testing to the Director within 10 calendar days.

- (f) If an owner/operator operates a facility which has a specific period of time or season during the year when the tank system is empty, as described in (b) of this section, the requirements for maintaining corrosion protection and the following requirements below will apply:
- (1) The owner/operator shall notify the Director that the facility does include seasonal operation on a form provided by the Director. If this information changes, the owner/operator shall complete and submit the form to the Director.
 - (2) The period may not exceed 6 consecutive months.
 - (3) The owner/operator shall maintain manifest documentation completed during emptying of the tank.
 - (4) At the end of the seasonal period, the owner/operator must conduct one of the following actions:
 - (i) Return the tank to service.
 - (ii) Place the tank into proper temporary closure. The owner/operator must notify the Director in writing within 10 calendar days, submit records according to (a) as applicable and complete requirements in (c) immediately.
 - (iii) Permanently close the tank as required by 3-4-2.

3-4-2 Permanent Closure

- (a) Owners/operators shall notify the Director in writing at least 10 calendar days prior to placing an AST system in permanent closure, and at that same time submit records documenting the prior 12 months of monthly visual inspections, inventory control, ullage records, piping release detection records, and corrosion protection testing (if applicable) for tanks and piping.

Exception: Records do not need to be submitted where they have already been submitted as part of placing the tank into temporary closure as required by 3-4-1.

- (b) Empty and clean the tank by removing all liquids and accumulated sludges as described in 3-4-5; and
- (c) Clean out and plug both ends of all connected piping; and
- (d) Remove all dispensers; and
- (e) Render all connected loading facilities completely inoperative; and
- (f) Safeguard the AST system from trespassing as described in 3-4-1, or remove the tanks from the facility; and

3-4-3 Change in Service

- (a) Continued use of an AST system to store a substance other than a regulated substance is considered a change-in-service. Before a change-in-service, owners/operators must empty and clean the tank, connected piping, and any other equipment that previously contained a regulated substance as described in 3-4-5; then notify the Director in writing of the change of service.

3-4-4 Site Assessment

- (a) Before an extension to temporary closure, permanent closure or a change-in-service is completed, or upon request by the Director for previously closed sites, owners/operators must measure for the presence of a release where contamination is most likely to be present at the site. In selecting sample types, sample locations, and measurement methods, owners/operators must consider the

method of closure, the nature of the stored substance, the depth to groundwater, and other factors appropriate for identifying the presence of a release.

- (1) For assessments when the tank system is removed during permanent closure, the owner/operator must collect soil samples from beneath each tank, beneath each dispenser island, beneath areas of piping, and beneath any loading racks.
 - (2) For assessments when the tank system is left in-place during permanent closure, prior to placing the tank into temporary closure, or when there is a change-in-service, the owner/operator shall collect samples of the type and at locations as specified by the Director. Samples collected at all sites must be analyzed for individual chemicals of concern (COC) as described in 5-2.
- (b) If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered, owners/operators must report a release in accordance with Article 4.
- (c) If the tank closure assessment does not identify a release, the owner/operator must submit documentation of the assessment to the Director within 30 calendar days of the tank closure.

[Note 1: Permanently closed or non-regulated ASTs may be returned to active regulated substance service only after meeting the reinstallation rules described in 3-2-3(d).]

[Note 2: These closure rules are the minimum required in Colorado; they do not preempt local fire district rules, local building codes, or local zoning rules. In fire districts where the Uniform Fire Code is in effect, the fire district may require that temporarily closed ASTs be removed or demolished.]

[Note 3: The following procedures may be used to comply with 3-4:

- (A) American Petroleum Institute Publication 2015, "*Cleaning Petroleum Storage Tanks*";
- (B) American Petroleum Institute Publ. 2015A, "*Lead Hazard Associated with Tank Entry*";
- (C) American Petroleum Institute 2015B, "*Cleaning Open Top and Floating Roof Tanks*";
- (D) National Institute for Occupational Safety and Health "*Criteria for a Recommended Standard...Working in Confined Space*" may be used as guidance for conducting safe closures.]

3-4-5 Waste Handling

- (a) All liquids and accumulated sludges must be removed and disposed of according to the rules adopted pursuant to the Solid Waste Disposal Regulations and the Colorado Hazardous Waste Regulations adopted by the Colorado Department of Public Health and Environment.

Section 3-5 Oil Pollution Prevention - SPCC Plan

The US EPA's SPCC rule regulates non-transportation-related onshore and offshore facilities that could reasonably be expected to discharge oil into navigable waters of the United States or adjoining shorelines. It is the responsibility of the facility owner/operator to make the determination whether the facility is subject to the requirements of the SPCC rule. This determination is subject to review by the EPA's Regional Administrator. All requests for information regarding SPCC should be directed to the US EPA.

Compliance with the US EPA's SPCC rule is required. Documentation used to demonstrate compliance with the US EPA's SPCC rule may be used to demonstrate compliance with this section.

ARTICLE 4 RELEASE IDENTIFICATION AND REPORTING

Section 4-1 Suspected Releases

The following conditions require reporting of a suspected release from a regulated UST or AST system to the Director within 24 hours by telephone (303-318-8547) or facsimile (303-318-8546). If outside normal working hours or on a weekend and emergency assistance is needed, call the emergency response number (877-518-5608) at the Colorado Department of Public Health and Environment:

- (a) A failed line or tank tightness test.
- (b) Unusual operating conditions such as the erratic behavior of product dispensing equipment.
- (c) The presence of water in the tank if investigation results indicate the UST system is not liquid tight.
- (d) Inventory loss as indicated by the release detection method (unless the release detection equipment is found to be defective, is immediately repaired, and the correctly operating release detection equipment does not identify a loss of fuel).
- (e) Inconclusive or failed SIR results that are not overturned by the third-party SIR vendor within 24 hours of the receipt of the report from the vendor.
- (f) Identification of a regulated substance in secondary containment:
 - (1) Under dispenser container (UDC), sump containments, tank or line interstitial space, when that regulated substance is in contact with a penetration point or damage (crack) to containment equipment.
 - (2) Spill prevention devices (spill bucket), when that regulated substance is in contact with a damaged portion of the device, or when damage to the bottom of the device is identified and the device is free of liquid.
- (g) The discovery of released regulated substances at the site or in the surrounding area, such as the presence of contamination, free phase hydrocarbons, or vapors in soils, basements or utility lines, or the presence of contamination in surface, ground, well or drinking water when the source of the contamination is not known.

Section 4-2 Response to Suspected Releases

In response to a suspected release, the owner/operator shall:

- (a) Perform a system test that determines whether a leak exists in that portion of the tank system that routinely contains product (i.e. tanks and attached delivery piping) or secondary containment devices (e.g. under dispenser containment) that is suspected of releasing regulated substance. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release. All system test results shall be submitted to the Director within 10 calendar days of the suspected release. If the system test has a failed result, a site check must be performed according to (b) of this section.
- (b) Perform a site check, if stained soils, soils with petroleum odors, or field screening readings is the basis for suspecting a release (4-1(g)). Owner/operators must collect soil and groundwater samples for laboratory analysis as described in 5-2(a). These samples must be collected from appropriate locations and depths in the vicinity of the suspected source(s) (i.e. tanks, lines, dispensers) to determine if a release to the environment has occurred. All site check results shall be submitted to the Director within 30 calendar days of the suspected release.

Section 4-3 Confirmed Releases

The following conditions require reporting of a confirmed release to the Director within 24 hours by telephone (303-318-8547) or facsimile (303-318-8546). If outside normal working hours or on a weekend and emergency assistance is needed, call the emergency response number (877-518-5608) at the Colorado Department of Public Health and Environment.

- (a) The site check or other sample analyses indicate a release (any detection of any chemical(s) of concern),
- (b) A released regulated substances at the site or in the surrounding area is observed, such as the presence of fuel outside of the storage tank system, identification of contamination during routine inspections, system repairs, installation, replacement or other sub-pavement work, the presence of contamination, free phase hydrocarbons or vapors in soils, basements or utility lines, or the presence of contamination in surface, ground, well or drinking water when the source of the contamination is known to be the owner/operator's UST or AST system, or
- (c) If a fuel spill or overfill of regulated substance of any volume is not cleaned up within 24 hours or if a fuel spill or overfill of regulated substance that exceeds 25 gallons is observed.

[Note: Pursuant to 40 CFR § 302.6 and 355.40, a release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986.]

ARTICLE 5 RELEASE RESPONSE

Section 5-1 Response to Confirmed Releases

The owner/operator of a regulated substance system shall, in response to a confirmed release, comply with the requirements of these regulations, which incorporate a risk-based corrective action (RBCA) approach. Any work performed or required under these regulations does not automatically qualify the owner/operator for reimbursement from the Petroleum Storage Tank Fund (PSTF). The obligation of the owner/operator responsible for the release remains with that owner/operator in the event that the tank system and/or property changes ownership.

5-1-1 Acute human health hazards

Upon discovery of a regulated substance on ground surface or surface water, or if a regulated substance has the potential to create a fire, explosion or acute health hazard, emergency response action shall be initiated immediately.

The owner/operator responsible for the release shall:

- (a) Identify and mitigate fire, explosion, vapor and acute health hazards by contacting the local fire department or other first-responder and conducting other mitigation activities as capability allows;
- (b) Identify and mitigate impacts to water supply wells, supply lines or surface intake;
- (c) Initiate containment and removal of any free-phase hydrocarbons observed on the ground surface or surface water body; and
- (d) Report identification of either (a), (b) or (c) of this subsection to OPS within 24 hours of discovery.

5-1-2 Chronic and secondary human health hazards and other environmental impacts

After abatement of any acute human health hazards, the owner/operator responsible for the release shall:

- (a) Take action to prevent any further release into the environment;
- (b) Identify the source of the release and repair, replace or upgrade the portion of the petroleum storage tank system that failed;
- (c) Monitor and mitigate any health hazards posed by vapors or free-phase hydrocarbons that have entered into subsurface structures (such as sewers or basements); and
- (d) Remedy hazards posed by contaminated media that are excavated or exposed as a result of abatement activities. The owner/operator must comply with applicable state and local requirements if these remedies include treatment or disposal of contaminated media.

Section 5-2 Site Characterization

The purpose of site characterization is to define the extent of source area(s) of the release, determine the distribution of contamination in the subsurface, determine if POEs are impacted or potentially impacted, evaluate all exposure pathways and determine whether active remediation is necessary. Site characterization results must be submitted to OPS within 180 days of the release discovery in the report format provided on the OPS website.

Upon confirmation of a release and completion of emergency response, the owner/operator shall complete the following tasks.

- (a) Define the extent of the source area(s) and determine the distribution and extent of sorbed, dissolved, vapor and free-phase contamination. Access must be obtained to off-site properties, including rights-of-way, if the extent of contamination extends beyond the release property boundary.
- (1) Collect environmental samples to define the extent of contamination in the subsurface. Groundwater must be assessed unless there is reason to believe that it is not impacted and with the concurrence of the Director.
- (2) Laboratory analysis of samples shall be as follows.
- (i) Soil samples:
- (A) Benzene, toluene, ethyl benzene, xylenes (BTEX);
- (B) The appropriate range(s) of total petroleum hydrocarbons (TPH);
- (C) Priority poly-nuclear aromatic hydrocarbons (PAHs) must be analyzed for from the sample with the highest TPH concentration if TPH exceeds the Tier I screening level of 500 mg/kg; and
- (D) Other petroleum fuel additives or petroleum compounds that are suspected to have been released.
- (ii) Groundwater samples:
- (A) BTEX, methyl tertiary-butyl ether (MTBE);
- (B) The appropriate range(s) of TPH; and
- (C) Other petroleum fuel additives or regulated compounds that are suspected to have been released.
- (iii) Soil vapor samples:
- (A) Benzene.
- (3) Identify all concentrations relative to the Tier I risk-based screening levels (RBSLs) listed in Table 5-1.

Table 5-1. Tier I RBSLs.

Media	Complete Exposure Pathway	Benzene	Toluene	Ethyl-benzene	Xylenes	MTBE
Surficial Soil [mg/kg]	Ingestion/ Dermal/ Inhalation	2.8	4,000	2,100	10,000	N/A
Subsurface Soil [mg/kg]	Leachate to Groundwater Ingestion	0.26	140	190	>Sat* or 260**	N/A
Soil Vapor [µg/m³]	Indoor Air Inhalation	2,900	>VP	>VP	>VP	N/A

Groundwater [mg/l]	Indoor Air Inhalation	0.016	10	26	2.9	N/A
	Groundwater Ingestion	0.005	1.0	0.7	10* or 1.4**	0.020

> VP Denotes that even at a concentration equal to the vapor pressure of the chemical, a hazard quotient of 1 is not exceeded.

> Sat Denotes that even at a concentration equal to the saturation of the chemical, a hazard quotient of 1 is not exceeded.

N/A Not applicable. No established RBSL.

* This RBSL will be in effect for releases that occurred prior to September 14, 2004.

** This RBSL will be in effect for releases that occurred on or after September 14, 2004

(b) Collect site-specific geologic and hydro-geologic data.

- (1) Determine the predominant lithology in the unsaturated and saturated zones;
- (2) Determine the depth to water, hydraulic gradient and groundwater flow direction;
- (3) Determine the site-specific hydraulic conductivity; and
- (4) Evaluate other geologic conditions that influence groundwater flow.

(c) Evaluate all exposure pathways and identify impacted or potentially impacted POEs.

(d) Calculate Tier II site-specific target levels (SSTLs) for on-site contamination.

(e) Develop a Conceptual Site Model (CSM).

(f) Evaluate the need for active remediation.

Section 5-3 Corrective Action

The owner/operator shall develop and implement a Corrective Action Plan (CAP) based on the need for remediation identified during Site Characterization. The purpose of the CAP is to develop an approach to reach cleanup goals of less than Tier I RBSLs at the impacted POEs and to Tier II SSTLs on-site and calculate the time frame to achieve the cleanup goals. A completed CAP report must be submitted to OPS within one year of the release discovery date in the report format provided on the OPS website. Proposed scope of work costs must be presented if the release event is eligible for reimbursement from the PSTF.

(a) If active remedial action is not warranted, the owner/operator shall:

- (1) Calculate the time frame to achieve the remediation goals utilizing site-specific natural attenuation rates;
- (2) Present milestones to evaluate the natural attenuation progress; and
- (3) Present a monitoring and reporting schedule.

(b) If active remedial action is warranted, the owner/operator shall:

- (1) Define remedial objectives, identify targeted treatment areas, perform a remedial technology evaluation, and select a technically and economically feasible remedial approach.

- (2) Identify and collect critical data needs (e.g., pilot testing) for the selected remedy(s).
 - (3) Prepare a full-scale remediation design;
 - (4) Calculate the time frame to achieve the remediation objectives;
 - (5) Present an implementation schedule;
 - (6) Present milestones to evaluate remediation progress; and
 - (7) Present a monitoring and reporting schedule.
- (c) The owner/operator must implement the CAP immediately in accordance with the implementation schedule of the approved CAP, or as directed by the Director. The owner/operator must report the results of CAP implementation in accordance with a schedule and in a format approved by the Director. Any deviation from the approved CAP, including schedule revisions, must be approved by the Director.
- (d) For each confirmed release that requires a corrective action plan, OPS will make relevant records available to the public by means of our Public Record Center.

Section 5-4 No Further Action Request

The owner/operator may request No Further Action (NFA) for a release when the owner/operator can demonstrate that contamination is at concentrations that are protective of human health and the environment at all POE(s) and that data collected confirms no future risk according to the RBCA process. NFA can be requested under Tier I and Tier II closure criteria at any time when the conditions are met. Tier III and Tier IV closure criteria will only be considered after corrective action measures have been implemented, contamination has been removed to the maximum extent practicable and all other closure conditions are met.

An NFA determination will be based on the empirical data provided, fate and transport modeling, current property use and exposure to known contamination. The release event may be re-opened if subsequent information indicates a change in exposure scenarios. OPS cannot release the owner or operator from any liability that may be associated with any contamination at or from this site.

In order to reduce the potential for risk of exposure to contamination, the owner/operator must contact OPS immediately if the function of the property is modified for a different use and the new use does not include dispensing of petroleum products.

ARTICLE 6 ENFORCEMENT

Section 6-1 Enforcement Program

The Director provides these regulations to assist owners/operators with safe and proper operation of regulated storage tank systems. When a facility is found to be out of compliance with these regulations (7 C.C.R. § 1101-14) and/or statutes (C.R.S. § 8-20 and 8-20.5), the Director will pursue enforcement actions against the owner/operator. The enforcement process will include requiring the owner/operator to make repairs and/or upgrades, perform system tests, keep records, and other actions to bring the facility back into compliance. During and following the enforcement process, the Director will continue to assist the owner/operator to remain in compliance. The enforcement process may include monetary penalties up to five thousand dollars (\$5,000) per tank per day according to statute (C.R.S. § 8-20.5-107) if the enforcement obligations are not implemented according to the required schedule. Additionally, reductions to reimbursement amounts may be applied in accordance with Article 8.

6-1-1 Notice of Violation

- (a) The Director may issue a Notice of Violation (NOV) when an owner/operator does not fully respond to actions as required by the Director:
 - (1) Request for records.
 - (2) Requested actions as indicated by Director's inspector.
 - (3) Request for reports or information regarding release identification or response.
- (b) The Director may issue a NOV upon the discovery of a significant violation that poses an imminent threat to human health or safety or to the environment.
- (c) Within ten (10) working days after a NOV has been issued, the owner/operator may file a written request with the Division Director for an informal conference regarding the NOV. If the owner/operator does not request an informal conference within this time frame, all provisions of the NOV shall become final and not subject to further discussion. If the NOV is not resolved within the time frame prescribed in the NOV, the Division Director may seek judicial enforcement of the NOV, or an Enforcement Order may be issued.

6-1-2 Enforcement Order

- (a) An Enforcement Order may be issued when the violations included within a NOV or Settlement Agreement are not resolved within the prescribed time frame. The Enforcement Order may include increased fines up to five thousand dollars (\$5,000) per tank for each day of violation. In addition, the Enforcement Order may include Delivery Prohibition (Section 6-2).
- (b) Within ten (10) working days after an Enforcement Order has been issued, the owner/operator may file a written request with the Executive Director (or designee) for an informal conference regarding the Enforcement Order. If the owner/operator does not request an informal conference within this time-frame, all provisions of the Enforcement Order shall become final and not subject to further discussion. If the Enforcement Order is not resolved within the prescribed time frame, the Director may then seek judicial enforcement of the Enforcement Order.

6-1-3 Informal Conference

- (a) Upon receipt of the request, the Director shall provide the owner/operator with notice of the date, time and place of the informal conference. The Director shall preside at the informal conference, during which the owner/operator and OPS personnel may present information and arguments regarding the allegations and requirements of the NOV or the Enforcement Order.
- (b) Within twenty working days after the informal conference, the Director shall issue a Settlement Agreement in which the issues from the NOV and/or Enforcement Order will be upheld, modified or stricken. The Settlement Agreement will include a schedule of required activity for resolution of the violations. If the terms and/or schedule in the Settlement Agreement are not satisfied, either an Enforcement Order will be issued, re-issued, or the Director may seek judicial enforcement.
- (c) The Settlement Agreement issued by the Director may be appealed within twenty working days to the Executive Director of the department. The Executive Director may either conduct the hearing personally or appoint an administrative law judge from the office of administrative courts in the department of personnel to conduct the hearing.

Section 6-2 Underground Storage Tank Delivery Prohibition

Delivery prohibition is an enforcement action prohibiting the delivery, deposit, or acceptance of product to an UST that has been determined by OPS to be ineligible for such delivery, deposit, or acceptance. For purposes of this section, the term “UST” means those tanks that satisfy the definition of UST in C.R.S. §8-20.5-101, except for those tanks identified in §8-20.5-101 17(b) and as defined in 2-1-1(b) as excluded or deferred storage tanks. These requirements apply to regulated substance USTs. OPS will prohibit delivery, deposit, or acceptance of product on an individual UST basis, instead of to every UST at a facility, except if warranted.

UST owners/operators and product deliverers are responsible for not delivering, depositing, or accepting product to a UST identified by OPS as ineligible to receive product.

6-2-1 Criteria for Delivery Prohibition

- (a) Field Inspection: OPS shall prohibit delivery, deposit, or acceptance of product during an inspection if any of the following conditions exist.
 - (1) Required spill prevention equipment is not installed or functional.
 - (2) Required overfill protection equipment is not installed, or functional.
 - (3) Required leak detection equipment is not installed, or functional.
 - (4) Required corrosion protection equipment is not installed or functional.
 - (5) Failure to register or maintain current registration on an UST.
 - (6) Upon the discovery of a significant violation that poses an imminent threat to human health or safety or the environment. In addition to delivery prohibition, OPS may also require the removal of product from the tank:
- (b) Enforcement Notice: OPS shall prohibit delivery, deposit, or acceptance of product if the owner/operator of that tank has been issued a written warning or citation (Settlement Agreement or Notice of Violation per C.R.S. § 8-20.5-107) under any of the following circumstances and the owner/operator has failed to take corrective action within the requested time frame.
 - (1) Inability to demonstrate proper operation and/or maintenance of leak detection equipment.
 - (2) Inability to demonstrate proper operation and/or maintenance of spill, overfill, or corrosion protection equipment.
 - (3) Discovery of a significant violation that poses an imminent threat to human health or safety, or to the environment. In addition to delivery prohibition, OPS may also require the removal of product from the tank.

6-2-2 Red Tag Mechanisms Used to Identify Ineligible USTs

Upon determination that any of the criteria for delivery prohibition have been met, including the discovery of a significant violation that poses an imminent threat to human health or safety or the environment, OPS will attach a red tag to each fill pipe of the ineligible UST clearly identifying the tank as ineligible for delivery, deposit, or acceptance of product. Before affixing a red tag to the fill pipe of an UST system, OPS shall document the level of stored product in the tank.

- (a) The red tag will be attached to the fill pipe using a tamper-resistant wire seal so that the tag is visible to any person attempting to deliver a regulated substance to the UST.

- (b) The tag shall be red in color and made of plastic or other durable and damage resistant material and shall bear the following information:
- (1) The following wording, printed in white at the top of the tag in all capital letters in at least 36 point bold-faced type: "DELIVERY PROHIBITED!"
 - (2) The following wording, printed in white below the wording described in subsection (b)(1) in at least 16 point type: "Delivering a regulated substance, or removing, defacing, altering, or otherwise tampering with this tag may result in civil penalties of up to \$5000 per day."
 - (3) Printed below the wording described in subsection (b)(2), the following wording in at least 16 point type: "If you have questions call OPS (303) 318-8547"
 - (4) Following the wording described above, there shall be a blank area at least 1/2 inch wide by four inches long in which the OPS inspector shall, at the time of placement, write legibly in permanent ink the date, facility identification number, product type, and the inspector's initials.

No owner or operator of a facility or delivery person may deposit or allow the deposit of a regulated substance into an UST system that has a red tag affixed to the system's fill pipe. Unless authorized by OPS, no person shall remove, deface, alter, or otherwise tamper with a red tag such that the information contained on the tag is not legible.

6-2-3 Notification Processes For UST Owners/Operators and Product Deliverers

- (a) Immediately after affixing a red tag, OPS shall notify the operator, if present on site, of the significant violation(s) for which the red tag was issued, along with a written report noting the violations. OPS shall also request current owner/operator contact information for future notifications.
- (b) Within 24 hours of affixing a red tag, OPS shall notify the owner in writing of the significant violation(s) for which the red tag was issued.
- (c) Within 24 hours of affixing a red tag, OPS shall add the red tagged tank(s) to the OPS website list of facilities that have delivery prohibitions.
- (d) If a permit is required by OPS in order to correct one or more significant violations identified, OPS shall, to the extent feasible, expedite its review and issuance of such permit(s).

6-2-4 Reclassifying Ineligible USTs as Eligible to Receive Product

- (a) Upon notification by the owner or operator documenting to the satisfaction of OPS that there was not a significant violation or the significant violation has been corrected, or an emergency condition as described in 6-2-6 exists, OPS shall provide verbal and written authorization to the owner or operator to remove the red tag. If OPS disputes the notification provided by the owner or operator, then the procedural provisions of C.R.S. § 8-20.5-107 shall apply, except that the owner/operator may request and be entitled to an informal conference with the Director within three working days. A delivery prohibition required by a red tag shall remain in effect during the time that the procedural provisions of C.R.S. § 8-20.5-107 are invoked, unless the owner or operator requests and the Director grants a stay of the effect of the red tag.
- (b) By close of business (5pm) on that same day, OPS will also remove that tank from the OPS website list of facilities that have delivery prohibitions.
- (c) OPS may inspect the UST system within five working days of notification to determine whether the system continues to be in significant violation, regardless of whether it has authorized removal of the red tag by the owner or operator. If, upon inspection, OPS determines that the system is no

longer in significant violation and it has not already authorized removal of the red tag, OPS shall immediately remove the red tag.

- (d) Upon removing a red tag from an UST system, OPS shall document the level of stored product in the tank. If the owner or operator removes a red tag pursuant to written authorization by the field inspector, the owner or operator shall document the level of stored product in the tank immediately after removing the red tag.
- (e) A red tag that has been removed by the owner or operator shall be returned to the OPS within five working days, or sooner if requested by the field inspector.

6-2-5 Delivery Prohibition Deferral in Rural and Remote Areas

OPS may decide not to identify an UST as ineligible for delivery, deposit, or acceptance of product if such a prohibition would jeopardize the availability of, or access to, motor fuel in any rural and remote areas. However, OPS shall only defer application of delivery prohibition for 30 calendar days after determining that an UST is ineligible for delivery, deposit, or acceptance of product.

6-2-6 Delivery Prohibition Deferral in Emergency Situations

In emergency situations, the Director may decide not to identify an UST as ineligible for delivery, deposit, or acceptance of product if such a prohibition is not in the best interest of the public, even in the cases of significant and/or sustained noncompliance. In such emergency situations, OPS shall only defer application of delivery prohibition for up to 180 calendar days after determining an UST is ineligible for delivery, deposit, or acceptance of product.

6-2-7 Removal of Red Tag from Emergency Generator Tank Systems

OPS may remove or authorize the removal of a red tag from an emergency generator tank system before a significant violation has been corrected if OPS determines that an emergency situation exists requiring operation of the system and the delivery of petroleum is necessary for the continued operation of the system during the emergency.

ARTICLE 7 FINANCIAL RESPONSIBILITY REQUIREMENTS FOR OWNERS/OPERATORS OF PETROLEUM UNDERGROUND STORAGE TANKS

Section 7-1 Applicability

- (a) Owners and operators of petroleum underground storage tanks are required to demonstrate compliance with the financial responsibility (FR) requirements in federal regulations by any of the mechanisms described in 40 CFR 280.94 through 280.103. Per C.R.S. § 8-20.5-206, FR is required for underground storage tanks. Per the June 2015 revision of EPA regulations, airport hydrant fuel distribution systems, UST systems with field constructed tanks, and UST systems that store fuel solely for use by emergency power generators must also demonstrate FR. Approved mechanisms per these Colorado regulations are described later in this article. FR is intended to ensure that adequate monies are available in the event of an accidental release from a petroleum storage tank system to provide for cleanup of the release (corrective action) and to potentially compensate impacted third parties for bodily injury and property damage resulting from the release. According to 40 CFR 280.93, the amount of FR required ranges from \$500,000 up to \$2 million depending on the type of facility, monthly throughput of petroleum product and number of tanks. If an owner or operator cannot meet the required deductible amounts listed in Article 8, another FR mechanism must be identified and obtained in order for the owner or operator to remain in compliance and continue operation of the storage tank system.
- (b) This FR requirement applies to the following:
 - (1) Owners/operators of all petroleum UST systems except as otherwise provided in this section.
 - (2) If the owner and operator of a petroleum UST are separate persons, only one person is required to demonstrate FR; however, both persons are jointly liable for release cleanup and third-party damages, if neither person complies with Article 7.
- (c) This FR requirement does not apply to the following:
 - (1) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States.
 - (2) Owners/operators of any UST system described in 2-1.

Section 7-2 Financial Responsibility Mechanisms

Mechanisms to satisfy FR as described in 7-1 are listed below:

- (a) 40 CFR Part 280.101 designates state funds as an approved mechanism. The Colorado Petroleum Storage Tank Fund, referred to in this section as the “Fund”, is an EPA approved Fund to provide FR to tank owners and operators in the State of Colorado. Moneys in the Fund, created pursuant to C.R.S. Section 8-20.5-103, may be used by certain owners and operators of petroleum storage tanks to demonstrate their compliance with the FR requirements in federal regulations.
- (b) Owners and operators not eligible for access to the Fund shall be solely responsible for securing independent financial assistance, but may use any federally approved financial assurance mechanism identified in 40 C.F.R. 280.94 through 280.103 to help fund the cost of complying with such requirements. These federally approved mechanisms are as follows.
 - (1) Financial Test of Self-Insurance.
 - (i) An owner/operator may satisfy the requirements of C.R.S. § 8-20.5-206 by passing a financial test as specified in this section. To pass the financial test of self-

insurance, the owner/operator's net worth must be based on year-end financial statements for the latest fiscal year.

- (ii) The fiscal year-end financial statements of the owner/operator must be examined by an independent certified public accountant and be submitted along with the accountant's report of the examination.
- (iii) The owner/operator's year-end financial statements must not include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.
- (iv) To demonstrate that it meets the financial test under this subsection the chief financial officer of the owner/operator must sign, within 120 calendar days of the close of each financial reporting year, a letter stating that the owner/operator has met the financial test for self-insurance covering USTs at the facilities listed. The letter must contain a list of the facilities covered, and the following information must be provided for each facility: the name and address of the facility, the number of tanks at the facility, the size of each tank and the regulated substance contained in each tank.
- (v) If an owner/operator using the test to provide FR finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the owner/operator must obtain alternate coverage as described in this article within 150 calendar days of the end of the year for which financial statements have been prepared or within 30 calendar days of the date of the financial statement, whichever is earlier.
- (vi) The Director may require reports of financial condition from the owner/operator at any time. If the Director finds, on the basis of such reports or other information, that the owner/operator no longer meets the financial test requirements of this subsection, the owner/operator must obtain alternate coverage within 30 calendar days after notification of such a finding.
- (vii) If the owner/operator fails to obtain alternate FR within 60 calendar days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 calendar days of notification by the Director that he or she no longer meets the requirements of the financial test, the owner/operator must notify the Director of such failure within 10 calendar days.

(2) Insurance Coverage.

- (i) An owner/operator may satisfy the requirements of C.R.S. § 8-20.5-206 by obtaining a liability insurance policy that conforms to the requirements of this section from a qualified insurer or risk retention group.
- (ii) If the policy contains any type of deductible, the policy must state that the insurer will be liable for such deductible amount in the event of a default by the owner/operator.
- (iii) Each insurance policy must be issued by an insurer that is authorized to transact the business of insurance or authorized to provide insurance as an excess or surplus lines insurer in Colorado. The insurer must be in compliance with all applicable regulations, policies and procedures of the Colorado Division of Insurance.
- (iv) Each owner/operator must obtain a certificate of insurance from the insurer showing the name and address of each covered location, the policy number, period of coverage, name and address of the insurer and the name and address of the

insured for each facility covered by insurance. In the policy, the insurer must certify the following with respect to the insurance described herein.

- (A) Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this certificate applies.
- (B) When requested by the Director, the insurer agrees to furnish a signed duplicate original of the policy.
- (C) Notice of cancellation of the insurance by the insurer must be sent to the Director and to the insured at least 60 calendar days prior to the effective date of the cancellation of the insurance. However, if the cancellation is based on one or more of the following reasons, then such notice may be sent less than 60 calendar days prior to the effective date of the cancellation of the insurance: fraud; material misrepresentation; nonpayment of premium; or any other reason approved by the Commissioner of Insurance.
- (D) The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the insurer within six months of the effective date of the cancellation or other termination of the policy.

(3) Letter of Credit.

- (i) An owner/operator may satisfy the requirements of C.R.S. § 8-20.5-206 by obtaining an irrevocable letter of credit that conforms to the requirements of this section. The issuing institution must be an entity that has the authority to issue letters of credit in Colorado and whose letter of credit operations are regulated and examined by the Colorado Department of Regulatory Agencies.
- (ii) The letter of credit must be irrevocable for a term specified by the issuing institution. The letter of credit must provide that credit be automatically renewed for the same term as the original term, unless, at least 90 calendar days before the current expiration date, the issuing institution notifies the Director by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 90 calendar days will begin on the date when the Director receives the notice, as evidenced by the return receipt.
- (iii) The letter of credit must be payable to the Director and may be drawn on to cover corrective action and/or compensating third parties for bodily injury and property damage caused by accidental releases arising from operating the UST(s) identified in the letter of credit.
- (iv) The letter of credit must list the name(s) and address(es) of the covered facility(ies) where the tanks are located, the number of tanks at each facility and the regulated substances contained by the tanks at each facility.

(4) Trust Fund.

- (i) An owner/operator may satisfy the requirements of C.R.S. § 8-20.5-206 by establishing a trust fund that conforms to the requirements of this section. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Colorado Department of Regulatory Agencies.
- (ii) The trust fund, when established, must be funded for the full required amount of coverage.

- (iii) The trustee must be instructed to disburse funds from the trust fund to pay the costs of corrective action and/or third-party bodily injury and property damage only as directed or approved by the Director.

(5) Certificate of Deposit or Other Secured Financial Instrument.

A certificate of deposit or another financial instrument secured by an agency of Colorado or the US Government may be used to satisfy the requirements of C.R.S. § 8-20.5-206 provided that such financial instrument is made payable to the Director. Any interest or dividends payable by such instrument may be made payable to the owner/operator using this method of assuring FR. This financial instrument will be returned to the owner/operator by the Director only after the instrument has been replaced by an alternate FR mechanism or the owner/operator is released from the FR requirement under 7-3(f) below.

Section 7-3 Maintenance of Financial Responsibility

(a) Substitution of FR Mechanisms.

- (1) An owner/operator may use any alternate FR mechanism specified above provided that at all times the owner/operator maintains an effective FR mechanism that satisfies the requirements of C.R.S. § 8-20.5-206.
- (2) After obtaining alternate FR as specified in this Article 7, an owner/operator may cancel a prior FR mechanism by providing notice to the provider of FR.

(b) Cancellation by a Provider of FR.

If a provider of FR cancels or fails to renew for reasons other than incapacity of the provider as specified in subsection (c) below, the owner/operator must obtain alternate coverage within 60 calendar days after receipt of the notice of termination. If the owner/operator fails to obtain alternate coverage within 60 calendar days after receipt of the notice of termination, the owner/operator must notify the Director of such failure and submit:

- (1) The name and address of the provider of FR;
- (2) The effective date of termination; and
- (3) The evidence of the FR mechanism subject to termination, maintained in accordance with subsection (d).

(c) Reporting by Owner/Operator.

- (1) An owner/operator must submit current evidence of FR to the Director:
 - (i) Within 30 calendar days after the owner/operator identifies a release from an UST, which is required to be reported under Article 4.
 - (ii) Within 30 calendar days after the owner/operator receives notice of any of the following and fails to obtain alternate coverage as required by Article 7.
 - (A) Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), US Code, naming a provider of FR as a debtor;
 - (B) Suspension or revocation of the authority of a provider of financial responsibility to issue a FR mechanism; or
 - (C) Any other incapacity of a provider of FR. or

- (iii) As required by 7-2(b)(1) (vii) and 7-3 (b).
 - (2) An owner/operator must certify compliance with the FR requirements of Article 7 as specified in the new tank registration form when notifying the Director of the installation of a new UST under 2-2-3(f)(3).
 - (3) The Director may require an owner/operator to submit evidence of FR as described in subsection (d)(2) or other information relevant to compliance with Article 7 at any time.
- (d) Record keeping.
- (1) Owners/operators must maintain evidence of all FR mechanisms used to demonstrate financial responsibility for an UST until released under subsection (f). An owner/operator must maintain such evidence at the site or at the owner's or operator's place of business. Records maintained off-site must be made available upon request by the Director.
 - (2) An owner/operator must maintain the following types of evidence of FR:
 - (i) An owner/operator using a financial test of self-insurance must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent financial reporting year. Such evidence must be on file no later than 120 calendar days after the close of the financial reporting year or 30 calendar days from the date of the financial statement, whichever is earlier.
 - (ii) An owner/operator using a letter of credit must maintain a copy of the signed agreement and copies of any amendments to the agreement.
 - (iii) An owner/operator using an insurance policy must maintain a copy of the signed insurance policy, the certificate of insurance specified in subsection 7-2(b)(2)(iv) and any amendments to the policy.
- (e) Drawing on FR Mechanisms.
- (1) The Director shall require the insurer, trustee, or institution issuing a letter of credit or certificate of deposit to make available the amount of funds stipulated by the Director, up to the limit of funds provided by the financial responsibility mechanism if:
 - (i) The owner/operator fails to establish alternate FR within 60 calendar days after receiving notice of cancellation of insurance, letter of credit, or other FR mechanism; and
 - (ii) The Director determines or suspects that a release from an UST covered by the mechanism has occurred and so notifies the owner/operator or the owner/operator has notified the Director of a release from an UST covered by the mechanism.
 - (2) The Director may draw on these available funds when:
 - (i) The Director makes a final determination that a release has occurred and immediate or long term corrective action for the release is needed, and the owner/operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required; or
 - (ii) The Director has received either:
 - (A) Certification from the owner/operator, and the third-party liability claimant(s) and from the attorneys representing the owner/operator and the third-party liability claimant(s) that a third-party liability claim should be paid; or

- (B) A valid final court order establishing a judgment against the owner/operator for bodily injury or property damage caused by an accidental release from an UST covered by FR under Article 7; and the Director determines that the owner/operator has not satisfied the judgment.
- (f) Release from the Requirements. An owner/operator is no longer required to maintain FR under Article 7 for an UST after any necessary corrective action has been completed and the tank has been permanently closed or undergoes a change-in-service as required by these regulations.
- (g) Bankruptcy or Other Incapacity of Owner/Operator or Provider of FR.
 - (1) Within 10 calendar days after the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), US Code, naming an owner/operator as debtor, the owner/operator must notify the Director by certified mail of such commencement and submit a list of all affected UST facilities.
 - (2) An owner/operator will be deemed to be without the required FR in the event of a bankruptcy or incapacity of its provider of FR, or a suspension or revocation of the authority of the provider of FR to issue an insurance policy, letter of credit, or other FR mechanism. The owner/operator must obtain alternate FR as specified in Article 7 within 30 calendar days after receiving notice of such an event. If the owner/operator does not obtain alternate coverage within 30 calendar days after such notification, the owner/operator must notify the Director immediately.
- (h) Reestablishment of FR.
 - (1) Whenever the required amount of FR has been reduced by payment of claims due to a release at any facility, and the owner/operator is responsible for another facility or other facilities then the owner/operator must immediately reestablish the ability to pay the required amounts for any release at the other facility(ies).
 - (2) Whenever the required amount of FR for the owner/operator of a single facility has been reduced by payment of claims due to a release at a facility and the period of corrective action for that release has been completed, the owner/operator must then immediately reestablish the required amount of FR.

ARTICLE 8 PETROLEUM STORAGE TANK FUND

Section 8-1 Eligibility

- (a) Only the following persons are potentially eligible for reimbursement from the Fund, provided they meet the other criteria:
 - (1) The current owner/operator of a regulated UST or AST system;
 - (2) Any past owner/operator of a regulated UST or AST system; or
 - (3) Other persons considered not responsible for the release as set forth in C.R.S. § 8-20.5-206 (3)(a) through (e) and CRS 8-20.5-303 (3)(a) through (e).
- (b) Insurance companies or their agents are not eligible to make claims against the fund.
- (c) An applicant making any claim against the Fund shall be held accountable for compliance with the following requirements.
 - (1) Each applicant must meet the owner/operator criteria for corrective action as established by the Director.
 - (2) When required by the Director, an owner/operator must demonstrate that accurate and complete records are maintained that confirm a release detected on or after July 1, 1989, except for those releases discussed in 8-1(g).
 - (3) Each owner/operator must have registered the tank(s) and paid the current and past annual tank registration fees. Payment penalties and percent reductions may be imposed by the Committee for non-payment or late payment of registration fees for each petroleum storage tank owned.
 - (4) Each owner/operator must have paid the environmental response surcharge applied to petroleum products in Colorado and must not be in default on any obligation caused by the environmental response surcharge.
 - (5) Each owner/operator must be in substantial compliance (as determined by the Committee) with all Colorado laws and regulations that address the handling, storage, record keeping, and dispensing of regulated substances, including but not limited to C.R.S. § 8-20-230, 8-20-231, all of 8-20.5, and Code 30 and Code 30A of the NFPA, to be eligible for participation in the Fund.
 - (6) Each owner/operator must demonstrate evidence of FR of \$10,000 for corrective action and \$25,000 for compensation of third-party personal injury or property damage through the mechanisms or combination of the mechanisms contained in the financial responsibility established by the Director and in C.R.S. Sections 8-20.5-206 and 303.
 - (7) Each owner/operator must demonstrate that allowable costs have exceeded the deductible (as described in subsection (6)) for assessment and corrective action per C.R.S. § 8-20.5-208, 209, and 304.
 - (8) Each owner/operator must comply with the criteria for reporting of a release to the Director, including but not limited to C.R.S. § 8-20.5-208.

(d) A mortgagee making any claim against the Fund shall comply with the following requirements:

- (1) A mortgagee whose mortgage or deed of trust is dated before September 30, 1995 is eligible to participate in the Fund if the mortgagee has acquired, by foreclosure or receipt of a deed in lieu of foreclosure, the property on which the petroleum tank system is located and each of the following conditions has been met:
 - (i) The mortgagee has not actively managed the property during the period that it held a security interest;
 - (ii) The mortgagee has notified the Director of his/her acquisition of the property by certified mail (return receipt requested) or other documented delivery within 30 working days of the acquisition, if acquired after September 30, 1995;
 - (iii) The mortgagee has complied with all applicable corrective action requirements; and
 - (iv) The mortgagee is not affiliated with or related to the mortgagor.
- (2) A mortgagee whose mortgage or deed of trust is dated on or after September 30, 1995, is eligible to participate in the Fund if the mortgagee meets all provisions of subsection (1) above and has a Certificate of Eligibility issued pursuant to subsection (3) below. There must be an operating petroleum storage tank system, which is not orphaned or abandoned, on the property at the time a Certificate of Eligibility is issued. A Certificate of Eligibility may be issued at any time before foreclosure or receipt of a deed in lieu of foreclosure; however, if the certificate is issued prior to the loan closing, the certificate will only be effective upon closing. A Certificate of Eligibility will not cover contamination detected on a property before the Certificate of Eligibility is issued.
- (3) A Certificate of Eligibility may be issued to a mortgagee if the site is in compliance with all applicable laws, a Petroleum Storage Tank Status Sheet has been properly completed, and one of the following conditions has been satisfied:
 - (i) For a petroleum UST system:
 - (A) Documentation has been provided to the Director showing that all petroleum storage tanks and tank lines at the site passed a tightness test no more than 60 calendar days prior to the completion of the Petroleum Storage Tank Status Sheet; or
 - (B) Documentation has been provided to the Director showing tanks and lines at the site are monitored by a properly installed and operating third-party certified monthly monitoring device; or
 - (C) Documentation has been provided to the Director showing that an environmental site assessment performed no more than 60 calendar days prior to completion of the Petroleum Storage Tank Status Sheet indicates the site does not require site characterization or corrective action.
 - (ii) For an AST system, documentation has been provided to the Director showing that all underground lines at the site passed a tightness test no more than 60 calendar days prior to completion of the Petroleum Storage Tank Status Sheet and:
 - (A) The AST system meets the standards in 3-2-3(e) if installed before October 1, 1994;
 - (B) The AST system meets the standards for ASTs installed after September 30, 1994; or

(C) Documentation has been provided to the Director showing that an environmental site assessment performed no more than 60 calendar days prior to completion of the Petroleum Storage Tank Status Sheet indicates the site does not require initial site characterization or corrective action.

(4) A mortgagee who is eligible to participate in the Fund pursuant to these regulations may sell the property and transfer the Certificate of Eligibility to the buyer. The buyer may participate in the Fund pursuant to C.R.S. § 8-20.5-206 (3) and 303 (3) C.R.S., provided that:

(i) The buyer is not a former tank owner/operator of the site or an affiliate or relation to such a former tank owner/operator;

(ii) The buyer, within three months of acquiring the property from the mortgagee, completes and submits to the Director sufficient documentation to show that the site is in compliance with applicable regulations; or, within three months of acquiring the property, the Director approves a plan, submitted by the buyer, showing how and when the site will be brought into compliance; and,

(iii) Within six months of acquiring the property, the buyer either provides documentation to the Director showing that an environmental site assessment indicates the site does not require initial site characterization or corrective action, in which case the transferred Certificate of Eligibility is no longer a valid document; or, provides to the Director documentation that petroleum contamination is present on the property, in which case the transferred Certificate of Eligibility remains valid for the balance of the remediation, provided such remediation is conducted pursuant to Colorado statutes and regulations.

(e) Eligible Releases

Only releases satisfying all of the following criteria shall be considered eligible:

- (1) The release must be accidental in nature;
- (2) The storage tanks and related piping are regulated under these regulations and contain petroleum product regulated by these regulations;
- (3) Subject to any Committee policies on reimbursement, the Director has approved the design for corrective action at the site; and
- (4) Subject to any Committee policies on reimbursement, the Director has determined that the corrective action has, or when completed will have, adequately addressed the release in terms of protecting public health, welfare and the environment.

(f) Releases Not Eligible

Releases with the following criteria shall be considered not eligible:

- (1) Releases from USTs and ASTs used to store petroleum products intended for aviation purposes.
- (2) Releases from USTs and ASTs used to store petroleum products intended for use by railroad equipment or locomotives.
- (3) Releases from USTs and ASTs that are exempt or deferred in 2-1-1(b) and (c) and 3-1(b).

- (4) Releases at sites on the National Priorities List (NPL) or sites being cleaned up by the State under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). Owners and operators of tanks containing regulated substances other than petroleum are not eligible to the Fund but must demonstrate FR using some other approved FR mechanism.

(g) Eligibility of Expenses

- (1) Only expenses incurred on or after July 1, 1989 are potentially eligible for reimbursement. All expenses incurred before July 1, 1989 are not eligible for reimbursement.
- (2) For releases detected on or after December 22, 1988 but before July 1, 1989, expenses incurred on or after July 1, 1989, are potentially eligible for reimbursement only if the original application was submitted before January 1, 1992. This January 1, 1992 deadline does not apply to applicants determined to bear no responsibility for the release pursuant to statute.
- (3) Expenses related to releases detected before December 22, 1988 are not eligible for reimbursement.
- (4) Expenses related to tanks closed in place or removed before December 22, 1988 are not eligible for reimbursement. This December 22, 1988 deadline does not apply to applicants determined to bear no responsibility for the release pursuant to statute.

(h) In addition to the above, the following subsections apply to all ASTs,

- (1) The Director will make positive eligibility recommendations to the Committee for facilities that were in operation prior to October 1, 1994 provided that:
 - (i) Existing ASTs were installed and operated in substantial compliance with the applicable statutes and regulations that were in effect at the time the tank system was installed; and
 - (ii) Existing ASTs that were required to prepare and implement a "Spill Prevention, Control and Countermeasures" (SPCC) plan as specified in the 40 CFR Part 112 were in substantial compliance with that requirement.

[Note: Installation and operating rules can be found in NFPA Codes 30 and 30A that were in effect at the time of installation.]

- (2) The Director will also make positive eligibility recommendations to the Committee for facilities that were in operation prior to October 1, 1994, that are not able to demonstrate 100% compliance with the regulations in effect at the time the ASTs were installed, provided that:
 - (i) There are no serious safety violations, and the safety concerns listed here are satisfied.
 - (A) Adequate ventilation, either natural or forced must exist to guarantee that flammable liquid vapors cannot build up to 25% of the lower flammable limit anywhere because of the presence of the tank facility in question.
 - (B) Normal vent lines must be of sufficient capacity to ensure that no fuel drop will cause the pressure inside the tank to exceed the test pressure. A spark arrester cap is required at the end of the vent line and it must be located "in the clear" and at least 12 feet above ground level.

- (C) A label such as U.L. 142, UL ABOVEGROUND TANK, or equivalent must be attached to the tank to verify that it meets the emergency relief venting requirement of NFPA 30.
- (D) Adequate spill control, overflow prevention control, and secondary containment methods or devices must be provided and in regular use at the facility; and
- (ii) A SPCC plan, if required for the facility, has been developed, approved and followed.
- (3) The Director will consider closure of a facility and/or removal of non-compliant tanks to be a mitigating factor in making the recommendation to the Committee.
- (4) Nothing herein shall be construed to prevent the Committee from imposing percentage reductions upon applicants who are in substantial compliance with regulations but not in total compliance.

Section 8-2 Reimbursement

- (a) The owner/operator of the petroleum storage tanks from which a release has occurred, or another person eligible pursuant to statute, and for which corrective action has been performed, or his duly authorized agent; may file an application for reimbursement.
- (b) An application for reimbursement shall include a completed application form provided by the Director and shall contain the following:
 - (1) Legible copies of invoices according to the format required by the Director.
 - (2) The application shall provide proof of payment of invoices as follows:
 - (i) The amounts shown on the invoices for which reimbursement is requested have been paid in full by the applicant according to one of the following methods;
 - (A) Business receipts, indicating payments received;
 - (B) Fronts and backs of cancelled checks;
 - (C) The certification of a certified public accountant that the expenses for which reimbursement is requested have been paid in full;
 - (D) Provided the parties are unaffiliated and unrelated, a notarized affidavit signed by the person that performed the corrective action affirming that the amounts which the applicant represents as being paid were paid in full; or
 - (ii) Provided the parties are unaffiliated and unrelated, a notarized affidavit stating that the invoices relative to the referenced application for reimbursement from the Fund will be paid in full by the applicant upon receipt of the reimbursement in accordance with a promissory agreement.
 - (3) Any other information which the Committee may reasonably require.
- (c) Subject to Committee policies regarding reimbursement, all applicants must comply with all corrective action requirements and a corrective action plan (including a technical and economic feasibility summary) must be approved before costs, associated with the corrective action, are eligible. The applicant can be required to provide proof that all corrective action requirements have been met.

- (d) The applicant may file the application at any phase of the corrective action subject to any policies adopted by the Committee.
- (e) Incomplete submittals shall suspend processing of applications.
- (f) Technical information may be required by the Committee or the Director as part of any application for reimbursement:
 - (1) A detailed account of what corrective action has been taken, why specific actions were taken, when, by whom, and with what results.
 - (2) An estimate of other corrective action measures that may be required to remediate the facility and the estimated time required to complete such measures.
 - (3) Line and tank tightness tests, release detection and release prevention records. These records may include time periods ranging from six months to three years prior to a release or detection of contamination.
 - (4) Documentation that a release being cleaned up is not a new release requiring payment of a separate deductible, if the Director or the Committee has any information indicating a separate release may have occurred.
- (g) Applications for reimbursement shall be submitted according to the electronic format and location as required by the Director and by hard copy to:

Petroleum Storage Tank Committee
Department of Labor and Employment
Division of Oil and Public Safety
633 17th St, Ste 500
Denver, CO 80202-3610

- (h) The date of filing of any document shall be the receipt date stamped on the document.

Section 8-3 Allowable Costs

- (a) Allowable costs are those costs and expenses which arise directly from the performance of necessary corrective action in accordance with the requirements of the Director and are deemed reasonable by the Committee subject to the limitations prescribed by this section.
- (b) Allowable costs shall include but not be limited to the following:
 - (1) Abatement of impacts and immediate threats of impact to human health, safety, and the environment;
 - (2) Temporary provision of a water supply utilized specifically for domestic consumption;
 - (3) Collection and analysis of surface and subsurface soil and water, free phase hydrocarbons, and vapor samples;
 - (4) Emplacement of soil borings and/or monitor wells for remediation purposes;
 - (5) Removal, storage, treatment, recycling, transport, and disposal of free phase hydrocarbons, vapors, contaminated soils, contaminated water in accordance with applicable laws;
 - (6) Removal and disposal (including transport) of soils and pavement where removal is necessary to the performance of corrective action;

- (7) Identification and testing of affected or potentially affected drinking water sources;
- (8) Design of plans for site assessment and remediation;
- (9) Permitting, acquisition, installation, startup, operation and maintenance of site assessment and remediation systems, including monitoring;
- (10) Temporary relocation of utility structures when necessary to the performance of corrective action;
- (11) Preparation of technical reports required pursuant to the requirements of these regulations;
- (12) The fair market value of access to property outside of the facility boundaries where such access is necessary for the performance of corrective action;
- (13) Performance of any corrective action measure, which is specifically required by a section of these regulations, or an order of the Director, or a written request or confirmation by the Committee;
- (14) Equipment costs which are related solely to remediation. If the costs of the equipment is reimbursed by the Fund, when the equipment is no longer needed any salvage value of the equipment shall be returned to the Fund.
- (15) Bodily injury or property damage suffered by third parties.
- (16) Any other costs determined by the Committee to be allowable in accordance with the provisions of these regulations.
- (17) Costs associated with preparing and filing an application for reimbursement not to exceed 1% of the net allowable reimbursement per application up to a maximum of \$2,000 per event.

Section 8-4 Unallowable Costs

- (a) Costs and expenses which are not applicable to the performance of necessary corrective action in accordance with the requirements of the Director or are deemed unreasonable by the Committee are unallowable for reimbursement.
- (b) The following types of costs are not allowable for reimbursement.
 - (1) The cost of replacement, repair, maintenance, testing and upgrading of affected tanks and associated piping.
 - (2) The loss of income or profits, including without limitation, the loss of business income arising out of the review, processing, or payment of an application or request for assistance under these regulations.
 - (3) Decreased property values.
 - (4) Bodily injury or property damage except for injuries or damages suffered by third parties.
 - (5) Fees for legal services.
 - (7) The costs of making improvements to the facility beyond those that are required for corrective action.

- (8) Costs, including those associated with contamination assessments performed, for any purpose other than investigating the extent and impacts of a release, where no corrective action is required by Colorado statutes and regulations.
 - (9) Costs of compiling and storing records.
 - (10) Any activities, including those required by these regulations, which are not conducted in compliance with applicable state and federal environmental laws, including laws relating to the transport and disposal of waste.
 - (11) Penalties or payment for damages assessed by the Committee, Director, the Department of Public Health and Environment, and/or the Federal government.
 - (12) At the Committee's sole discretion, claims for reimbursement relating to a tank owned or operated by a person who has been convicted of a violation of any law or rule that relates to the installation, operation, or management of petroleum storage tanks.
 - (13) Costs in excess of those considered reasonable by the Committee.
 - (14) At the Committee's sole discretion, cleanup costs resulting from negligence or misconduct on the part of the owner/operator or applicant.
 - (15) Subject to Committee policy, costs incurred during the closure of a tank
 - (16) Costs for the rental of equipment owned by the applicant if the equipment was previously reimbursed by the Fund.
 - (17) Interest paid on loans.
 - (18) Costs that are a part of normal business expenses (i.e. insurance charges).
- (c) Any attempt by an applicant to claim reimbursement under circumstances when the applicant knew or should have known (this includes knowledge held by the applicant's environmental consultant) that some or all costs would be unallowed authorizes the Committee to reduce otherwise allowable costs submitted by the applicant (whether on the same or a different application). Any reduction imposed under this section shall be equal to the amount of the unallowed costs. This subsection applies only to the unallowed costs in subsections 8-4(b)(1), (6), (7), (8), (11), (15) and (16) above and only to applications received after March 1, 1997.

Section 8-5 Committee Review of Application

- (a) The Committee shall review each eligible original application received and make a determination of reimbursement, inform the applicant of its determination and, as appropriate, reimburse the applicant from the Fund.
- (b) Prior to approval of reimbursement, the Committee shall affirmatively determine that:
 - (1) Requested reimbursement expenses are:
 - (i) Eligible costs;
 - (ii) Reasonable as determined by the Committee;
 - (ii) Actually, necessarily incurred for the preparation or implementation of a corrective action plan approved by the Director or for eligible third-party damages.
 - (2) The applicant is:

- (i) Eligible for reimbursement; and
 - (ii) In substantial compliance with all applicable rules and regulations.
- (c) An application which does not contain all of the information required, may be rejected by the Committee, without prejudice. Rejection of the application by the Committee does not prevent the applicant from filing another application for the same release.
 - (d) The Committee is not required to commence the substantive review of an application until receipt of all information required from the applicant and the Director determines the application is properly and fully completed.
 - (e) If during the course of the substantive review, additional information of the type required by these regulations is needed to evaluate the application, the applicant may be required to provide such additional information. Further review of the application may be suspended until such information is received.
 - (f) The Committee's approval of the proposed corrective action(s) shall not be considered a finding or guarantee of safety or effectiveness of the plan(s). Nothing in these regulations shall be construed to abrogate or limit the immunity or exemption from civil liability of any agency, entity or person under any statute including the Colorado Governmental Immunity Act, Article 10 of Title 24 or C.R.S. § 13 21 108.5.
 - (g) The approval and disbursement of funds by the Fund and/or Committee does not constitute transfer of ownership of any contaminated soils, equipment, or related items relating to corrective action. Ownership of any and all items relating to corrective action will remain the property of the applicant.
 - (h) Multiple releases at a facility may be considered by the Committee either as single or separate releases to make the most efficient use of the Fund or to provide the most effective protection to human health or the environment.

Section 8-6 Fund Payment Report

- (a) Upon completion of the review of an application, the Committee shall prepare a Fund Payment Report (FPR) indicating which of the applicant's costs the Committee believes should be reimbursed and which costs should not be reimbursed. If the Committee finds that any cost should not be paid to the full amount requested, it shall briefly state the reasons in its report. The Committee shall submit a copy of its report to the applicant.
- (b) The applicant shall review the FPR and shall, if dissatisfied with any facts therein, file a written protest with the Committee within 60 calendar days of the date of the FPR. If the applicant does not file a written protest within the 60 calendar days, the applicant will have waived his/her right to object to anything covered by the FPR. After the 60 calendar days, everything regarding the application, including the amount of reimbursement and percentage reductions (including any reductions applicable to future applications), will be deemed final. However, costs determined to be not eligible cannot be protested.
- (c) The protest of the FPR must be signed by the applicant and contain any information required by the Committee or the Director, including a clear statement of each item which the applicant disputes on the FPR.
- (d) The protest shall be submitted on a form provided by the Committee or the Director.

Section 8-7 Miscellaneous Regulations

- (a) Nothing in these regulations precludes the Committee or the Director from issuing orders, assessing administrative penalties, or taking any other action permitted by law against any person for violation of any statute, regulation or order.
- (b) Nothing in these regulations changes the responsibilities of an owner/operator of a storage tank to respond to a release of regulated substances or to comply with any other state or Federal requirements, statutes, regulations or orders.
- (c) No person shall knowingly submit false information to the Committee as part of any materials required to be submitted under these regulations.
- (d) If an applicant owes money to the Fund or to the Director, including but not limited to penalties or past due registration fees, or owes money to any other State agency via the Vendor Offset Subsystem pursuant to CRS § 24-30-202.4, the amount owed will be deducted from any proposed reimbursement amount to the applicant.

ARTICLE 9 PETROLEUM CLEANUP AND REDEVELOPMENT FUND (REDEVELOPMENT FUND)

Section 9-1 Redevelopment Fund Purpose

The Redevelopment Fund is administered by OPS.

- (a) The Redevelopment Fund will enable investigation and cleanup of petroleum contamination at petroleum storage tank sites that are not eligible for reimbursement from the Petroleum Storage Tank Fund (PSTF). Cleaning up these sites will minimize risk to Colorado's groundwater resources and enhance the potential for these properties to be redeveloped or reused.
- (b) Redevelopment Fund monies are available in the form of reimbursement to property owners upon completion of one or more of the following approved activities:
 - (1) Petroleum UST removal.
 - (2) Site assessment to determine if contamination from petroleum storage tanks is present on the property (Level I activity).
 - (3) Site characterization if petroleum contamination is discovered on the property (Level II activity).
 - (4) Cleanup of the petroleum contamination (Level III activity).
- (c) This article includes sections pertaining to eligibility criteria, eligible activities, the application and funding process, establishing project costs and required cost-matching for assessment and cleanup actions. Additionally, this article defines the mechanism for distributing monies from the Redevelopment Fund.

Section 9-2 Eligibility Criteria

- (a) Eligibility to participate in the Redevelopment Fund is dependent on the applicant satisfying all of the following criteria:
 - (1) Applicant is the current property owner.
 - (2) Applicant can provide evidence that petroleum storage tanks are present or existed on the property.

- (3) Applicant is not eligible for reimbursement from the PSTF.
- (4) Applicant has a plan for redevelopment or reuse of the property.

Section 9-3 Eligible Activities

(a) Petroleum UST Removal

- (1) Approved applicants shall be eligible for up to \$2,000 in reimbursement of direct costs associated with each petroleum UST removed.
- (2) Requests for reimbursement can be made at any time following the documented completion of the tank removal.

(b) Level I Site Assessment

- (1) The Level I site assessment to measure for the presence of a petroleum release from a storage tank system is considered an eligible activity. To meet the requirement to obtain a NFA determination, the petroleum storage tank area, product line and dispenser locations must be evaluated.
- (2) All proposed work conducted in Level I must be clearly identified in a project work plan prior to beginning the assessment activities. The work plan shall include a budget projection and estimated project completion timeline. Work plans shall be submitted prior to conducting Level I activities.
- (3) All approved applicants shall be responsible for 10% of the Level I site assessment costs, which will be deducted from the reimbursement award.
- (4) The maximum amount payable from the Redevelopment Fund for a Level I site assessment is \$20,000.

(c) Level II Site Characterization

- (1) The Level II site characterization to establish the extent of petroleum contamination that exceeds the current OPS Tier 1 RBSLs and a simple activity, such as limited excavation of petroleum-impacted soils or the development of a cleanup corrective action plan, are considered eligible activities.
- (2) All proposed work conducted in Level II must be clearly identified in a project work plan prior to beginning the characterization activities. The work plan shall include a budget projection and estimated project completion timeline. Work plans shall be submitted prior to conducting Level II activities.
- (3) All approved applicants shall be responsible for 10% of the Level II site characterization costs, which will be deducted from the reimbursement award.
- (4) The maximum amount payable from the Redevelopment Fund for a Level II site characterization is \$30,000.

(d) Level III Cleanup

- (1) The Level III cleanup activities associated with an economically and technically feasible approach to mitigate petroleum contamination to an acceptable level are considered eligible activities.

(2) Requests for cleanup funding must include a project work plan that contains a discussion of the project technical feasibility and cleanup goals, budget projection and estimated project completion timeline.

(3) All approved applicants shall be responsible for 50% of the Level III cleanup costs, which will be deducted from the reimbursement award.

(4) The maximum amount payable from the Redevelopment Fund for a Level III cleanup is 50% of the eligible cost or \$500,000, whichever is less.

Section 9-4 Application Process

(a) Applications for environmental assessment, characterization and cleanup financial assistance can be submitted at any time utilizing application forms posted on the OPS website. Applications will be periodically reviewed and evaluated based on the applicant's ability to demonstrate the following:

(1) Project plan results in reducing risk to the environment from petroleum contamination.

(2) Applicant has the ability to meet Level I and II deductibles and has leveraged matching funds for Level III cleanup activities.

(3) Redevelopment or reuse plan generates a positive economic and/or social impact on the community.

(b) Successful applicants will be notified at least quarterly, subject to the availability of money in the Redevelopment Fund.

(c) Applicants from the same corporate family are not eligible for awards at more than one property per year.

Section 9-5 Eligible Costs and Reimbursement

(a) Costs associated with eligible activities completed during the application process and subsequent project site assessment, characterization and cleanup will be reimbursed.

(b) In general, project costs shall not exceed the current Reasonable Cost Guideline unit rates.

(c) Requests for reimbursement must include the following:

(1) Documentation of the work performed per project work plan.

(2) Proof of payment for all invoices submitted for reimbursement.

(3) Affidavit of work performed, with regards to services, material, and equipment procured by the applicant.

(d) Reimbursement of Level III cleanup costs shall be contingent upon completion of project milestones in the approved cleanup work plan.

Section 9-6 Contractual Agreements

Property owners that are eligible for Level I, II and III activities shall enter into a contractual agreement with OPS for the appropriate level. Upon execution of a contractual agreement, OPS will issue the property owner a notice to proceed that affirms a commitment to reimburse a specified amount of money from the Redevelopment Fund.

**COLORADO DEPARTMENT OF
LABOR AND EMPLOYMENT**

DIVISION OF OIL AND PUBLIC SAFETY

STORAGE TANK REGULATIONS

7 C.C.R. 1101-14

Effective: May 1, 2017



**STORAGE TANK REGULATIONS
COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF OIL AND PUBLIC SAFETY**

(Found at 7 C.C.R. 1101-14)

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ARTICLE 1 GENERAL PROVISIONS

Section 1-1 Statement of Basis and Purpose

These regulations are promulgated to establish rules for the design, installation, registration, construction, and operation of storage tanks used to store regulated substances (including petroleum), response to releases of regulated substances from these tanks, and to describe the financial responsibility of storage tank owner/operators. The main purpose of these regulations is to reduce damage to the environment and risk to the public caused by leaking petroleum storage tanks and to mitigate such damage effectively when it occurs.

These regulations do not apply to material classified as hazardous wastes under Subtitle C of the U.S. Solid Waste Disposal Act.

The amendment to Article 9 of these regulations is developed pursuant to the Colorado Revised Statutes 8-20.5-103(9) that created the Petroleum Cleanup and Redevelopment Fund. The rules are designed to establish the implementation and operational guidelines of this fund.

Section 1-2 Technical Rationale

The technical requirements of these regulations are supported by many studies made by petroleum industry associations, the National Fire Protection Association (NFPA), the American Society of Testing and Materials (ASTM), and by or at the behest of the U.S. Environmental Protection Agency (EPA). The requirements represent the consensus of informed persons with regard to the best methods for reducing the hazards posed by storage tanks to acceptable levels.

Section 1-3 Statutory Authority

The amendments to these regulations have been created pursuant to Title 8 Article 20 Section 102 and Article 20.5 Sections 202 and 302 of the Colorado Revised Statutes (C.R.S.). The design, construction, location, installation, and operation of liquid fuel systems and equipment and the handling of liquid fuels shall conform to the minimum standards as prescribed by the applicable sections of NFPA 30.

Section 1-4 Effective Date

These amended rules shall be effective on January 1, 2017. The prior editions of the combined UST/AST regulations were published October 15, 2014, January 1, 2014, May 1, 2013, April 14, 2011, January 1, 2009, August 1, 2008, April 30, 2006, May 30, 2005, August 1, 2004, August 1, 2002, February 1, 1999, and January 1, 1997. Prior editions of the UST rules were published effective September 30, 1995 and December 1, 1989. Prior editions of the AST rules were published effective September 30, 1995 and October 1, 1994. A prior edition of the Emission Inspection rules was published effective January 1, 1990.

Section 1-5 Definitions

Terms in these regulations shall have the same definitions as those found in Articles 20 and 20.5 of Title 8 of the Colorado Revised Statutes. In addition, unless the context otherwise requires:

"Abandoned tank" means an underground or aboveground petroleum storage tank that the current tank owner or operator or current property owner did not install, has never operated or leased to another for operation, and had no reason to know was present on the site at the time of site acquisition.

"Aboveground storage tank" (AST) means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, constructed of non-earthen materials, including but not limited to concrete, steel, or plastic, which provide structural support, used to contain or dispense fuel products and the volume of which, including the pipes

connected thereto, is ninety percent or more above the surface of the ground, is not permanently closed, and except those exempted in statute and these regulations.

"Aboveground storage tank (AST) system" means all ASTs at a facility, all the connected piping and ancillary equipment, all loading facilities, and all containment systems if applicable.

"Alternative fuel" means a motor fuel that combines petroleum-based fuel products with renewable fuels.

"Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

"ASTM International (ASTM)" means an international voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

"Atmospheric tank" is a storage tank that has been designed to operate at pressures from atmospheric through 0.5 psig (760 mm Hg through 780 mm Hg) measured at the top of the tank.

"Bodily injury" shall have the meaning given to this term by applicable Colorado state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

"Bulk plant" is that portion of a property where liquids are received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank or container. [Note: A bulk plant is normally a wholesale fuel facility where petroleum products are stored prior to resale or redistribution.]

"Calendar days" means consecutive days including weekends and nationally recognized holidays.

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an UST or AST system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and UST and AST systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and UST and AST systems.

"Certificate of conformance" means a document issued by the national type evaluation program constituting evidence of conformance of a weighing and measuring device with the requirements of National Institute of Standards and Technology (NIST) Handbook 44.

"Certificate of Eligibility" is a document that entitles the bearer to participate in the Fund without further determination of compliance by the Director, if that bearer is a mortgagee who has acquired, by foreclosure or receipt of a deed in lieu of foreclosure, property on which the petroleum storage tanks covered by the certificate are located.

"CFR" Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government

"Change in service" means continued use of an UST or AST to store a non-regulated substance.

"Chemicals of concern" (COCs) are chemical compounds that have been identified for evaluation due to specific risks to human health and/or the environment.

"Committee" means the Petroleum Storage Tank Committee created in C.R.S. § 8-20.5-104.

"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered.

"Connected piping" means all piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual AST or UST system, the piping that joins two systems should be allocated equally between them.

"Containment sump" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

"Contamination" means the presence of a regulated substance at or below ground that originated from a regulated storage tank system.

"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the system (e.g., tank from piping).

"Dispenser" means equipment that dispenses regulated substances from the storage tank system.

"Dispenser system" means the dispenser and the equipment necessary to connect the dispenser to the storage tank system.

"Director" means the Director of the Division of Oil and Public Safety of the Colorado Department of Labor and Employment or any designees thereof which may include certain employees of the Division of Oil and Public Safety of the Colorado Department of Labor and Employment or other persons.

"Downgradient" is in the direction of maximum decreasing static head.

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Electrolyte" means the soil or liquid adjacent to and in contact with the systems, including the moisture and other chemicals contained in it; the electrically conductive material between the tank and its environment;

"Excavation zone" means the volume containing the UST system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Exposure pathway" is the course that a chemical of concern takes from a source area to a point of exposure. An exposure pathway describes a unique mechanism by which a person or sensitive environment is assumed to be exposed to a chemical of concern. Each exposure pathway

includes a source, an exposure route, and a point of exposure. If the exposure point differs from the source, transport or exposure media (e.g., air, water, dust) are also included. All exposure pathways are assumed to be complete unless an exposure pathway elimination criteria is demonstrated. Exposure pathway elimination criteria are listed in the Owner/Operator Guidance Document.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

"Financial reporting year" means the latest consecutive twelve-month period for which any report used to support a financial test is prepared. "Financial reporting year" may thus comprise a fiscal or a calendar year period.

"Fire resistant tank" is an atmospheric single or double walled AST with thermal insulation that has been evaluated for resistance to physical damage and for limiting the heat transferred to the primary tank when exposed to a hydrocarbon pool fire, and is listed in accordance with UL 2080 or an equivalent test procedure, and meets the additional requirements of NFPA.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Fund" means the Petroleum Storage Tank Fund created in C.R.S. § 8-20.5-103.

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Good Engineering Practice", "Good Engineering Standards", and "Nationally Recognized Standard" means in accordance with standards developed by nationally recognized laboratories or associations such as: Underwriters Laboratory (U.L.), American National Standards Institute (ANSI), American Petroleum Institute (API), American Society for Testing and Materials (ASTM), American Society of Mechanical Engineers (ASME), Steel Tank Institute (STI), National Association of Corrosion Engineers (NACE), or the National Fire Protection Association (NFPA).

"Hazardous substance UST system" means an UST system that contains a hazardous substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

"Hydraulic conductivity" is the coefficient of proportionality describing the rate at which water can move through a permeable medium.

"Hydraulic gradient" is the slope of the water table in the direction of groundwater flow. This slope is typically expressed as a unit change in water table elevation per unit horizontal distance (e.g. ft/ft).

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Imminent threat to human health or safety or the environment" means a condition that creates a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate the actual or potential damages to human health or safety or the environment.

"Installation of a new motor fuel dispenser system" means the installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the system. It does not mean the installation of a motor fuel dispenser installed separately from the equipment needed to connect the dispenser to the tank system. For purposes of these rules, the equipment necessary to connect the motor fuel dispenser to the tank system may include check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are beneath the dispenser and connect the dispenser to the underground piping.

"Insurer" or "qualified insurer" means an insurer or group that is authorized to transact the business of insurance or authorized to provide insurance as an excess or surplus lines insurer in Colorado.

"Light non-aqueous phase liquid" (LNAPL) refers to a regulated substance that is present in soil and on groundwater as a non-aqueous phase liquid (e.g., liquid not dissolved in water.)

"Liquid" is any material that has a fluidity greater than that of 300 penetration asphalt when tested in accordance with ASTM D 5, Test for Penetration for Bituminous Materials. When not otherwise identified, the term "liquid" shall mean both flammable and combustible liquids.

[Note 1: Class I flammable liquids include all grades of Gasoline, and most motor fuels blended using alcohol and MTBE (methyl-tertiary-butyl-ether).]

[Note 2: Class II combustible liquids include #1 and #2 Diesel Fuels, #1 and #2 Heating Oil, Kerosene, and Jet-A grade Jet fuel.]

[Note 3: Class III combustible liquids include most Lubricating Oils, and Heavy Fuel oils.]

"Liquid, combustible" is a liquid having a flash point at or above 100°F (37.8°C). Combustible Liquids are classified as follows:

- (1) CLASS II liquids have a flash point at or above 100°F (37.8°C) and below 140°F (60°C).
- (2) CLASS IIIA liquids have a flash point at or above 140°F (60°C) and below 200°F (93°C).
- (3) CLASS IIIB liquids have a flash point at or above 200°F (93°C).

"Liquid, flammable" is a liquid having a flash point below 100°F (37.8°C) and having a Reid vapor pressure not exceeding 40 psia (2068 mmHg) at 100°F (37.8°C). Flammable Liquids are classified as Class I liquids. Class I liquids are further subclassified as follows:

- (1) CLASS IA liquids have a flash point below 73°F (22.8°C) and a boiling point below 100°F (37.8 ° C).
- (2) CLASS IB liquids have a flash point below 73°F (22.8°C) and a boiling point at or above 100°F (37.8°C).
- (3) CLASS IC liquids have a flash point at or above 73°F (22.8°C) and below 100°F (37.8°C).

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"Marine service station" is that portion of a property where liquids used as fuels are stored and dispensed from fixed equipment on shore, piers, wharves, or floating docks into the fuel tanks of self-propelled craft, including all facilities used in connection therewith.

"Media" are intervening substances through which something is transmitted or carried (e.g. soil, water, or air).

"Mortgagee" refers to a mortgagee or the holder of an evidence of debt secured by a mortgage or deed of trust.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, fuel products as defined in C.R.S. § 8-20.5-101(6), or any grade of gasohol, and is typically used in the operation of a motor engine.

"Motor fuel dispensing facility" means that portion of a property where motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles or marine craft or into approved containers, including all equipment used in connection therewith.

- (a) "Fleet vehicle motor fuel dispensing facility" means a motor fuel dispensing facility at a commercial, industrial, governmental, or manufacturing property where motor fuels are dispensed into the fuel tanks of motor vehicles that are used in connection with the business or operation of that property by persons within the employ of such business or operation.

"Net worth" means the assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing economic benefits obtained or controlled by an owner/operator.

"Noncommercial purposes" with respect to motor fuel at farms and residences means not for resale.

"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed.

"Operator" means any person in control of, or having responsibility for the operation of an underground or above ground storage tank system.

"Orphaned tank" means an underground storage tank which is owned or operated by an unidentified owner or no longer in use and was not closed and the property has changed ownership prior to December 22, 1988, and such property is no longer used to dispense fuels.

"Out of service" means that the tank is not being operated in accordance with its intended purpose.

"Overfill" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

- (1) In the case of an underground storage tank in use on or after November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances;
- (2) In the case of an underground storage tank in use before November 8, 1984, but no longer in use on or after November 8, 1984, any person who owned such tank immediately before the discontinuation of its use; or
- (3) Any person who owns an aboveground storage tank.
- (4) Regarding reporting and responding to releases of regulated substances, Owner means the person who owned the tank system at the time of the release. The term "owner" does not

include any person who, without participating in the management of an underground storage tank and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect a security interest in or lien on the tank or the property where the tank is located.

"Owner(s)/operator(s)" means that the task to which this phrase is attached may be performed by either the owner or the operator. If neither the owner nor the operator performs the task, both shall be in violation of these regulations. Duplication of the task is not required.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation, state, municipality, commission, political subdivision of a state, or any interstate body. "Person" also includes a consortium, a joint venture, a commercial entity, and the United States Government.

"Petroleum" means crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

"Pipe" or "Piping" means a hollow cylinder or tubular conduit that is constructed of non-earthen materials and in accordance with NFPA or other nationally recognized piping standards for petroleum storage tanks. Piping routinely contains and conveys regulated substances from the underground tank(s) to the dispenser(s) or other end-use equipment. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the underground tank(s) to the dispenser(s). This definition does not include vent, vapor recovery, or fill lines not connected to remote fills.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

"Point of exposure " (POE) is the location at which a person or sensitive environment is assumed to be exposed to a chemical of concern. POEs for benzene, toluene, ethyl benzene and xylenes are: property boundaries, surficial soils, subsurface utilities, structures, groundwater wells, surface water, and sensitive environments. POEs for MTBE are: water supply wells that are used for human consumption and surface water features that are used for human consumption.

"Product deliverer" means any person who delivers or deposits product into an UST. This term may include major oil companies, jobbers, petroleum transportation companies, or other product delivery entities.

"Property damage" shall have the meaning given this term by applicable Colorado laws. This term shall not include those liabilities, which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include corrective action associated with releases from tanks, which are covered by the policy.

"Protected tank" is an atmospheric AST with integral secondary containment and thermal insulation that has been evaluated for resistance to physical damage and for limiting the heat transferred to the primary tank when exposed to a hydrocarbon pool fire and is listed in accordance with ANSI/UL 2085 or an equivalent test procedure, and meets the additional requirements of NFPA.

"Provider of financial assurance" means an entity that provides financial assurance to an owner/operator of an UST through one of the mechanisms listed below, including but not limited to an insurer, issuer of a letter of credit, or the trustee of a trust fund.

"Red Tag" means a tag, device, or mechanism on the tank's fill pipes that clearly identifies an UST as ineligible for product delivery. The tag or device is easily visible to the product deliverer and clearly states and conveys that it is unlawful to deliver to, deposit into, or accept product into the ineligible UST. The tag, device, or mechanism is generally tamper resistant.

"Reimbursement" means an assignment of money from the Fund to reimburse a person for approved costs incurred in remediating petroleum contamination.

"Registered Service Agency (RSA)" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial weighing or measuring device and that voluntarily registers with the division. Under agency registration, identification of individual servicepersons shall be required.

"Regulated substance" for UST systems has the same meaning as in C.R.S. § 8-20.5-101(13) as follows:

- (1) Any substance defined in Section 101 (14) of the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", as amended, but not including any substance regulated as a hazardous waste under subtitle (C) of Title II of the federal "Resource Conservation and Recovery Act of 1976", as amended.
- (2) Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).
- (3) Alternative fuel
- (4) Renewable fuel

"Regulated substance" for AST systems means regulated fuel products as defined in C.R.S. § 8-20.5-101(6), including alternative fuels and renewable fuels as defined in CRS 8-20.5-101(2.5) and (14.5) as follows:

- (1) All gasoline, aviation gasoline, diesel, aviation turbine fuel, jet fuel, fuel oil, biodiesel, biodiesel blends, kerosene, all alcohol blended fuels, gas or gaseous compounds, and other volatile, flammable, or combustible liquids, produced, compounded, and offered for sale or used for the purpose of generating heat, light, or power in internal combustion engines or fuel cells, for cleaning or for any other similar usage.
- (2) Alternative fuel
- (3) Renewable fuel

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing of a regulated substance from a regulated tank system into the environment.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST or AST system into the environment or a leak has occurred into the interstitial space between the UST or AST system and its secondary barrier or secondary containment around it.

"Remediation" means actions taken to reduce concentrations of chemicals of concern (including natural attenuation), or prevent migration of chemicals of concern to POEs. Remediation shall be implemented for sites where no further action is not appropriate.

"Renewable fuel" means a motor vehicle fuel that is produced from plant or animal products or wastes, as opposed to fossil fuel sources.

"Repair" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other system component that has caused a release of product from an AST or UST system or has failed to function properly.

"Replace" This term applies to underground storage tanks and piping.

For underground storage tanks – Replace means to remove an existing underground storage tank and install a new underground storage tank.

For underground piping – Replace means to remove and put back in any amount of piping connected to a tank system. The secondary containment requirements for replaced piping are triggered when a minimum of 50% or 50 feet (whichever is less) of the total length of piping connected to a single tank is replaced. The total length of piping connected to a single tank includes the length piping from that tank to the farthest connected dispenser, including piping runs between dispensers connected to that tank.

"Reportable quantity" means quantities of a released regulated substance which equal or exceed the reportable quantity under the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", as amended, and petroleum products in quantities of twenty-five gallons or more.

"Residential tank" is a tank located on property used primarily for dwelling purposes.

"Retail motor fuel device" (RMFD) means a device designed for the measurement and delivery of liquid fuel products for internal-combustion engines. The term "motor-fuel dispenser" means the same as "motor-fuel device".

"Risk-based corrective action (RBCA)" means a consistent decision making process for the assessment and response to a petroleum release, based on the protection of human health and the environment according to ASTM 1739.

"Secondary containment" This term applies to AST and UST Systems

For AST systems secondary containment is containment which prevents any release from an AST system from reaching land or waters outside of the containment area, and can include remote impounding, diking, or different types of AST construction. Where underground piping is connected to an AST, the definition of "secondary containment" for UST systems also applies to the piping.

For UST systems secondary containment is a release prevention and release detection system for an underground tank and/or piping. The release prevention part of secondary containment is an underground tank and/or piping having an inner and outer barrier. Between these two barriers is a space for monitoring. The release detection part of secondary containment is a method of monitoring the space between the inner and outer barriers for a leak or release of regulated substances from the underground tank and/or piping (called interstitial monitoring). This term includes containment sumps when used for interstitial monitoring of piping.

"Secondary containment tank" is a shop fabricated AST which includes a steel or reinforced concrete secondary shell that will provide containment of the entire capacity of the inner tank in case of leaks or ruptures of the inner tank and having means for monitoring the interstitial space for a leak.

"Sensitive environment" is an area of particular environmental value where regulated petroleum contamination could pose a greater threat than in other less sensitive areas. Sensitive environments include: critical habitat for federally endangered or threatened species, national parks, national monuments, national recreation areas, national wildlife refuges; national forests, campgrounds; recreational areas, game management areas, wildlife management areas, designated federal wilderness areas, wetlands, wild and scenic rivers, state parks, state wildlife refuges, habitat designated for state endangered species, fishery resources, state designated natural areas, wellhead protection areas, classified groundwater areas, and county or municipal parks.

"Septic tank" is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer where the effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Service station" is a place where motor fuels are sold to the general public for cash or credit and are dispensed into the fuel tanks of motor vehicles or approved containers. This does not include unattended cardlock system facilities at bulk plants which only use proprietary cards specific to the cardlock system in question.

"Significant violation" means the failure of a person to comply with any requirement of Article 2 of 7 C.C.R. 1101-14, which includes any of the following:

- (a) A violation that is causing, or threatens to cause a liquid release of a regulated substance from an UST system, including, but not limited to: the failure of any required overfill prevention system, where the failure is causing or threatens to cause a release; or the failure of a required spill containment structure, where the failure is causing or threatens to cause a release to the environment due to a spill or an overfill.
- (b) A violation that impairs the ability of an UST system to detect a liquid leak or contain a liquid release of a regulated substance in the manner required by law, including, but not limited to: tampering with leak detection equipment so that the equipment is no longer capable of detecting a leak at the earliest possible opportunity.
- (c) A chronic violation or a violation that is committed by a recalcitrant violator.

"Site check" means collecting soil and/or groundwater samples for laboratory analysis from locations most likely to demonstrate the presence of a release from a regulated storage tank system.

"Site classification" is a qualitative evaluation of a site based on known or readily available information to identify the need for interim remedial actions and further information gathering.

"Source concentration" is the highest concentration, in soil and/or groundwater and /or vapor, of the chemicals of concern.

"State inspector" is a person who is employed or authorized by the division to perform inspections of facilities storing regulated substances.

"Storm-water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Subsurface soils" are all soils located at a depth of greater than one meter below the ground surface.

"Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Surficial soils" are all soils located from the ground surface to a depth of one meter below ground surface.

"System test" means a test of tank system components, including any associated delivery piping, secondary containment or spill control component, to identify releases of regulated substances.

"Temporary closure" means a period of time that a storage tank is empty but is not permanently closed or has not changed service to store a non-regulated substance. This term does not apply when a tank system is emptied for repair.

"Tier I risk-based screening levels (RBSLs)" are the default maximum concentrations for COCs used to determine whether remediation (cleanup) is required.

"Tier II site-specific target level(s) (SSTLs)" are the risk-based remedial action target levels for COCs developed for a particular site using site-specific geological and hydrogeological data in a predictive model.

"Tier III closure criteria" establishes conditions where all exposure pathways have been eliminated, even though dissolved-phase COCs remain above Tier I RBSLs beyond the release property boundary and beneath, but not beyond the adjoining public roadway.

"Tier IV closure criteria" establishes conditions where all exposure pathways have been eliminated, even though dissolved-phase COCs remain above Tier I RBSLs beyond the release property boundary irrespective of land use and where no storage tanks remain on the release property.

"Training program" means any program that provides information to and evaluates the knowledge of a Class A, Class B, or Class C operator through testing, practical demonstration, or another approach acceptable to the implementing agency regarding requirements for UST systems that meet the requirements of Section 2-3-1.

"Transportation-related facilities" as used in these regulations means facilities where all ASTs with capacities from 660 to 39,999 gallons are regulated by the USDOT.

"Trustee" is a member of a Trust that is an applicant to the Fund. A trustee can be an individual or a company that acts on behalf of the Trust.

"Ullage" is the portion of a storage tank that does not contain liquid.

"Unattended cardlock system" is a vehicle fueling facility, which uses a mechanical or electronic method of tracking fuel deliveries using an identification card.

"Under-dispenser containment (UDC)" means containment underneath a dispenser that will prevent leaks from the dispenser and piping within or above the UDC from reaching soil or groundwater.

"Underground storage tank" (UST) means any one or combination of tanks, including underground pipes connected thereto, except those exempted in statute and these regulations, that is used to contain an accumulation of regulated substances and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground and is not permanently closed.

"Underground storage tank (UST) system" refers to an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Upgrade" means the addition or retrofit of some systems (such as cathodic protection, lining, modification of the system piping, or spill and overfill controls, etc.) to improve the ability of an UST or AST system to prevent the release of product.

"Vault" means an enclosure (other than a secondary containment tank), either above or below-grade, that completely encloses an AST.

"Wastewater treatment tank" means a tank that is designed to receive and treat influent wastewater through physical, chemical, or biological methods.

"Working days" consecutive days excluding weekends and nationally recognized holidays.

Section 1-6 Glossary of Acronyms and Initializations

ANSI	American National Standards Institute	NFPA	National Fire Protection Association
API	American Petroleum Institute	NIOSH	National Institute of Occupational Safety and Health
AST	Aboveground storage tank	NIST	National Institute of Standards and Technology
ASTM	ASTM International	NTEP	National Type Evaluation Program
BTEX	Benzene, Toluene, Ethyl Benzene, Xylene	OPS	Division of Oil and Public Safety
CAP	Corrective Action Plan	PAH	Poly-aromatic hydrocarbons
CC	Certificate of Conformance	PP	Pressurized piping
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act	Psig	Pounds per square inch gauge
CFR	Code of Federal Regulations	PSTF	Petroleum Storage Tank Fund
COC	Chemicals of concern	RBCA	Risk-based corrective actions
C.R.S.	Colorado Revised Statutes	RBSL	Risk-based screening level
EPA	United States Environmental Protection Agency	RMFD	Retail Motor Fuel Dispenser/Device
FRP	Fiberglass reinforced plastic	RD	Release Detection
FR	Financial responsibility	SCR	Site Characterization Report
ICC	International Code Council	SIR	Statistical Inventory Reconciliation
IRA	Initial Risk Assessment	SPCC	Spill Prevention, Control, and Countermeasure
LNAPL	Light Non-Aqueous Phase Liquid	SSTL	Site Specific Target Level
LPG	Liquid petroleum gas	STP	Submersible Turbine Pump
MRR	Monitoring and Remediation Report	TPH	Total Petroleum hydrocarbons
MTBE	Methyl-tertiary-butyl-ether	VP	Vapor Pressure
NACE	National Association of Corrosion Engineers	UDC	Under Dispenser Containment
NFA	No further action	UL	Underwriters Laboratories/Underwriters Laboratories of Canada
NFAR	No Further Action Report	UST	Underground storage tank

Section 1-7 Codes, Documents or Standards incorporated by reference

The following codes, documents or standards are incorporated by reference:

American National Standards Institute (ANSI)

Standard B31, American National Standard Code for Pressure Piping, published October 14, 2003.

Standard B31.3, Petroleum Refinery Piping, published February 14, 2002.

Standard B31.4, Liquid Petroleum Transportation Piping System, published August 5, 2002.

American Petroleum Institute (API)

Recommended Practice 1604, Removal and Disposal of Used Underground Petroleum Storage Tanks, published November 2001.

Publication 650, Welded Steel Tanks for Oil Storage, 11th Edition

Publication 1615, Installation of Underground Petroleum Storage Systems, published November 2001.

Publication 1621, Recommended Practice for Bulk Liquid Stock Control at Retail Outlets, published 1993.

Publication 1626, Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations, published January 18, 2000.

Publication 1627, Storage and Handling of Gasoline-Methanol/Co-solvent Blends at Distribution Terminals and Service Stations, published January 18, 2000.

Publication 1631, Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks, published June 2001.

Publication 1632, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, published June 2002.

Publication 2015, Cleaning Petroleum Storage Tanks, published August 2001.

Publication 2015A, Lead Hazard Associated with Tank Entry, published 1982.

Publication 2015B, Cleaning Open Top and Floating Roof Tanks, published August, 1981.

Publication 2200, Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines, published May 1999.

Standard 653, Tank Inspection, Repair, Alteration, and Reconstruction

Standard No. 2000, Venting Atmospheric and Low-Pressure Storage Tanks

American Society of Testing and Materials (ASTM)

Standard D5, Test for Penetration for Bituminous Materials, published June 1, 2005.

Standard D4021-86, Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks, published June 15, 1992.

Standard D4814-16a, Standard Specification for Automotive Spark-Ignition Engine Fuel, published February 2016.

Association for Composite Tanks (ACT)

ACT-100, Specification for the Fabrication of FRP Clad Underground Storage Tanks, published 1989.

Environmental Protection Agency (EPA)

EPA Form 50 FR 46602, published November 8, 1985

Hazardous and Solid Waste Amendments of 1984, Public Law 98-616

National Association of Corrosion Engineers (NACE)

Standard RP-01-69, Control of External Corrosion on Submerged Metallic Piping Systems, published April 11, 2002.

Standard RP-02-85, Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems, published April 6, 2002.

National Fire Protection Association (NFPA)

Publication NFPA 30, Flammable and Combustible Liquids Code, 2008 Edition.

Publication NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2008 Edition.

Publication NFPA 70, National Electrical Code, published August 18, 2005.

Publication NFPA 80, Standard for Fire Doors and Fire Windows, published 1999.

Publication NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems, published January 2, 2003.

Publication NFPA 91, Standard for the Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying, published August 4, 2004.

Publication NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, published 1990.

National Institute for Occupational Safety and Health (NIOSH)

Criteria for a Recommended Standard, Working in Confined Spaces, DHHS (NIOSH) Publication No.80-106, December 1979.

National Institute of Standards and Technology

NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices", published 2012

NIST Handbook 130, "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality", published 2012

National Leak Prevention Association (NLPA)

National Leak Prevention Association Standard 631, Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection, published 1991.

Petroleum Equipment Institute (PEI)

Publication RP100, Recommended Practices for Installation of Underground Liquid Storage Systems, published 2005.

Steel Tank Institute (STI)

Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks, published July 2005.

SP001, Standard for the Inspection of Aboveground Storage Tanks, 5th Edition

Underwriters Laboratories/Underwriters Laboratories of Canada (UL)

Subject 971, UL Listed Non-Metal Pipe, published January 2, 2004.

Standard 58, Standard for Steel Underground Tanks for Flammable and Combustible Liquids, published July 27, 1998.

Standard 567, Pipe Connectors for Flammable and Combustible and LP Gas, published October 22, 2004.

Standard 1316, Standard for Glass- Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, published April 2, 1996.

Standard 1746, Corrosion Protection Systems for Underground Storage Tanks, published February 8, 2002.

CAN4-S603-M85, Standard for Steel Underground Tanks for Flammable and Combustible Liquids, published 2000.

CAN4-S603.1-M85, Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable and Combustible Liquids, November 2003.

CAN4-S615-M83, Standard for Reinforced Plastic Underground Tanks for Petroleum Products, published 1998.

CAN4-S631-M84, Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems, published 1998.

CAN4-S633-M81, Flexible Underground Hose Connectors, published August 1999.

Guide ULC-107, Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids, published 1993.

Section 1-8 Inspection of incorporated codes

Interested parties may inspect the referenced incorporated materials by contacting the Director.

Section 1-9 Later amendments not included

This rule does not include later amendments to or editions of the incorporated material.

ARTICLE 1.5 MOTOR FUEL DISPENSING AND PRODUCT QUALITY

The method of sale and quality of motor fuels are regulated by the Director to ensure consumer protection and equity in the marketplace. This article lists the minimum specifications and tolerances for dispensing equipment and motor fuel quality to ensure compliance with Colorado statutes and adopted codes and standards. Further description of these requirements can be found in guidance documents, policies and procedures provided by the Director.

Section 1.5-1 Applicability

- (a) The requirements of Sections 1.5-2 and 1.5-3 shall apply to dispensers and product quality at retail facilities.
- (b) All retail and non-retail motor fuel dispensers must comply with the minimum standards as prescribed by the applicable sections of National Fire Protection Association (NFPA) 30A "Code for Motor Fuel Dispensing Facilities and Repair Garages".

Section 1.5-2 Retail Motor Fuel Dispensers Inspection and Testing

- (a) All retail motor fuel dispensers (RMFD) shall be suitable for their intended use, properly installed, and accurate, and shall be maintained in that condition by their owner/operator.
- (b) All RMFDs shall have an active National Type Evaluation Program (NTEP) Certificate of Conformance (CC) prior to its installation or use for commercial purposes.
- (c) The division shall be notified when any new or remanufactured RMFD is placed in service at a new or existing installation.
 - (1) Notification shall be submitted using a placed in service report provided by the division.
- (d) No owner/operator of any RMFD shall use the RMFD for the measurement of liquid fuel products unless it has been proved in a manner acceptable to the Director and sealed as correct by a state inspector or registered service agency.
- (e) If any RMFD fails to comply with any of the provisions of this regulation, a state inspector shall seal it in such a manner as to prohibit its use, and it shall remain sealed until it complies with all of the provisions of this regulation.
 - (1) When an RMFD is brought back into compliance with this regulation it must be placed back in service by a state inspector or registered service agency.
- (f) All RMFDs shall comply with the minimum standards as prescribed by the applicable sections of NFPA 30A "Code for Motor Fuel Dispensing Facilities and Repair Garages", NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices," NIST Handbook 130, "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality" except as modified or rejected by this regulation or by the Director.
- (g) All RMFDs shall be labeled in accordance with the minimum standards as prescribed by the applicable sections of NFPA 30A "Code for Motor Fuel Dispensing Facilities and Repair Garages" and NIST Handbook 130, "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality", United States Environmental Protection Agency regulations, and Colorado Statutes, except as modified or rejected by this regulation or by the director.

Section 1.5-3 Product Quality

- (a) All liquid fuel products in Classes I, II, and III shall comply with the applicable specifications of ASTM, which are found in Section 5 of that organization's publication "Petroleum Products, Lubricants, and Fossil Fuels" (ASTM 4814).

[Note 1: Class I flammable liquids include all grades of gasoline, and most motor fuels blended using alcohol and MTBE (methyl-tertiary-butyl-ether).]

[Note 2: Class II combustible liquids include #1 and #2 diesel fuels, #1 and #2 heating oil, kerosene, and Jet-A grade jet fuel.]

[Note 3: Class III combustible liquids include most lubricating oils and heavy fuel oils.]

- (b) If gasoline is blended with ethanol, the ASTM D 4814 specifications shall apply to the base gasoline prior to blending. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard, except that, if the ethanol is blended at nine percent or higher but not exceeding ten percent, the blend may exceed the ASTM D 4814 vapor pressure standard by no more than 1.0 PSI.
- (c) In addition to the above, all liquid fuel products shall comply with the requirements published in the NIST Handbook 130 "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality" except as modified or rejected by this regulation.
- (d) The allowable reductions in vehicle antiknock requirements for altitude are 4.5 for less than 89 Antiknock Index (AKI), and 3.0 for greater than 89 AKI. Fuel may be marketed using these reductions, but actual AKI minimum must be posted.

ARTICLE 2 UNDERGROUND STORAGE TANKS

Section 2-1 UST Program Scope and Applicability

UST systems in Colorado are regulated to protect the people and environment of Colorado from the potentially harmful effects of the regulated substances contained within UST systems. The purpose of this article is to present to owner/operators of UST systems a description of the minimum general standards for design, construction, installation and operation of these systems to be in compliance with these regulations and Colorado statutes. Further description of these requirements can be found in guidance documents, policies and procedures provided by the Director.

2-1-1 Applicability

(a) Regulated UST systems

These UST regulations apply to all owners/operators of an UST system except as otherwise provided in paragraphs (b), (c), and (d) of this section.

(1) Previously deferred UST systems. Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of this section as follows:

(i) Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must meet the requirements in Section 2.5 (UST Systems with Field Constructed Tanks and Airport Hydrant Distribution Systems).

(ii) UST systems that store fuel solely for use by emergency power generators installed on or before January 1, 2017 must meet the release detection requirements of §2.3.4 on or before January 1, 2020.

[Note: UST systems storing fuel solely for use by emergency power generators that existed on or before January 1, 2017 were already required to meet all other applicable requirements of this article.]

(iii) UST systems that store fuel solely for use by emergency power generators installed after January 1, 2017 must meet all applicable requirements of this section at installation

(2) Any UST system listed in paragraph (c) of this section must meet the requirements of Section 2-1-1-(d) (Installation Requirements for Partially Excluded UST Systems).

(b) Excluded UST Systems

The following UST systems or installations are excluded from these UST regulations:

- (1) Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;
- (2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;
- (3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;
- (4) Any UST system whose capacity is 110 gallons or less;
- (5) Any UST system that contains a de minimis concentration of regulated substances;

- (6) Any emergency spill or overflow containment UST system that is expeditiously emptied after use;
- (7) Any farm or residential UST with a capacity of 1,100 gallons or less that is used for storing motor fuel for non-commercial purposes;
- (8) Any tank used for storing heating oil for consumptive use on the premises where it is located;
- (9) Any septic tank;
- (10) Any pipeline facility, including its gathering lines, which is regulated under chapter 601 of Title 49 U.S.C., or which is an intrastate pipeline facility regulated under state laws as provided in chapter 601 of Title 49 U.S.C. and which is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;
- (11) Any surface impoundment, pit, pond, lagoon, or landfill;
- (12) Any storm-water or Wastewater collection system;
- (13) Any flow-through process tank;
- (14) Any liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
- (15) Any storage tank situated in an underground area, such as a basement, cellar, mine-working, drift, shaft, or tunnel area, if the tank is situated upon or above the surface of the floor.

[Note: Section 2-1-1(b)(1) through (6) are excluded from these UST regulations per CFR 280.10 (b). Section 2-1-1(b) (7) through (15) are excluded from these UST regulations per C.R.S. § 8-20.5-101(17)(b).]

(c) Partially Excluded UST Systems

The following types of UST systems are deferred from all parts of these regulations except for release response (Article 5) and financial responsibility (Article 7).

- (1) Wastewater treatment tank systems not covered under 2-1-1(b)(2).
- (2) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. § 2011 and following).
- (3) Any UST system that is part of an emergency generator system at nuclear power generation facilities licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to 10 CFR Part 50.
- (4) Aboveground storage tanks associated with airport hydrant fuel distribution systems.
- (5) Aboveground storage tanks associated with UST systems with field-constructed tanks.

(d) Installation Requirements for Partially Excluded UST Systems

(1) Owners and operators must install an UST system listed in 2-1-1(c) (1), (2), or (3) storing regulated substances (whether of single- or double- wall construction) that meets the following requirements:

- (a) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(b) Is cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a non-corrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

(c) Is constructed or lined with material that is compatible with the stored substance.

(2) Notwithstanding paragraph (1) of this section, an UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this paragraph for the remaining life of the tank.

[Note: The following codes of practice may be used as guidance for complying with this section:

(A) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection";

(B) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(C) American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; or

(D) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems".

2-1-2 Determination of Ownership and Use

An UST that was in use before December 22, 1988 and which was not closed in accordance with national fire codes in effect at the time is considered to be in use until it is permanently closed in accordance with these regulations. An UST that is in use on or after December 22, 1988 is considered to be in use until it is permanently closed in accordance with these regulations.

Section 2-2 UST Design, Construction, Installation and Registration

2-2-1 Design and Performance standards for new and replaced UST systems

In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners/operators of new and replaced UST systems must meet the following requirements.

(a) Tanks. Secondary containment and interstitial monitoring is required for all new underground tank installations. Secondary containment must be able to contain regulated substances leaked from the primary containment until they are detected and removed and prevent the release of regulated substances to the environment at any time during the operational life of the UST system. If an existing underground tank is replaced, the secondary containment and interstitial monitoring requirements apply only to the replaced underground tank. The secondary containment requirements do not apply to repairs meant to restore an underground tank to operating condition. Each tank must be properly designed and constructed, and any portion of an underground tank that routinely contains product must be protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below.

(1) The tank is constructed of fiberglass-reinforced plastic; or

[Note: The following codes of practice may be used to comply with paragraph (a)(1) of this section:

(A) Underwriters Laboratories Standard 1316, "Glass- Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols and Alcohol-Gasoline Mixtures"; or

(B) Underwriter's Laboratories of Canada S615, "Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids".]

(2) The tank is constructed of steel and cathodically protected in the following manner:

(i) The tank is coated with a suitable dielectric material;

(ii) Field-installed cathodic protection systems are designed by a corrosion expert;

(iii) Impressed current systems are designed to allow determination of current operating status as required in 2-3-3(b); and

(iv) Cathodic protection systems are operated and maintained in accordance with 2-3-3(a); or

[Note: The following codes of practice may be used to comply with paragraph (a)(2) of this section:

(A) Steel Tank Institute "sti-P3 Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks ";

(B) Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks";

(C) Underwriters Laboratories of Canada S603 "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and S603.1 "Standard for External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids," and S631 "Standard for Isolating Bushings for Steel Underground Tanks Protected with External Corrosion Protection Systems"; or

(D) NACE International Standard Practice SP 0285"External Corrosion Control of Underground Storage Systems by Cathodic Protection," and Underwriters Laboratories Standard 58, Standard for Steel Underground Tanks for Flammable and Combustible Liquids.]

(3) The tank is constructed of steel and clad or jacketed with a non-corrodible material; or

[Note: The following codes of practice may be used to comply with paragraph (a)(3) of this section:

(A) Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks,"

(B) Steel Tank Institute ACT-100® Specification F894, "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks."

(C) Steel Tank Institute ACT-100-U® Specification F961, "Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks"; or

(D) Steel Tank Institute Specification F922, "Steel Tank Institute Specification for Permatank®".]

(4) The tank is constructed of metal without additional corrosion protection measures provided that:

(i) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

[Note: The National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," may be used as guidance for complying with paragraph (4)(i) of this section.]

(ii) Owners/operators maintain records that demonstrate compliance with the requirements of paragraph (a)(4)(i) of this section for the remaining life of the tank; or

(5) The tank construction and corrosion protection are determined by the Director to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than paragraphs (a)(1) through (4) of this section.

(b) Piping. Secondary containment and interstitial monitoring is required for all new piping installations, including piping to remote fills. Secondary containment must be able to contain regulated substances leaked from the primary containment until they are detected and removed and prevent the release of regulated substances to the environment at any time during the operational life of the UST system. For replaced piping, secondary containment and interstitial monitoring is required for the total length of piping connected to a single UST whenever more than 50% or 50 feet (whichever is less) of the piping connected to that tank is replaced. Installation of new or replaced piping will require the installation of containment sumps (under-dispenser [UDC], submersible turbine pump [STP] or transition) on both ends of the secondarily contained pipe for interstitial monitoring. These secondary containment requirements do not apply to repairs meant to restore piping to operating condition. For the purposes of determining when secondary containment is required by these rules, a repair is any activity that does not meet the definition of "replace". These secondary containment requirements also do not apply to vent piping, vapor recovery piping, and fill pipes not connected to remote fills.

The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below.

(1) The piping is constructed of non-corrodible material; or

[Note: The following codes and standards may be used to comply with paragraph (b)(1) of this section:

(A) Underwriters Laboratories Standard 971, "Nonmetallic Underground Piping for Flammable Liquids"; or

(B) Underwriters Laboratories of Canada Standard S660, "Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids".

]

(2) The piping is constructed of steel and cathodically protected in the following manner:

- (i) The piping is coated with a suitable dielectric material;
- (ii) Field-installed cathodic protection systems are designed by a corrosion expert;
- (iii) Impressed current systems are designed to allow determination of current operating status as required in 2-3-3(b); and
- (iv) Cathodic protection systems are operated and maintained in accordance with 2-3-3(a); or

[Note: The following codes and standards may be used to comply with paragraph (b)(2) of this section:

(A)

American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"

(B) Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe";

(C) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems";

(D) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."; or

(E) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection".]

(3) The piping is constructed of metal without additional corrosion protection measures provided that:

- (i) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and
- (ii) Owners/operators maintain records that demonstrate compliance with the requirements of paragraph (b)(3)(i) of this section for the remaining life of the piping; or

(4) The piping construction and corrosion protection are determined by the Director to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in paragraphs (b)(1) through (3) of this section.

(c) Spill and overfill prevention equipment.

(1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, to prevent spilling and overfilling associated with product transfer to the UST system, owners/operators must use the following spill and overfill prevention equipment:

- (i) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (e.g., a spill catchment basin); and
- (ii) Overfill prevention equipment that will:

- (A) Automatically shut off flow into the tank when the tank is more than 95 percent full; or
 - (B) Alert the transfer operator when the tank is more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm.
 - (2) Owners/operators are not required to use the spill and overfill prevention equipment specified in paragraph (c)(1) of this section if:
 - (i) Alternative equipment is used that is determined by the Director to be no less protective of human health and the environment than the equipment specified in paragraph (c)(1)(i) or (ii) of this section; or
 - (ii) The UST system is filled by transfers of no more than 25 gallons at one time.
 - (3) Flow restrictors used in vent lines may not be used to comply with paragraph (c)(1)(ii) of this section when overfill prevention is installed or replaced after January 1, 2017.
 - (4) Spill and overfill prevention equipment must be periodically tested or inspected in accordance with Section 2-3-5.
- (d) Dispensers.
- (1) Under-dispenser containment shall be required for all new motor fuel dispenser systems. A motor fuel dispenser system is considered new when:
 - (i) A dispenser is installed at a location where there previously was no dispenser (new UST system or new dispenser location at an existing UST system);
 - (ii) An existing dispenser is removed and replaced with another dispenser and the equipment used to connect the dispenser to the UST system is replaced at any point below the fire valve. This equipment may include unburied flexible connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping; or
 - (iii) An existing dispenser is removed and replaced with another dispenser and the dispenser island has to be modified (i.e., concrete is broken) to install the dispenser.
 - (2) Under-dispenser containment must be liquid-tight on its sides, bottom, and at any penetrations. Under-dispenser containment must allow for visual inspection and access to the components in the containment system or be periodically monitored for leaks from the dispenser system.
 - (3) Under-dispenser containment shall not be required when an existing dispenser is removed and replaced with another dispenser that is not considered a new dispenser.
- (e) Minimum Secondary Containment Requirements. At a minimum, secondary containment systems must be designed, constructed, and installed to:
- (1) Contain regulated substances released from the tank system until they are detected and removed. To meet this requirement, all secondary containment systems, including containment sumps, shall be tested for leaks at the time of installation and within 30 calendar days of a year thereafter using a testing method listed by the National Workgroup on Leak Detection Evaluations (NWGLDE) or an alternate testing method approved by the Director.

- (2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system. Periodic testing of the secondary containment system is required in accordance with Section 2-3-5. Also, if free product is detected in a containment sump, the sump shall be tested at that time for leaks using a testing method listed in Section 2-3-5r.
- (3) Be checked for evidence of a release at least every 30 calendar days.
- (4) Include interstitial monitoring that meets the requirements of 7 C.C.R. 1101-14 §2-3-4-2(g). If interstitial monitoring is the sole method of release detection for the UST system, sump sensors shall be installed and each sensor shall be tested for functionality by manual tripping on an annual basis.

(f) Compatibility.

- (1) Owners/operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST.
- (2) Owners and operators must notify the implementing agency at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the implementing agency. In addition, owners and operators with UST systems storing these regulated substances must meet one of the following:
 - (i) Demonstrate compatibility of the UST system (including the tank, piping, containment sumps, pumping equipment, release detection equipment, spill equipment, and overfill equipment). Owners and operators may demonstrate compatibility of the UST system by using one of the following options:
 - (A) Certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory for use with the regulated substance stored; or
 - (B) Equipment or component manufacturer approval. The manufacturer's approval must be in writing, indicate an affirmative statement of compatibility, specify the range of biofuel blends the equipment or component is compatible with, and be from the equipment or component manufacturer; or
 - (C) Use another option determined by the implementing agency to be no less protective of human health and the environment than the options listed in paragraphs (A) or (B) of this section.
- (3) Owners and operators must maintain records in accordance with Section 2-3-7(b) documenting compliance with paragraph (i) of this section for as long as the UST system is used to store the regulated substance.

[Note: Owners/operators storing alcohol blends may use the following codes to comply with the requirements of this section:

- (A) American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Filling Stations"; and
- (B) American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."]

2-2-2 Installation

No person may install, or cause to be installed, a new or replacement UST system or facility until:

- (a) An application, as described in 2-2-2-1 has been approved by the Director and an installation permit has been issued by the Director;
- (b) The installation plan has been reported to the local Fire Department having jurisdiction; and
- (c) The application/inspection fee described in 2-2-2-1(c) has been paid.

2-2-2-1 Installation Application

The Director will make available an application form to facilitate submission of required information. A complete installation application must be received by the Director no less than 20 working days prior to construction. The application must be approved before beginning construction:

- (a) On any new UST system used to store regulated substances.
- (b) On an UST system that is being upgraded to the standards described in these regulations or applicable statutes.
- (c) For each UST installation or upgrade construction plan submitted, the owner/operator must remit a fee of one hundred fifty (\$150) dollars to the Director to cover the costs of the site plan review and installation inspection.
- (d) Denial, Revocation, or Modification of Permit.
 - (1) An UST permit application may be denied if the UST installation or operation is not in conformance with these regulations; or is not in conformance with both Code 30 and Code 30-A of the National Fire Protection Association.
 - (2) An UST permit application may be denied if the permit application is not complete or is determined to be inaccurate.
 - (3) An UST installation permit may be revoked if the UST installation or operation is not in conformance with these regulations or is not in conformance with either Code 30 or Code 30-A of the National Fire Protection Association. If installation activities have not begun within six months of the issuance of the UST installation permit, the UST installation permit will be automatically revoked unless the Director grants an extension in writing.
 - (4) Six months or later after an UST installation permit is issued, the permit may be modified by subsequent statutory or regulatory changes.

2-2-2-2 Installation Requirements

- (a) Installation. The UST system must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

[Note: Tank and piping system installation practices and procedures described in the following codes may be used to comply with the requirements of paragraph (a) of this section:

- (A) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System";
- (B) Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or
- (C) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" and Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages."]

- (b) Effective January 1, 2009 all tanks and piping must be properly installed by an installer certified by the Director. To obtain certification from the Director, applicants shall submit a completed Installer Certification Application with a copy of a current certificate issued by the International Code Council (ICC) indicating he or she has passed the ICC UST Installation/Retrofitting examination, or the installer has been certified by the tank and piping manufacturers, or the installer provides certification documentation from other states that have equivalent certification requirements.
- (c) Certification of installation. All owners/operators must demonstrate compliance with paragraph (a) of this section by providing a certification of compliance on the UST registration form in accordance with 2-2-3.

2-2-2-3 Installation Inspection

The Director will inspect the UST system before completion of installation activities to verify the requirements of Section 2-2 are being met.

- (a) The owner/operator shall provide the Director with a 72 hour notice prior to the time of inspection. (b) Any duly authorized agent or employee of the Director shall have authority to enter in or upon the premises of any facility that contains an UST system, containing a regulated substance, for the purpose of verifying that such UST system and its required records are in compliance with these regulations.

2-2-3 UST System Registration

- (a) Each owner/operator of a regulated UST system must register each UST system with the Director within 30 calendar days after the first day on which the system is actually used to contain a regulated substance. This registration must be renewed annually, on or before the calendar date of the initial registration, in each succeeding year after 1989. The owner/operator is required to pay a registration fee as set by statute for each tank registered.
- (b) All regulated UST systems and facilities must be registered on a form provided by the Director, regardless of use, size, or type of regulated substance stored therein; and regardless of whether the tanks and facilities are in service or in temporary closure.

[Note: Owners/operators of UST systems that were in the ground on or after May 8, 1986, unless taken out of operation on or before January 1, 1974, were required to notify the Colorado Department of Health in accordance with the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616, on a form published by EPA on November 8, 1985 (50 FR 46602) unless notice was given pursuant to Section 103(c) of CERCLA. Owners/operators who have not complied with the notification requirements may use the registration form described in 2-2-3(b)]

- (c) Owners required to register tanks under paragraph (a) of this section must register each tank they own. Owners may register several tanks using one registration form, but owners who own tanks located at more than one place of operation must file a separate registration form for each separate place of operation.
- (d) Any time there is a change in operation, including upgrading of the UST system, changes in operation including a change of owner or operator, or completed closure of an UST system, the owner/operator is required to submit an updated registration within 30 calendar days.
- (e) Registration forms required to be submitted under (a) and (d) of this section must provide all of the required information for each tank.
- (f) All owners/operators of new UST systems must certify in the registration form, compliance with the following requirements:
 - (1) Installation of tanks and piping under 2-2-2-2(a);

- (2) Cathodic protection of steel tanks and piping under 2-2-1(a)(2);
 - (3) Financial responsibility under Article 7 of these regulations; and
 - (4) Release detection under 2-3-4.
- (g) All owners/operators of new UST systems must certify in the registration form that the method used to install the UST system complies with the requirements in Section 2-2-2-2(a).
 - (h) After July 1, 1989, any person who sells a tank intended to be used as an UST must notify the purchaser of such tank of the owner's registration obligations under (a) of this section.
 - (i) The registration form supplied by the Director will meet the requirements of Section 9002 of the federal Solid Waste Disposal Act as amended.
 - (j) The required fee for UST registration is \$35.00 per tank per year as authorized by C.R.S. § 8-20.5-102; and the fee for the installation plan review and the installation inspection is set at \$150.00, as authorized by C.R.S. § 8-20.5-204, to cover the costs of administering this section.

2-2-4 Upgrading existing UST System

Owners and operators must permanently close (in accordance with Section 2-4) any UST system that does not meet the new UST system performance standards in Section 2-2 or has not been upgraded in accordance with paragraphs (b) through (d) of this section. This does not apply to previously deferred UST systems described in Section 2-1-1-(a)(1) of this section and where an upgrade is determined to be appropriate by the implementing agency.

- (a) Alternatives allowed. All existing UST systems must comply with one of the following:
 - (1) New UST system performance standards under Section 2-2-1; or
 - (2) Upgrading requirements in (b) through (d) of this section; or
 - (3) Closure requirements under Section 2-4 of these regulations, including applicable requirements for corrective action under Article 5.
- (b) Tank upgrading requirements. Steel tanks must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:
 - (1) Internal lining. A tank may be upgraded by internal lining if:
 - (i) The lining is installed in accordance with the requirements of Section 2-2-5, and
 - (ii) Within 10 years after lining, and every 5 years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, then the lined tank must be permanently closed in accordance with Section 2-4.
 - (2) Cathodic protection. Tanks upgraded by cathodic protection must meet the requirements of Section 2-2-1(a)(2) and the integrity of the tank must have been ensured using one of the following methods:

- (i) The tank was internally inspected and assessed to ensure that the tank was structurally sound and free of corrosion holes prior to installing the cathodic protection system; or
 - (ii) The tank had been installed for less than 10 years and is monitored monthly for releases in accordance with Section 2-3-4-2(d) through (i); or
 - (iii) The tank had been installed for less than 10 years and was assessed for corrosion holes by conducting two (2) tightness tests that meet the requirements of Section 2-3-4-2(c). The first tightness test must have been conducted prior to installing the cathodic protection system. The second tightness test must have been conducted between three (3) and six (6) months following the first operation of the cathodic protection system; or
 - (iv) The tank was assessed for corrosion holes by a method that is determined by the Director to prevent releases in a manner that is no less protective of human health and the environment than (b)(2)(i) through (iii) of this section.
- (3) Internal lining combined with cathodic protection. Tanks upgraded by both internal lining and cathodic protection must meet the following:
- (i) The lining was installed in accordance with the requirements of Section 2-2-5; and
 - (ii) The cathodic protection system meets the requirements of Section 2-2-1(a)(2).

[Note: The following historical codes of practice were listed as options for complying with this section:

- (A) American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";
- (B) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection";
- (C) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and
- (D) American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."]

- (c) Piping upgrading requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of Section 2-2-1(b)(2).

[Note: The codes and standards listed in the note following Section 2-2-4(b)(3)(ii) may be used to comply with this requirement.]

- (d) Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with new UST system spill and overfill prevention equipment requirements specified in Section 2-2-1(c).

2-2-5 Repairs

Owners/operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

- (a) Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

[Note: The following codes and standards may be used to comply with paragraph (a) of this section:

- (A) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";
 - (B) American Petroleum Institute Recommended Practice 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines";
 - (C) American Petroleum Institute Recommended Practice RP 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";
 - (D) National Fire Protection Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair";
 - (E) National Leak Prevention Association Standard 631, Chapter A, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks";
 - (F) Steel Tank Institute Recommended Practice R972, "Recommended Practice for the Addition of Supplemental Anodes to STI-P3® Tanks";
 - (G) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection.", or
 - (H) Fiberglass Tank and Pipe Institute Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks".]
- (b) Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.
 - (c) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Non-corrodible pipes and fittings may be repaired in accordance with the manufacturer's specifications.
 - (d) If a release of regulated substance is identified during repairs to UST system equipment, the owner/operator shall report the release according to Article 4.
 - (e) Post-repair testing
 - (1) Repairs to secondary containment areas of tanks and piping used for interstitial monitoring and to containment sumps used for interstitial monitoring of piping must have the secondary containment tested for tightness according to the manufacturer's instructions, a code of practice developed by a nationally recognized association or independent testing laboratory, or according to requirements established by the implementing agency within 30 days following the date of completion of the repair. All other repairs to tanks and piping must be tightness tested in accordance with 2-3-4-2(c) and 2-3-4-3 within 30 calendar days following the date of the completion of the repair unless:

- (i) The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or
- (ii) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in Section 2-3-4-2(d) through (i); or
- (iii) Another test method is used that is determined by the Director to be no less protective of human health and the environment than those listed above.

[Note: The following codes of practice may be used to comply with paragraph (e)(1) of this section:

- (A) Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks"; or
 - (B) Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple-Wall Tanks with Dry Annular Space"; or
 - (C) Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".]
- (2) Within 6 months following the repair of any cathodically protected UST system the cathodic protection system must be tested in accordance with Section 2-3-3(a) and (b) to ensure that it is operating properly.
 - (3) Within 30 days following any repair to spill or overfill prevention equipment, the repaired spill or overfill prevention equipment must be tested or inspected, as appropriate, in accordance with Section 2-2-5(e)(3) to ensure it is operating properly.

Section 2-3 Operation

2-3-1 Operator Training

UST Operator Training is a requirement designed to ensure knowledge regarding operating and maintaining UST systems. These requirements apply to UST systems regulated under Subtitle I, except those excluded by these regulations.

2-3-1-1 Classes of Operators

For purposes of implementing the operator training requirements, these regulations establish Colorado specific operator training, testing and certification requirements for three classes of operators identified as Class A, Class B, and Class C. Owners/operators are required to identify and designate, for each UST system or group of UST systems at a facility, at least one named individual for each class of operator outlined in these regulations. All individuals designated as a Class A, B, or C operator must, at a minimum, be trained and certified according to these regulations by December 31, 2009.

Separate individuals may be designated for each class of operator described above or an individual may be designated to more than one of the above operator classes. An individual who is designated to more than one operator class must be trained in each operator class for which he or she is designated. Because an individual may be designated for more than one operator class, the Director will allow a training approach that encompasses training for more than one operator class.

To assist in identifying responsible individuals to be trained pursuant to these regulations, the following sections characterize, in general terms, each class of operator. These sections also identify general training requirements pertaining to operating and maintaining UST systems.

2-3-1-2 Class A Operator

A Class A operator has primary responsibility to operate and maintain the UST system. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements. The general and minimum requirements for a Class A operator are as follows:

(a) General Requirements: This individual focuses on the broader aspects of the statutory and regulatory requirements and standards necessary to operate and maintain the UST system. For example, this individual typically ensures that appropriate individual(s):

- (1) Properly operate and maintain the UST system.
- (2) Maintain appropriate records.
- (3) Are trained to operate and maintain the UST system and keep records.
- (4) Properly respond to emergencies caused by releases or spills from UST systems at the facility.
- (5) Make financial responsibility documents available to the Director as required.

(b) Minimum Requirements: The Class A operator must be trained in the following:

(1) A general knowledge of UST system requirements so he or she can make informed decisions regarding compliance and ensure appropriate individuals are fulfilling operation, maintenance, and recordkeeping requirements and standards of these regulations regarding:

- (i) Spill prevention
- (ii) Overfill prevention
- (iii) Release detection
- (iv) Corrosion protection
- (v) Emergency response
- (vi) Product compatibility

- (2) Financial responsibility documentation requirements.
- (3) Notification requirements.
- (4) Release and suspected release reporting.
- (5) Temporary and permanent closure requirements.
- (6) Class B and C operator training requirements.

2-3-1-3 Class B Operator

A Class B operator implements applicable UST regulatory requirements and standards in the field. This individual implements day-to-day aspects of operating, maintaining, and recordkeeping for USTs at one or more facilities. The general and minimum requirements for a Class B operator are as follows:

(a) General Requirements: This individual typically monitors, maintains, and ensures:

- (1) Release detection method, recordkeeping, and reporting requirements are met.
- (2) Release prevention equipment, recordkeeping, and reporting requirements are met.
- (3) All relevant equipment complies with performance standards.
- (4) Appropriate individuals are trained to properly respond to emergencies caused by releases or spills from UST systems at the facility.

(b) Minimum Requirements: Compared with training for the Class A operator, training for the Class B operator will provide a more in-depth understanding of operation and maintenance aspects, but may cover a more narrow breadth of applicable regulatory requirements. The Class B operators training must encompass the following:

- (1) Components of UST systems.
- (2) Materials of UST system components.
- (3) Methods of release detection and release prevention applied to UST components.
- (4) Operation and maintenance requirements of these regulations that apply to UST systems and include:
 - (i) Spill prevention
 - (ii) Overfill prevention
 - (iii) Release detection
 - (iv) Corrosion protection
 - (v) Emergency response
 - (vi) Product compatibility
- (5) Reporting and recordkeeping requirements.
- (6) Class C operator training requirements.

2-3-1-4 Class C Operator

A Class C operator is an employee and is, generally, the first line of response to events indicating emergency conditions. This individual is responsible for responding to alarms or other indications of emergencies caused by spills or releases from UST systems. This individual notifies the Class B or Class A operator and appropriate emergency responders when necessary. It is not necessary that all employees of the facility are Class C operators, although at least one Class C Operator must be present during operating hours at attended facilities.

(a) General Requirements: This individual typically:

- (1) Controls or monitors the dispensing or sale of regulated substances, or
 - (2) Is responsible for initial response to alarms or releases.
- (b) Minimum Requirements: At a minimum, the Class C operator must be trained to:
- (1) Take action in response to emergencies (such as, situations posing an immediate danger or threat to the public or to the environment and that require immediate action) or alarms caused by spills or releases from an UST system.

2-3-1-5 Acceptable Training and Certification Processes

Operator training must evaluate operator knowledge of the minimum training requirements described for each class of operator in Section 2-3-1(2), (3) and (4). The following is a list of acceptable approaches to meet training requirements stated in these regulations:

- (a) Possession of a current certificate issued by the International Code Council (ICC) indicating he or she has passed the Colorado UST System Class A or B Operator exam.
- (b) For Class C operator training, possession of a current certificate issued by the owner indicating that he or she has successfully completed training conducted by a certified Class A or Class B operator.
- (c) An operator training program that has received prior approval from the Director. The program may include in-class, on-line, or hands-on training. Such a program must include an evaluation of operator knowledge through testing, practical demonstration, or other tools determined as acceptable by the state.
- (d) To address operators responsible for UST systems in multiple states, the Director may accept operator training certification verification from other states that have equivalent operator training requirements.

2-3-1-6 Training and Certification Deadlines and Schedules

- (a) Effective January 1, 2010, designated Class A and B operators shall be trained and possess a current certificate issued by a Director-approved trainer indicating he or she has passed the Colorado UST System Class A or B operator exam.
- (b) Effective January 1, 2010, designated Class C operators shall be trained and possess a current certificate issued by a Class A or B operator that developed or conducted the training.
- (c) By January 1, 2010, owners of UST systems shall submit a signed statement to the Director indicating that the owner understands and is in compliance with all applicable UST requirements, and identifying the designated Class A or B operator(s) for each facility owned. The owner shall inform the Director of any change of designated Class A or B operator(s) no later than 30 calendar days after the change. Documentation identifying the designated Class C operators shall be maintained on site.
- (d) After January 1, 2010 new operators shall be trained within the following timeframes:
 - (1) Class A and Class B operators must be trained within 30 calendar days after assuming full operation and maintenance responsibilities at the UST system.
 - (2) Class C operators must be trained before assuming full responsibility for responding to emergencies.

2-3-1-7 Retraining Requirements

If the Director determines an UST system is out of compliance, the Class A and/or Class B operator must be retrained and recertified within 90 calendar days. At a minimum, an UST system is out of compliance if the system:

- (a) Meets any of the delivery prohibition criteria outlined in Section 6-2, or
- (b) Is not in significant compliance with other requirements, such as temporary or permanent closure, tank registration or financial responsibility.

2-3-1-8 Documentation

Owners and operators of underground storage tank systems must maintain a list of designated Class A, Class B, and Class C operators and maintain records verifying that training and retraining, as applicable, have been completed, in accordance with 2-3-7 as follows:

(a) The list must:

- (1) Identify all Class A, Class B, and Class C operators currently designated for the facility; and
- (2) Include names, class of operator trained, date assumed duties, date each completed initial training, and any retraining.

(b) Records verifying completion of training or retraining must be a paper or electronic record for Class A, Class B, and Class C operators. The records, at a minimum, must identify name of trainee, date trained, operator training class completed, and list the name of the trainer or examiner and the training company name, address, and telephone number. Owners and operators must maintain these records for as long as Class A, Class B, and Class C operators are designated. The following requirements also apply to the following types of training:

- (1) Records from classroom or field training programs (including Class C operator training provided by the Class A or Class B operator) or a comparable examination must, at a minimum, be signed by the trainer or examiner;
- (2) Records from computer based training must, at a minimum, indicate the name of the training program and web address, if Internet based; and
- (3) Records of retraining must include those areas on which the Class A or Class B operator has been retrained.

2-3-2 Spill and Overfill Prevention

- (a) Owners/operators must ensure that releases due to spilling or overfilling do not occur. The owner/operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.
- (b) The owner/operator must report, investigate, and clean up any spills and overfills in accordance with Articles 4 and 5.
- (c) Owners/operators must maintain spill and overfill equipment according to Section 2-2-1(c).

[Note: The transfer procedures described in National Fire Protection Association Publication 385 may be used to comply with this section. Further guidance on spill and overfill prevention appears

in American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."]

2-3-3 Corrosion Protection

All owners/operators of steel UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances or permanently closed in accordance with Section 2-4-2.

- (a) All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:
 - (1) Frequency. All cathodic protection systems must be tested within 6 months of installation and at least every 3 years thereafter or according to another reasonable time frame established by the Director; and
 - (2) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association.
- [Note: National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," may be used to comply with paragraph (a)(2) of this section.]
- (b) UST systems with impressed current cathodic protection systems must also be inspected every 60 calendar days to ensure that the equipment is running properly.
 - (c) Where internal lining was installed to satisfy corrosion protection requirements, the tank must meet the requirements listed in 2-2-4(b).

2-3-4 Release Detection

2-3-4-1 General requirements for all UST systems

- (a) Owners/operators of UST systems that contain a regulated substance or hazardous substance must provide a method, or combination of methods, of release detection that:
 - (1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;
 - (2) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition. Beginning on January 1, 2020, electronic and mechanical components must be tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the implementing agency to be no less protective of human health and the environment than the two options listed above. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:
 - (i) Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup;
 - (ii) Probes and sensors: inspect for residual buildup; ensure floats move freely; ensure shaft is not damaged; ensure cables are free of kinks and breaks; test alarm operability and communication with controller;

(iii) Automatic line leak detector: test operation to meet criteria in 2-3-4-3(a)(1) by simulating a leak;

(iv) Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and

(v) Hand-held electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

[Note: The following code of practice may be used to comply with paragraph (a)(2) of this section: Petroleum Equipment Institute Publication RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".]

, and

- (3) Meets the performance requirements in 2-3-4-2, 2-3-4-3 or 2-5 as applicable, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, the methods , must be capable of detecting the leak rate or quantity specified for that method in 2-3-4-2(b), (c), (d), (h), or (i), 2-3-4-3(a)(1) or (2), or 2-5 with a probability of detection of 0.95 and a probability of false alarm of 0.05.
- (b) When a release detection method operated in accordance with the performance standards in 2-3-4-2, 2-3-4-3 or 2-5 indicates a release may have occurred, owners/operators must notify the Director in accordance with Article 4.
- (c) Any existing UST system that does not apply a method of release detection that complies with the requirements of this section must complete the closure procedures in 2-4 immediately. For previously deferred UST systems described in Sections 2-1 and 2-5, this requirement applies after the effective dates described in 2-1-1(a)(1)(ii) and (iii) and Section 2-5-2(a).

2-3-4-2 Requirements for regulated substance UST Systems

Owners/operators of UST system must provide release detection for tanks at least every 30 calendar days or as otherwise specified in these regulations. The methods that satisfy release detection requirements are listed below:

(a) Inventory Control.

(1) Product inventory control can be used as the sole method for release detection:

(i) Until 10 years after the tank is installed or upgraded according to 2-2-4, and

(ii) If tank tightness testing as described in (c) of this section is performed at least every 5 years after the tank is installed or upgraded.

(2) Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis in the following manner:

(i) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;

(ii) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

- (iii) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
- (iv) Deliveries are made through a drop tube that extends to within one foot of the tank bottom;
- (v) Product dispensing is metered and recorded within an accuracy of 6 cubic inches for every 5 gallons of product withdrawn; and
- (vi) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month.

[Note: Practices described in the American Petroleum Institute "Recommended Practice RP 1621 for Bulk Liquid Stock Control at Retail Outlets," may be used, where applicable, as guidance in meeting the requirements of this subsection.]

(b) Manual tank gauging.

(1) Manual tank gauging may be used as the sole method of release detection:

- (i) For the life of a tank that has a nominal capacity of 1,000 gallons or less that meet the tank diameter criteria in the table in paragraph (3)(iv) of this section, or
- (ii) For a tank with a nominal capacity of 1,001 to 2,000 gallons:
 - (A) Until 10 years after the tank is installed or upgraded according to 2-2-4, and
 - (B) If tank tightness testing as described in (c) of this section is performed at least every 5 years after the tank is installed or upgraded.

(2) For tanks of greater than 2,000 gallons nominal capacity, manual tank gauging may not be used to satisfy release detection requirements of this section.

(3) Manual tank gauging must meet the following requirements:

- (i) Tank liquid level measurements are taken at the beginning and ending of a period using the appropriate minimum duration of test value in the table below during which no liquid is added to or removed from the tank;
- (ii) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;
- (iii) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- (iv) A release is suspected and subject to the requirements of Article 4 if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal Tank Capacity (Gallons)	Tank Dimensions	Weekly Standard 1 Test (Gallons)	Monthly Standard Average of 4 Tests (Gallons)	Minimum Rest Period Duration
Up to 550	N/A	10	5	36 hours
551-1,000	64" diameter	9	4	44 hours
551-1,000	48" (diameter	12	6	58 hours
551-1,000 (also requires periodic tank tightness testing)	N/A	13	7	36 hours
1,000	64" (diameter) x 73" (length)	9	4	44 hours
1,000	48" (diameter) x 128" (length)	12	6	58 hours
1,001 - 2,000 (also requires periodic tank tightness testing)	N/A	26	13	36 hours

- (c) Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate, with a probability of detection of 0.95, from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.
- (d) Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:
- (1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product;
 - (2) The automatic tank gauging equipment must meet the inventory control (or other test of equivalent performance) requirements of (a) of this section; and
 - (3) The test must be performed with the system operating in one of the following modes:
 - (i) In-tank static testing conducted at least once every 30 days; or
 - (ii) Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every 30 days.
- (e) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:
- (1) The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

- (2) The stored regulated substance, or a tracer compound placed in the UST system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;
 - (3) The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 calendar days;
 - (4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;
 - (5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the UST system, a component or components of that substance, or a tracer compound placed in the UST system;
 - (6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in paragraphs (e)(1) through (4) of this section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and
 - (7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
- (f) Groundwater monitoring. Testing or monitoring for liquids on the groundwater must meet the following requirements:
- (1) The regulated substance is immiscible in water and has a specific gravity of less than one;
 - (2) Groundwater is never more than 20 vertical feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);
 - (3) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;
 - (4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;
 - (5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;
 - (6) The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;
 - (7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in paragraphs (f)(1)-(5) of this section and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and
 - (8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
- (g) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed

and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

- (1) For double-walled UST systems, the sampling or testing method can detect a leak through the inner wall in any portion of the tank that routinely contains product;
- (2) For tanks with an internally fitted liner, an automated device can detect a leak between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.
- (3) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a leak between the UST system and the secondary barrier;
 - (i) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (not more than 0.000001 cm/sec for the regulated substance stored) to direct a leak to the monitoring point and permit its detection;
 - (ii) The barrier is compatible with the regulated substance stored so that a leak from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;
 - (iii) For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;
 - (iv) The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 calendar days;
 - (v) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and,
 - (vi) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
- (h) Statistical inventory reconciliation: Release detection methods based on the application of statistical principles to inventory data similar to those described in 2-3-4-2(a) must meet the following requirements:
 - (1) Report a quantitative result with a calculated leak rate;
 - (2) Be capable of detecting a leak rate of 0.2 gallon per hour or a release of 150 gallons within 30 days; and
 - (3) Use a threshold that does not exceed one-half the minimum detectable leak rate.
- (i) Other methods. Any other type of release detection method, or combination of methods, can be used if:
 - (1) It can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or
 - (2) The Director may approve another method if the owner/operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in paragraphs (c)-(h) of this section. In comparing methods, the Director shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner/operator must comply with any conditions

imposed by the Director on its use to ensure the protection of human health and the environment.

2-3-4-3 Requirements for Piping

Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:

(a) Pressurized piping. Underground piping that conveys regulated substances under pressure must:

(1) Be equipped with automatic line leak detectors which alert the owner/operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector must be conducted in accordance with Section 2-3-4-1(a)(2); and

(2) Conduct periodic line release detection which will consist of:

(i) An annual test of piping that can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure; or

(ii) An applicable tank method conducted on a monthly basis. Except as described in 2-3-4-2(a), (b), and (c), any of the methods in 2-3-4-2(e) through (i) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances. Automatic tank gauges (ATG) as described in subsection 2-3-4-2(d) may be considered an applicable tank method to be used for release detection on lines if the ATG is connected to equipment that allows the capability for this type of monitoring.

(b) Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least once every 3 years and in accordance with 2-3-4-3(a)(2)(i), or use a monthly monitoring method conducted in accordance with 2-3-4-3(a)(2)(ii). No release detection is required for suction piping that is designed and constructed to meet the following standards:

(1) The below-grade piping operates at less than atmospheric pressure;

(2) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(3) Only one check valve is included in each suction line;

(4) The check valve is located directly below and as close as practical to the suction pump; and

(5) A method is provided that allows compliance with paragraphs (b)(1) – (4) of this section to be readily determined.

2-3-4-4 Requirements for hazardous substance UST systems

Owners/operators of hazardous substance UST systems must provide containment that meets the following requirements and monitor these systems using 2-3-4-2(g) at least every 30 days:

(a) Secondary containment systems must be designed, constructed and installed to:

(1) Contain regulated substance leaks from the primary containment until they are detected and removed;

- (2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and
- (3) Be checked for evidence of a release at least every 30 calendar days.

[Note: The provisions of 40 CFR 265.193, Containment and Detection of Releases, may be used to comply with these requirements for tanks installed on or before January 1, 2017.]

(b) Double-walled tanks must be designed, constructed, and installed to:

- (1) Contain a leak from any portion of the inner tank within the outer wall; and
- (2) Detect the failure of the inner wall.

(c) External liners (including vaults) must be designed, constructed, and installed to:

- (1) Contain 100 percent of the capacity of the largest tank within its boundary;
- (2) Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and
- (3) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

(d) Underground piping must be equipped with secondary containment that satisfies the requirements of this section (e.g., trench liners, double-walled pipe). In addition, underground piping that conveys hazardous substances under pressure must be equipped with an automatic line leak detector in accordance with 2-3-4-3(a)(1).

(e) For hazardous substance UST systems installed on or before January 1, 2017 other methods of release detection may be used if owners/operators:

- (1) Demonstrate to the Director that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in 2-3-4-2(b)-(j) can detect a release of petroleum;
- (2) Provide information to the Director on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and,
- (3) Obtain written approval from the Director to use the alternate release detection method before the installation and operation of the new UST system.

[Note: Pursuant to 40 CFR § 302.6 and 355.40, a release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986.]

2-3-5 Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.

(a) Owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements to ensure the equipment is operating properly and will prevent releases to the environment:

(1) Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment by meeting one of the following:

(i) The equipment is double walled and the integrity of both walls is periodically monitored at a frequency not less than the frequency of the compliance inspections described in 2-3-6. Owners and operators must begin meeting paragraph (a)(1)(ii) of this section and conduct a test within 30 days of discontinuing periodic monitoring of this equipment; or

(ii) The spill prevention equipment and containment sumps used for interstitial monitoring of piping are tested at least once every three years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

(A) Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements);

(B) Code of practice developed by a nationally recognized association or independent testing laboratory; or

(C) Requirements determined by the implementing agency to be no less protective of human health and the environment than the requirements listed in paragraphs (a)(1)(ii)(A) and (B) of this section.

(2) Overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in 2-2-1(c) and will activate when regulated substance reaches that level. Inspections must be conducted in accordance with one of the criteria in paragraph (a)(1)(ii)(A)-(C) of this section.

(b) Owners and operators must begin meeting these requirements as follows:

(1) For UST systems in use on or before January 1, 2017, the initial spill prevention equipment test, containment sump test and overfill prevention equipment inspection must be conducted not later than January 1, 2020; or

(2) For UST systems brought into use after January 1, 2017, these requirements apply at installation.

(c) Owners and operators must maintain records as follows (in accordance with 2-3-7) for spill prevention equipment, containment sumps used for interstitial monitoring of piping, and overfill prevention equipment:

(1) All records of testing or inspection must be maintained for three years; and

(2) For spill prevention equipment and containment sumps used for interstitial monitoring of piping not tested every three years, documentation showing that the prevention equipment is double walled and the integrity of both walls is periodically monitored must be maintained for as long as the equipment is periodically monitored.

[Note: The following code of practice may be used to comply with paragraphs (a)(1)(ii) and (a)(2) of this section: Petroleum Equipment Institute Publication RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".]

2-3-6 Compliance Inspections

This section describes the inspections required to be conducted by the owner or operator of the UST system, as well as periodic inspections completed by the Director.

2-3-6-1 Monthly Compliance Inspections

- (a) The designated Class A or B operator or a delegated designee shall perform monthly visual inspections of all UST systems for which they are designated. The results of each inspection shall be recorded on a monthly inspection checklist. The monthly visual inspection shall include the following:
 - (1) Check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present. Ensure records of release detection testing are reviewed and current.
 - (2) Visually check spill containment or manholes for damage (cracks, holes, bulges etc.). Remove liquid or debris from spill containers (fill and vapor recovery). Check for and remove obstructions in the fill pipe. Check the fill cap to make sure it is securely on the fill pipe. For double-walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area.
 - (3) Inspect hanging hardware on dispensers and/or other visible piping for the presence of regulated substance leakage.
- (b) The designated operator(s) or delegated designee shall provide the owner or operator with a copy of each monthly inspection checklist, and alert the owner or operator of any condition discovered during the monthly visual inspection that may require follow-up actions.
- (c) The owner or operator shall maintain a copy of the monthly inspection checklist and all attachments for the previous twelve months. Records must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries. The records shall be made available for review to OPS upon request.

[Note: The following code of practice may be used to comply with this section: Petroleum Equipment Institute Recommended Practice RP 900, "Recommended Practices for the Inspection and Maintenance of UST Systems".]

2-3-6-2 Annual Operational Compliance Inspections

- (a) The designated Class A or B operator(s) shall perform an annual operational compliance inspection of all UST systems for which they are designated. The annual operational compliance inspection shall include, but is not limited to, the following:
 - (1) Compile and review monthly release detection, visual inspection and corrosion protection records from the prior twelve months.
 - (2) Compile and review the alarm history report or log for the prior twelve months, and checking that each alarm condition was documented and responded to appropriately, including the reporting of suspected or confirmed releases.
 - (3) Conduct functionality testing on all line leak detectors, sump sensors and overfill prevention equipment in accordance with manufacturer's specifications to ensure proper installation and operation. Also check hand held release detection equipment such as tank gauge sticks or groundwater bailers for operability and serviceability.

- (4) Conduct visual inspection of containment sumps. Check for damage, leaks to the containment area, or releases to the environment. Remove liquid (in contained sumps) or debris. For double-walled sumps with interstitial monitoring, check for a leak in the interstitial area. (5) Check that all required testing and maintenance for the UST system has been completed, and document the dates these activities occurred.
- (6) Verify that all designated Class C operators have been trained in accordance with 2-3-1-4 and 2-3-1-5 of these regulations.
- (7) Complete an Annual Operational Compliance Inspection Report and Certification Form for each facility using forms provided by OPS.
- (b) The designated Class A or B operator(s) shall provide the owner or operator with a copy of the annual operational compliance inspection report, and alert the owner or operator of any condition discovered during the annual compliance inspection that may require follow-up actions. The report must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries.
- (c) The owner or operator shall submit a copy of the annual operational compliance inspection report and all attachments for the previous twelve months to OPS on an annual basis or within 60 calendar days of an OPS request for records.

2-3-6-3 Inspections Conducted by the Director

- (a) Any duly authorized agent or employee of the Director shall have authority to enter in or upon the premises of any facility that contains an UST system, containing a regulated substance, for the purpose of verifying that such UST system and its required records are in compliance with these regulations.
- (b) Per CRS Section 8-20-223.5, the Director shall conduct an emission inspection of all USTs that are located in the geographical area designated by Regulation #7 of the Colorado Department of Public Health and Environment 5 C.C.R. 1001-9 and which contain petroleum distillate such as gasoline, to insure pollution control equipment is installed and is in operating condition.

2-3-7 Reporting and Record Keeping

Owners/operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the Director, as well as requests from OPS for document submission, testing, and monitoring pursuant to Section 9005 of Subtitle I of the Solid Waste Disposal Act, as amended.

- (a) Reporting. Owners and operators must submit the following information to the implementing agency:
 - (1) Notification for all UST systems (Section 2-2-3), which includes certification of installation for new UST systems (Section 2-2-2-2) and notification when any person assumes ownership of an UST system (Section 2-2-3(d));
 - (2) Notification prior to UST systems switching to certain regulated substances (Section 2-2-1(f));
 - (3) Reports of all releases including suspected releases, spills, and overfills (Section 4-1), and confirmed releases (Section 4-3);
 - (4) Corrective actions planned or taken including initial abatement measures (Section 5-1-1), initial site characterization (Section 5-1-2), free product removal (Section 5-1-1), investigation of soil and groundwater cleanup (Section 5-2), and corrective action plan (Section 5-3); and

- (5) A notification before permanent closure or change-in-service (Section 2-4).
- (b) Record keeping. Owners/operators must maintain the following information:
 - (1) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used 2-2-1(a)(4) and (b)(3)).
 - (2) Documentation of operation of corrosion protection equipment as required in 2-2-1(a) and (b) and 2-2-3;
 - (i) The results of the last three 60-day inspections; and
 - (ii) The results from the last two system tests.
 - (3) Documentation of compatibility for UST systems (Section 2-2-1(f));
 - (4) Documentation of UST system repairs (Section 2-2-5);
 - (5) Documentation of compliance for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (Section 2-3-5);
 - (6) Documentation of periodic compliance inspections (Section 2-3-6);
 - (7) Compliance with release detection requirements (Section 2-3-4);
 - (i) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for 5 years, or for another reasonable period of time determined by the Director, from the date of installation. Not later than January 1, 2020, records of site assessments required under Section 2-3-4-2(e)(6) and (f)(7) must be maintained for as long as the methods are used. Records of site assessments developed after January 1, 2017, must be signed by a professional engineer or professional geologist, or equivalent licensed professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the implementing agency;
 - (ii) The results of any sampling, testing, or monitoring must be maintained for at least 1 year, or for another reasonable period of time determined by the Director, except as follows:
 - (a) that the results of tank tightness testing conducted in accordance with 2-3-4-2(c) must be retained until the next test is conducted; and
 - (iii) Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least one year after the servicing work is completed, or for another reasonable time period determined by the Director. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for 5 years from the date of installation.
 - (8) Records in accordance with this section that are capable of demonstrating compliance with closure requirements under Section 2-4. The results of the excavation zone assessment required in 2-4-3(b) must be maintained for at least 3 years after completion of permanent closure or change-in-service in one of the following ways:
 - (i) By the owners/operators who closed the UST system;

- (ii) By the current owners/operators of the UST system site; or
- (iii) By mailing these records to the Director if they cannot be maintained at the closed facility.

[Note: All applicants to the Fund may be required to maintain closure records until reimbursement is complete.]

- (9) Documentation of the emptying of a tank following seasonal operation, temporary closure, or prior to a repair.
 - (10) Documentation of operator training (Section 2-3-1-8).
- (c) Availability and Maintenance of Records. Owners/operators are required, upon request, to provide all records referenced in these regulations to the Director. Owners/operators must keep the required records either:
- (1) At the UST site and immediately available for inspection by the Director; or
 - (2) At a readily available alternative site so they can be sent to the Director upon request; or
 - (3) In the case of permanent closure records required under this section, owners/operators are also provided with the additional alternative of mailing closure records to the Director if they cannot be kept at the site or an alternative site as indicated above.
- (d) Notwithstanding the above, for Fund reimbursement purposes, persons may be required to maintain the above or other records in accordance with Fund requirements.

Section 2-4 Closure of UST Systems

2-4-1 Temporary Closure

- (a) Owners/operators shall notify the Director in writing at least 10 calendar days prior to placing an UST system in temporary closure, and at that same time submit records documenting the prior 12 months of release detection and corrosion protection testing (if applicable) for tanks and lines. In lieu of submitting these records, owner/operator may conduct a precision tightness test on the tanks and lines and complete a site assessment in accordance with 2-4-3, and submit these results with the temporary closure notification.
- (b) A temporarily closed UST system must be emptied by removing all materials using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remains in the system.
- (c) When an UST system is temporarily closed, owners/operators must continue operation and maintenance of corrosion protection in accordance with 2-3-4. Because the tanks must be emptied, release detection is not required.
- (d) When an UST system is temporarily closed, vent lines must be left open and functioning. If the temporary closure period is 3 months or more, all pumps, manways, ancillary equipment and lines other than vent lines must be capped and secured, unless an alternate schedule is approved by the Director.
- (e) When an UST system is temporarily closed for more than 12 months, owners/operators must permanently close the UST system in accordance with 2-4-2, unless the Director provides a written extension of the 12-month temporary closure period. Before requesting this extension, owners/operators must complete a site assessment as required by the Director.

- (f) Owner/operators shall notify the Director in writing no more than 30 calendar days prior to placing an UST back in service, and at that same time submit corrosion protection records (if applicable) for the period of temporary closure, and documentation of passing tightness tests to include ullage for the tanks conducted within the past 30 calendar days. The owner/operator shall obtain passing line tests immediately following the introduction of fuel into the lines and submit documentation of testing to the Director within 10 calendar days.
- (g) If an owner/operator operates a facility which has a specific period of time or season during the year when the tank system is empty, as described in (b) of this section, the requirements for maintaining corrosion protection and the following requirements below will apply:
 - (1) The owner/operator shall notify the Director that the facility does include seasonal operation on a form provided by the Director. If this information changes, the owner/operator shall complete and submit the form to the Director.
 - (2) The period may not exceed 6 consecutive months.
 - (3) The owner/operator shall maintain manifest documentation completed during emptying of the tank.
 - (4) At the end of the seasonal period, the owner/operator must conduct one of the following actions:
 - (i) Return the tank to service.
 - (ii) Place the tank into proper temporary closure. The owner/operator must notify the Director in writing within 10 calendar days, submit records according to (a) as applicable and complete requirements in (d) immediately.
 - (iii) Permanently close the tank as required by 2-4-2.

2-4-2 Permanent Closure

At least 10 calendar days before beginning either permanent closure or a change-in-service under this section, owners/operators must notify the Director of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action required by the Director. In addition to the requirements of this section, the owner/operator should contact local municipal officials, such as the fire department, to inform them of the intended closure activities.

(a) Removal

To permanently close a tank by removal, owners/operators must empty the tank by removing all liquids and accumulated sludges and inert the tank prior to removal. A site assessment must be conducted according to 2-4-3(b).

[Note: The following cleaning and closure procedures may be used to comply with this section:

- (A) American Petroleum Institute Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks";
- (B) American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks";
- (C) American Petroleum Institute Recommended Practice 1631, "Interior Lining of Underground Storage Tanks," may be used as guidance for compliance with this section; and
- (D) The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard...Working in Confined Space" may be used as

guidance for conducting safe closure procedures at some hazardous substance tanks.]

(b) Closure in Place

All tanks permanently closed in place must be filled with an inert solid material and a site assessment must be conducted according to 2-4-3(b).

(c) Change in Service

Continued use of an UST system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners/operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with 2-4-3.

2-4-3 Site Assessment

- (a) Before an extension to temporary closure, permanent closure or a change-in-service is completed, owners/operators must measure for the presence of a release where contamination is most likely to be present at the UST site. The requirements of this section are satisfied if one of the external release detection methods allowed in 2-3-4-2(e) or (f) is operating in accordance with the requirements in 2-3-4-2 at the time of closure, and indicates no release has occurred.
- (b) For assessments during storage tank system removal, the owner/operator must collect soil samples from beneath each tank, beneath each dispenser island, beneath areas of piping, and beneath any loading racks. For assessments during storage tank temporary closure, closure in-place or change-in-service, the owner/operator shall collect samples of the type and at locations as specified by the Director.
- (c) Samples collected at all sites must be analyzed for individual chemicals of concern (COC) as described in 5-2.
- (d) If contaminated soils, contaminated groundwater, petroleum vapor or free product as a liquid is discovered under this section, or by any other manner, owners/operators must report the discovery in accordance with Article 4.
- (e) If the tank closure assessment does not identify a release, the owner/operator must submit documentation of the assessment to the Director within 30 calendar days of the tank closure.

Section 2-5 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems

2-5-1 Definitions

For purposes of this section, the following definitions apply:

Airport hydrant fuel distribution system (also called airport hydrant system) means an UST system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

Field-constructed tank means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

2-5-2 General requirements

- (a) Implementation of requirements. Owners and operators must comply with the requirements of this section for UST systems with field-constructed tanks and airport hydrant systems as follows: (1) For UST systems installed on or before January 1, 2017, the requirements are effective according to the following schedule:

Requirement	Effective Date
Upgrading UST systems; general operating requirements; and operator training	January 1, 2020
Release detection	January 1, 2020
Release reporting, response, and investigation; closure; financial responsibility and notification (except as provided in paragraph (b) of this section)	January 1, 2017

- (2) For UST systems installed after January 1, 2017, the requirements apply at installation.
- (b) Not later than January 1, 2020, all owners of previously deferred UST systems must submit a one-time notice of tank system existence to the implementing agency, using the form described in Section 2-2-3(b). Owners and operators of UST systems in use as of January 1, 2017, must demonstrate financial responsibility at the time of submission of the notification form.
- (c) Except as provided in Section 2-5-3, owners and operators must comply with the requirements of these regulations.
- (d) In addition to the codes of practice listed in Section 2-2-1, owners and operators may use military construction criteria, such as Unified Facilities Criteria (UFC) 3-460-01, Petroleum Fuel Facilities, when designing, constructing, and installing airport hydrant systems and UST systems with field-constructed tanks.

2-5-3 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems

- (a) Exception to piping secondary containment requirements. Owners and operators may use single walled piping when installing or replacing piping associated with UST systems with field-constructed tanks greater than 50,000 gallons and piping associated with airport hydrant systems. Piping associated with UST systems with field-constructed tanks less than or equal to 50,000 gallons not part of an airport hydrant system must meet the secondary containment requirement when installed or replaced.
- (b) Upgrade requirements. Not later than January 1, 2020, airport hydrant systems and UST systems with field-constructed tanks where installation commenced on or before January 1, 2017 must meet the following requirements or be permanently closed pursuant to 2-4 of this section.
- (1) Corrosion protection. UST system components in contact with the ground that routinely contain regulated substances must meet one of the following:
- (i) Except as provided in paragraph (a) of this section, the new UST system performance standards for tanks at 2-2-1(a) and for piping at 2-2-1(b); or
 - (ii) Be constructed of metal and cathodically protected according to a code of practice developed by a nationally recognized association or independent testing laboratory and meets the following:
 - (A) Cathodic protection must meet the requirements of 2-2-1(a)(2)(ii), (iii) and (iv) for tanks, and 2-2-1(b)(2)(ii), (iii), and (iv) for piping.
 - (B) Tanks greater than 10 years old without cathodic protection must be assessed to ensure the tank is structurally sound and free of corrosion holes prior to adding cathodic protection. The assessment must be by internal inspection or another method determined by the implementing

agency to adequately assess the tank for structural soundness and corrosion holes.

[Note: The following codes of practice may be used to comply with this paragraph:

- (A) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection";
- (B) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";
- (C) National Leak Prevention Association Standard 631, Chapter C, "Internal Inspection of Steel Tanks for Retrofit of Cathodic Protection"; or
- (D) American Society for Testing and Materials Standard G158, "Standard Guide for Three Methods of Assessing Buried Steel Tanks".]

- (2) Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all UST systems with field-constructed tanks and airport hydrant systems must comply with new UST system spill and overfill prevention equipment requirements specified in 2-2-1(c).
- (c) Compliance inspections. In addition to the compliance inspection requirements in 2-3-6, owners and operators must inspect the following additional areas for airport hydrant systems at least once every 30 days if confined space entry according to the Occupational Safety and Health Administration (see 29 CFR part 1910) is not required or at least annually if confined space entry is required and keep documentation of the inspection according to 2-3-6-1(c).
 - (1) Hydrant pits – visually check for any damage; remove any liquid or debris; and check for any leaks, and
 - (2) Hydrant piping vaults – check for any hydrant piping leaks.
- (d) Release detection. Owners and operators of UST systems with field-constructed tanks and airport hydrant systems must begin meeting the release detection requirements described in this section not later than January 1, 2020.
 - (1) Methods of release detection for field-constructed tanks. Owners and operators of field-constructed tanks with a capacity less than or equal to 50,000 gallons must meet the release detection requirements in Section 2-3-4. Owners and operators of field-constructed tanks with a capacity greater than 50,000 gallons must meet either the requirements in 2-3-4 (except 2-3-4-2(e) and (f) must be combined with inventory control as stated below) of this section or use one or a combination of the following alternative methods of release detection:
 - (i) Conduct an annual tank tightness test that can detect a 0.5 gallon per hour leak rate;
 - (ii) Use an automatic tank gauging system to perform release detection at least every 30 days that can detect a leak rate less than or equal to one gallon per hour. This method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every three years;
 - (iii) Use an automatic tank gauging system to perform release detection at least every 30 days that can detect a leak rate less than or equal to two gallons per hour. This method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every two years;

(iv) Perform vapor monitoring (conducted in accordance with 2-3-4-2(e) for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two years;

(v) Perform inventory control (conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures) at least every 30 days that can detect a leak equal to or less than 0.5 percent of flow-through; and

(A) Perform a tank tightness test that can detect a 0.5 gallon per hour leak rate at least every two years; or

(B) Perform vapor monitoring or groundwater monitoring (conducted in accordance with 2-3-4-2(e) or (f), respectively, for the stored regulated substance) at least every 30 days; or

(vi) Another method approved by the implementing agency if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in paragraphs (i) through (v) of this section. In comparing methods, the implementing agency shall consider the size of release that the method can detect and the frequency and reliability of detection.

(2) Methods of release detection for piping. Owners and operators of underground piping associated with field-constructed tanks less than or equal to 50,000 gallons must meet the release detection requirements in Section 2-3-4. Owners and operators of underground piping associated with airport hydrant systems and field-constructed tanks greater than 50,000 gallons must follow either the requirements in 2-3-4 (except 2-3-4-2(e) and (f) must be combined with inventory control as stated below) of this section or use one or a combination of the following alternative methods of release detection:

(i)(A) Perform a semiannual or annual line tightness test at or above the piping operating pressure in accordance with the table below.

Maximum Leak Detection Rate Per Test Section Volume		
Test Section Volume (Gallons)	Semiannual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)	Annual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)
< 50,000	1.0	0.5
≥ 50,000 to < 75,000	1.5	0.75
≥ 75,000 to < 100,000	2.0	1.0
≥ 100,000	3.0	1.5

(B) Piping segment volumes ≥ 100,000 gallons not capable of meeting the maximum 3.0 gallon per hour leak rate for the semiannual test may be tested at a leak rate up to 6.0 gallons per hour according to the following schedule:

Phase In For Piping Segments ≥ 100,000 Gallons In Volume	
First test	Not later than January 1, 2020 (may use up to 6.0 gph leak rate)
Second test	Between January 1, 2020, and January 1, 2023 (may use up to 6.0 gph leak)
Third test	Between January 1, 2023, and January 1, 2024 (must use 3.0 gph for leak rate)
Subsequent tests	After January 1, 2024, begin using semiannual or annual line testing according to the Maximum Leak Detection Rate Per Test Section Volume table above

- (ii) Perform vapor monitoring (conducted in accordance with 2-3-4-2(e) for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two years;
 - (iii) Perform inventory control (conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures) at least every 30 days that can detect a leak equal to or less than 0.5 percent of flow-through; and
 - (A) Perform a line tightness test (conducted in accordance with paragraph (i) of this section using the leak rates for the semiannual test) at least every two years; or
 - (B) Perform vapor monitoring or groundwater monitoring (conducted in accordance with 2-3-4-2(e) or (f), respectively, for the stored regulated substance) at least every 30 days; or
 - (iv) Another method approved by the implementing agency if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in paragraphs (i) through (iii) of this section. In comparing methods, the implementing agency shall consider the size of release that the method can detect and the frequency and reliability of detection.
- (3) Recordkeeping for release detection. Owners and operators must maintain release detection records according to the recordkeeping requirements in 2-3-6.
- (e) Applicability of closure requirements to previously closed UST systems. When directed by the implementing agency, the owner and operator of an UST system with field-constructed tanks or airport hydrant system permanently closed before January 1, 2017, must assess the excavation zone and close the UST system in accordance with Section 2-4 if releases from the UST may, in the judgment of the implementing agency, pose a current or potential threat to human health and the environment.

ARTICLE 3 ABOVEGROUND STORAGE TANKS

Section 3-1 AST Program Scope and Applicability

Aboveground storage tank (AST) systems in Colorado are regulated to protect the people and environment of Colorado from the potentially harmful effects of the regulated substances contained within AST systems. The purpose of this article is to present to owner/operators of AST systems a description of the minimum general standards for design, construction, location, installation and operation of these systems to be in compliance with these regulations and Colorado statutes. Further description of these requirements can be found in guidance documents, policies and procedures provided by the Director.

- (a) The provisions in these regulations apply to all regulated substance AST systems unless specifically restricted to a specific system. It is the owner/operator's responsibility to ensure compliance with all requirements.

- (1) Aside from meeting these regulatory requirements:

- (i) All AST systems must meet local fire district rules, zoning rules, and requirements of other authorities having jurisdiction over AST systems.
- (ii) C.R.S. § 8-20-231 requires that the design, construction, location, installation, and operation of all liquid fuel product tank systems greater than 60 gallons conform to the minimum standards prescribed by the applicable sections of NFPA fire code. This includes the testing and inspection requirements contained therein.

- (2) For the purposes of these regulations, a tank's capacity is determined by the aggregate capacity of all individual primary tank compartments contained within the outer shell or structure of the tank, whether there is a shared bulkhead or not. Each compartment of an AST must meet the operational requirements contained herein individually (e.g. venting, overfill prevention, release detection, etc.)

Example: A single concrete-encased UL 2085 AST whose construction consists of two individual 500 gallon UL 142 ASTs wrapped in a polyethylene liner is considered as having a capacity of 1,000 gallons. Each compartment (tank) must be equipped to meet operational requirements

- (b) Per C.R.S. § 8-20.5-101(2)(b), the following ASTs or AST systems are excluded from these AST regulations:

- (1) Notwithstanding requirements listed in (a)(1) of this section, any AST whose capacity is greater than 39,999 gallons or less than 660 gallons;
- (2) Any AST system that contains a de minimis concentration of regulated substances;
- (3) Any AST systems containing radioactive material that are regulated under the Atomic Energy Act;
- (4) Any AST system that is part of an emergency generator system at nuclear power generation facilities;
- (5) ASTs used to store liquefied petroleum gases that are not liquid at standard temperature and pressure;
- (6) ASTs used to store liquids whose fluidity is less than that of 300 penetration asphalt when tested in accordance with ASTM D 5.
- (7) A wastewater treatment tank system that is part of a wastewater treatment facility;

- (8) Equipment or machinery that contains regulated substances for operational purposes;
- (9) Farm and residential tanks or tanks used for horticultural or floricultural operations.
- (10) Aboveground storage tanks located at natural gas pipeline facilities that are regulated under state or federal natural gas pipeline acts;
- (11) Aboveground storage tanks associated with natural gas liquids separation, gathering, and production;
- (12) Aboveground storage tanks associated with crude oil production, storage, and gathering;
- (13) Aboveground storage tanks at transportation-related facilities regulated by the federal department of transportation;
- (14) Aboveground storage tanks used to store heating oil for consumptive use on the premises where stored
- (15) Aboveground storage tanks used to store flammable and combustible liquids at mining facilities and construction and earthmoving projects, including gravel pits, quarries, and borrow pits where, in the opinion of the Director, tight control by the owner or contractor and isolation from other structures make it unnecessary to meet the requirements of this article.

Section 3-2 AST System Design, Construction, Location and Installation

These performance standards apply to regulated AST systems that store stable liquids in atmospheric ASTs where internal operating pressures do not exceed 2.5 psi. Requirements for the storage of other liquids in other types of ASTs at greater operating pressures are found in NFPA 30, and must be followed.

3-2-1 Design

(a) Tank Design and Materials of Construction

- (1) All tanks shall be designed and built in accordance with recognized good engineering standards for the material of construction being used and shall be of steel or approved noncombustible material, with the following limitations and exceptions:
 - (i) The material of tank construction shall be compatible with the liquid to be stored. In case of doubt about the properties of the liquid to be stored, the supplier, producer of the liquid, or other competent authority shall be consulted.
 - (A) Tanks designed and intended for above ground use shall not be used as underground tanks.
 - (B) Tanks designed and intended for underground use shall not be used as aboveground tanks.
 - (ii) Tanks constructed of combustible materials shall be subject to the approval of the Director and limited to:
 - (A) Use where required by the properties of the liquid stored, or
 - (B) Storage of Class IIIB liquids above ground in areas not exposed to spill or leak of Class I or Class II liquid, or

(C) Storage of Class IIIB liquids inside a building protected by an approved automatic fire extinguishing system.

- (iii) Atmospheric tanks shall not be used for the storage of a liquid at a temperature at or above its boiling point. Atmospheric tanks shall be labeled and shall be built, installed, and used within the scope of a nationally recognized construction standard; such as U.L. 142, or API Standard 650, or an equivalent standard.

(b) Vent Piping

The design, fabrication, assembly, testing, and inspection of all piping systems for flammable and combustible liquids shall be in conformance with the applicable sections of ANSI B31, *American National Standard Code for Pressure Piping* and installed in conformance with the following requirements:

- (1) Where vent pipe outlets for tanks storing Class I liquids are adjacent to buildings or public ways, they shall be located so that the vapors are released at a safe point outside of buildings and not less than 12 ft (3.6 m) above the adjacent ground level. In order to aid their dispersion, vapors shall be discharged upward or horizontally away from closely adjacent walls. Vent outlets shall be located so that flammable vapors will not be trapped by eaves or other obstructions and shall be at least 5 ft (1.5 m) from building openings.

- (i) Vent piping that it is attached to or within a canopy or its supporting structure must extend a minimum of 5 ft (1.5 m) above the highest projection of the canopy, including the canopy fascia. When modifications to the canopy are made, this distance must be maintained.

Exception: Where the canopy or canopy modifications were installed before January 1, 2004, changes to existing vent piping are not required.

- (2) The manifolding of tank vent piping shall be avoided except where required for special purposes such as vapor recovery, vapor conservation, or air pollution control. When tank vent piping is manifolded, pipe sizes shall be such as to discharge, within the pressure limitations of the system, the vapors they may be required to handle when manifolded tanks are subject to the same fire exposure.
- (3) Vent piping for tanks storing Class I liquids shall not be manifolded with vent piping for tanks storing Class II or Class III liquids unless means are provided to prevent the vapors from Class I liquids from entering tanks storing Class II or Class III liquids, to prevent possible change in classification of the less volatile liquid.

(c) Normal Venting

- (1) Atmospheric tanks shall be adequately vented to prevent the development of vacuum or pressure that can distort or damage the tank or that exceeds the design pressure, as a result of filling or emptying the tank or atmospheric temperature changes.
- (2) For ASTs installed after September 30, 1994, normal vents shall be:
- (i) sized in accordance with American Petroleum Institute Standard No. 2000, Venting Atmospheric and Low-Pressure Storage Tanks, or another accepted standard; or
- (ii) at least as large as the filling or withdrawal connection, whichever is larger, but in no case less than 1 1/4 in. (3 cm) nominal inside diameter.
- (3) If any AST installed after September 30, 1994 has more than one fill or withdrawal connection and simultaneous filling or withdrawal can be made, the vent size shall be based on the maximum anticipated simultaneous flow.

- (4) Except for tanks containing Class III liquids, vents shall be equipped with venting devices.
 - (i) Tanks containing Class IA liquids shall be equipped with venting devices that are closed, except when venting under pressure or vacuum conditions.
 - (ii) Tanks containing Class IB and IC liquids shall be equipped with venting devices that are closed, except when venting under pressure or vacuum conditions, or with listed flame arresters.
 - (iii) Tanks containing Class II liquids shall be equipped with venting devices that will protect the tank against the intrusion of water, debris, or insects.
- (5) Adequate ventilation either natural or forced must exist to guarantee that flammable liquid vapors cannot build up to 25% of the lower flammable limit anywhere, because of the presence of the tank facility in question.

(d) Emergency Relief Venting

- (1) Every AST shall have some form of construction or device that will relieve excessive internal pressure caused by exposure to fires.
 - (i) This requirement shall also apply to each compartment of a compartmented tank, the interstitial space of secondary containment-type tanks, and the enclosed space of closed-top dike tanks, except where the tank was constructed prior to the publication of the 1996 edition of NFPA 30.

Exception: Tanks larger than 12,000 gallons capacity storing Class IIIB liquids do not require emergency relief venting unless they are within the diked area or the drainage path of Class I or Class II liquids.

- (2) In a vertical tank, the construction referred to in 3-2-1(d)(1) may take the form of a floating roof, lifter roof, a weak roof-to-shell seam, or other approved pressure-relieving construction. The weak roof-to-shell seam shall be constructed to fail preferential to any other seam. Design methods that will provide a weak roof-to-shell seam construction are contained in API 650, Welded Steel Tanks for Oil Storage, and UL 142, Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids.
- (3) Where entire dependence for emergency relief is placed upon pressure-relieving devices, the total venting capacity of both normal and emergency vents shall be enough to prevent rupture of the shell or bottom of the tank if vertical, or of the shell or heads if horizontal.
- (4) The total capacity of both normal and emergency venting devices shall not be less than the requirements of NFPA 30.
- (5) Emergency relief vent devices shall be vapor tight and shall be permitted to be a self-closing manway cover, a manway cover provided with long bolts that permit the cover to lift under internal pressure, or additional or larger relief valve or valves.
- (6) Each commercial tank venting device shall be stamped with the operational pressures and capacities required by NFPA 30.
- (7) For the extension of emergency vent piping, piping to or from approved emergency vent devices shall be sized to provide emergency vent flows that limit the back pressure to less than the maximum pressure permitted by the design of the tank.
- (8) The required emergency relief venting capacities for tanks and devices, requirements for tanks storing unstable liquids, additional requirements for tanks other than atmospheric, and other requirements for emergency relief venting design are found in NFPA 30.

(e) Tank Openings Other than Vents

- (1) Each connection to an AST through which liquid can normally flow shall be provided with an internal or an external valve located as close as practical to the shell of the tank.
- (2) Each connection below the liquid level through which liquid does not normally flow shall be provided with a liquid-tight closure. This may be a valve, plug, or blind, or a combination of these.
- (3) Openings for gauging on tanks storing Class I liquids shall be provided with a vapor-tight cap or cover. Such covers shall be closed when not gauging.
- (4) Fill pipes that enter the top of a tank shall terminate within 6 in (15 cm) of the bottom of the tank. Fill pipes shall be installed or arranged so that vibration is minimized.

Exception: Fill pipes in tanks whose vapor space, under normal operating conditions, is not in the flammable range need not meet this requirement.

- (5) Filling and emptying connections for Class I, Class II, and Class IIIA liquids that are made and broken shall be located outside of buildings at a location free from any source of ignition and not less than 5 ft. (1.5 m) away from any building opening. Such connections for any liquid shall be closed and liquid tight when not in use and shall be properly identified.

(f) Static Protection for all ASTs

(1) Grounding Required

All equipment such as tanks, machinery and piping, where an ignitable mixture may be present shall be bonded or connected to a ground.

(2) Bonding Facilities Required

The bond or ground or both shall be physically applied or shall be inherently present by the nature of the installation; and

- (i) Bonding facilities for protection against static sparks during the loading of tank vehicles through open domes shall be provided:

(A) Where Class I liquids are loaded, or

(B) Where Class II or Class III liquids are loaded into vehicles that may contain vapors from previous cargoes of Class I liquids; and

- (ii) Bonding facilities shall consist of a metallic bond wire permanently electrically connected to the fill stem, or to some part of the rack structure in electrical contact with the fill stem. The free end of such wire shall be provided with a clamp or equivalent device for convenient attachment to some metallic part in electrical contact with the cargo tank of the tank vehicle. (This can be a simple ground clamp used while loading).

(g) Standards for Piping, Valves, and Fittings

(1) General and Suction Systems.

- (i) For the purpose these regulations, piping connected to an AST is considered to be suction piping when the entire length of piping is at a higher elevation than the

AST it is connected to, and where there is no pump installed between the tank and piping. All other piping connected to an AST is pressurized piping.

- (A) ASTs with underground piping must meet **all** of the requirements for underground pressurized piping contained in Article 2 of these regulations, including the construction, corrosion protection, and installation requirements of 2-2-1 (b), the secondary containment requirements of 2-2-1(e) for piping installed after April 14, 2011, and release detection requirements of 2-3-4-3.
- (ii) Liquid shall not be dispensed from a tank by pressurization of the tank. Means shall be provided to prevent the release of liquid by siphon flow.
- (iii) On or after October 14, 2012, where an AST is at an elevation that produces a gravity head on a motor fuel dispensing device, the tank outlet shall be equipped with a device (such as a normally closed solenoid valve) that will prevent gravity flow from the tank to the dispenser. This device shall be located adjacent to and downstream of the main valve specified by 3-2-1(e)(1) of these regulations. The device shall be installed and adjusted so that liquid cannot flow by gravity from the tank to the dispenser in the event of failure of the piping or hose when the dispenser is not in use.
- (iv) Where a suction-type dispensing system includes a booster pump or where a suction-type dispensing system is supplied by a tank in a manner that produces a gravity head on the dispensing device, a listed, vacuum-actuated shutoff valve with a shear section or equivalent type valve shall be installed directly under the dispensing device.
 - (A) Suction-type dispensing systems installed before April 14, 2011 that include a solenoid valve at the tank outlet, and a listed, rigidly anchored emergency shutoff valve incorporating a fusible link or other thermally actuated device, designed to close automatically in event of severe impact or fire exposure are deemed to meet this requirement.
- (v) For ASTs installed after September 30, 1994, shutoff and check valves shall be equipped with a pressure-relieving device that will relieve the pressure generated by thermal expansion back to the tank.
- (vi) Piping shall be routed so that exposure to physical damage is minimized.
- (vii) Piping systems shall be supported and protected against physical damage, including damage from stresses arising from settlement, vibration, expansion, or contraction.

(2) Remote Pumping Systems

This section shall apply to systems for dispensing Class I liquids and Class II liquids where such liquids are transferred from storage to individual or multiple dispensing devices by pumps located other than at the dispensing devices.

- (i) Pumps shall be listed and designed or equipped so that no part of the system will be subjected to pressures above its allowable working pressure.
- (ii) Each pump shall have installed, on the discharge side, a listed leak detection device that will provide an indication if the piping and dispensers are not essentially liquid tight. Each leak-detecting device shall be checked and tested at least annually according to the manufacturer's specifications.

- (iii) Pumps installed above-grade and outside of buildings shall be located not less than 10 ft. (3 m) from lines of adjoining property that can be built upon and not less than 5 ft. (1.5 m) from any building opening. Pumps shall be substantially anchored and protected against physical damage.
- (iv) A listed rigidly anchored emergency shutoff valve, incorporating a fusible link or other thermally actuated device designed to close automatically in event of severe impact or fire exposure, shall be installed in accordance with the manufacturer's instructions in the supply line at the base of each individual island-type dispenser or at the inlet of each overhead dispensing device. An emergency shutoff valve incorporating a slip-joint feature shall not be used. The automatic closing feature of this valve shall be checked at the time of initial installation and at least once a year thereafter by manually tripping the hold-open linkage.
- (v) Any vapor return pipe inside the dispenser housing shall have a shear section or flexible connector so that the liquid emergency shutoff valve will function as described above.

(3) Breakaway devices

A listed emergency breakaway device designed to retain liquid on both sides of the breakaway point shall be installed on each hose dispensing Class I and Class II liquids. Such devices are not required at marine service stations.

(h) Compatibility Requirements

Owners/operators must use an AST system made of or lined with materials that are compatible with the substance stored in the AST.

[Note: Owners/operators storing alcohol blends may use the following codes to comply with the requirements of this section: (a) American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"; and (b) American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Co-solvent Blends at Distribution Terminals and Service Stations."]

(i) Security

- (1) Where tanks are supported above the foundations, tank supports shall be installed on firm foundations. Steel supports or exposed piling supports for tanks storing Class I, Class II, or Class IIIA liquids shall be protected by materials having a fire resistance rating of not less than 2 hours.
- (2) Every tank shall be supported to prevent the excessive concentration of loads on the supporting portion of the tank shell.
- (3) The area within the fence (if applicable) and within any dike shall be kept free of vegetation, debris, and any other material that is not necessary to the proper operation of the tank and piping system.
- (4) After December 22, 1996, tanks that are not listed as UL 2085 Protected Tanks where fuel is dispensed into vehicles shall be protected against vehicular collision by suitable barriers, which may include buildings and open space which the Director approves in writing.
- (5) Tanks which are not enclosed in vaults shall be enclosed with a chain link fence at least 6 ft. high. The fence shall be separated from the tanks by at least 10 ft. and shall have a gate that is secured against unauthorized entry. This requirement applies to:

- (i) Tanks at motor fuel dispensing facilities, and

- (ii) Tanks at all other facilities that have an individual or aggregate capacity of 12,000 gallons or more.

Exception: Tanks are not required to be enclosed with a fence if the property on which the tanks are located has a perimeter security fence.

- (6) Tanks that are unsupervised for any period of time, or are located in isolated/remote areas, shall be secured and shall be marked to identify the fire hazards of the tank and the tank's contents to the general public. Where necessary to protect the tank from tampering or trespassing, the area where the tank is located shall be secured.
- (7) For ASTs installed after September 30, 1994, tank supports and foundations shall be designed to minimize the possibility of uneven settling of the tank and to minimize corrosion to any part of the tank.

3-2-2 Location and Installation

3-2-2-1 Service Stations (Motor Fuel Dispensing Facilities and Repair Garages)

After September 30, 1994, new ASTs may only be installed at service stations if they meet all the general requirements for ASTs, and the service station requirements of this section. After December 22, 1996, tanks designed and built for underground use shall not be used as ASTs. All of the provisions in this section also apply to marine service stations and airport service stations.

- (a) For ASTs installed after September 30, 1994, tanks storing Class I and Class II liquids at an individual site shall be limited to a maximum individual capacity of 12,000 gallons and an aggregate capacity of 48,000 gallons unless such tanks are installed in vaults complying with 3-2-2-5, in which case the maximum individual capacity shall be permitted to be 15,000 gallons.
- (b) For ASTs installed after September 30, 1994, and before April 14, 2011, tanks shall be located in accordance with Table 1 in this section, except that for secondary containment tanks, "fire tested" tanks, "fire resistant" tanks or tanks installed in a vault, the distance requirement from tank to dispenser is waived, provided that all tanks, pipes and dispensers are satisfactorily protected from vehicular traffic.
- (c) For ASTs installed on or after April 14, 2011, ASTs shall be located in accordance with Table 1 below.

TABLE 1		AST Separation at Motor Fuel Dispensing Facilities and Repair Garages				
		Minimum Distance (ft)				
Type of Tank	Individual Tank Capacity (gal)	From Nearest Important Building on the Same Property	From Nearest Fuel Dispensing Device	From Property Line That Is or Can Be Built Upon Including Opposite Side of Public Way	From Nearest Side of Any Public Way	Between Tanks
Tanks in vaults (measured from vault perimeter)	0 – 15,000	0	0	0	0	Separate vault compartments for each AST
Protected ASTs (UL 2085)	≤ 6,000	5	0	15	5	3
	6,001 – 12,000	15	0	25	15	3
Fire-resistant ASTs (UL 2080)	0 – 12,000	25	25	50	25	3
Other ASTs meeting NFPA 30 requirements	0 – 12,000	50	50	100	50	3

(d) Bulk Plants with Motor Fuel Dispensing.

This section does not include facilities that meet the requirements of 3-2-2-3.

(1) For facilities existing before April 14, 2011:

- (i) ASTs shall meet the location and installation requirements of 3-2-2-4.
- (ii) Where the 50 ft distance requirement from tank to dispenser is met, the following shall apply to the ASTs used for both motor fuel dispensing **and** bulk operations:

ASTs storing Class I liquids shall be limited to a maximum individual capacity of 12,000 gallons, ASTs storing Class II liquids shall be limited to a maximum individual capacity of 20,000 gallons, and the aggregate capacity for all tanks shall be 80,000 gallons.

[Note: There are no individual or aggregate capacity limits for ASTs used **solely** for bulk operations.]

- (iii) Where the 50 ft distance requirement from tank to dispenser is not met, the following shall apply to the ASTs used for both motor fuel dispensing **and** bulk operations:

ASTs storing Class I and Class II liquids shall be limited to a maximum individual capacity of 12,000 gallons, and an aggregate capacity of 48,000 gallons.

[Note: There are no individual or aggregate capacity limits for ASTs used **solely** for bulk operations.]

(2) For new facilities installed on or after April 14, 2011:

- (i) ASTs used for motor fuel dispensing shall meet the capacity and location requirements of 3-2-2-1, except that the maximum individual tank capacity of 12,000 gallons, indicated in Table 1, shall be permitted to be increased to 20,000 gallons for Class II liquids, and the aggregate capacity for all tanks shall be 80,000 gallons.

[Note: ASTs that are used for motor fuel dispensing shall not be used for bulk operations.]

- (ii) ASTs used for bulk operations shall meet the location and installation requirements of 3-2-2-4.

[Note: ASTs that are used for bulk operations shall not be used for motor fuel dispensing.]

- (3) ASTs used solely for bulk operations shall not be connected by piping to ASTs or USTs used for motor fuel dispensing, and shall not supply dispensing devices used for motor vehicle fueling.

Exception: Where the total capacity of all ASTs used for motor fuel dispensing and all ASTs used solely for bulk operations is within the aggregate capacities allowed by 3-2-2-1 (d)(1) (ii) or (iii), changes to connected piping are not required.

- (4) The motor fuel dispensing operations shall be separated from areas in which bulk plant operations are conducted by a fence or an approved structure (building, retaining wall, etc.), preventing direct access from one area to the other.

3-2-2-2 Governmental, Industrial and Commercial AST Facilities (Fleet Vehicle Motor Fuel Dispensing)

AST installations are permitted at commercial, industrial, governmental, and manufacturing facilities where motor fuels are dispensed into vehicles used in connection with their business by employees, but only under one of the following conditions:

- (a) For ASTs installed before April 14, 2011, existing restricted-capacity fleet vehicle motor fuel dispensing operations that meet the following requirements are allowed:
- (1) The facility has been inspected and approved by the Director;
 - (2) No more than two (2) ASTs are in service at the facility;
 - (3) No AST at the facility has a capacity greater than 6,000 U.S. gallons;
 - (4) There is not more than one (1) tank at the facility containing Class I liquids; and
 - (5) The spacing requirements of Table 2 below are met.

TABLE 2		AST Separation at Restricted-Capacity Fleet Motor Fuel Dispensing Facilities (Before April 14, 2011)			
		<i>Minimum Distance (ft)</i>			
<i>Tank Capacity (gal)</i>	<i>From Nearest Important Building on the Same Property</i>	<i>From Nearest Fuel Dispensing Device</i>	<i>From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way</i>	<i>From Nearest Side of Any Public Way</i>	<i>Between Tanks</i>
660 - 750	5	0	10	5	3
751 - 6,000	5	0	15	5	3

- (b) On or after April 14, 2011, new restricted-capacity fleet vehicle motor fuel dispensing operations shall be allowed where the following requirements are met:
- (1) The requirements of 3-2-2-2(a)(1) – (4) are met; and
 - (2) The spacing requirements of Table 3 below are met.

TABLE 3		AST Separation at Restricted-Capacity Fleet Motor Fuel Dispensing Facilities (On or after April 14, 2011)			
		<i>Minimum Distance (ft)</i>			
<i>Tank Capacity (gal)</i>	<i>From Nearest Important Building on the Same Property</i>	<i>From Nearest Fuel Dispensing Device</i>	<i>From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way</i>	<i>From Nearest Side of Any Public Way</i>	<i>Between Tanks</i>
660 - 2,000	25	0	50	25	3
2,001 - 6,000	25	0	75	35	3

- (c) For ASTs installed before April 14, 2011, if the AST system meets the requirements of 3-2-2-1(b) it can operate under the service station capacity allowances.
- (d) On or after April 14, 2011, fleet vehicle motor fuel dispensing operations shall be allowed where the following requirements are met:
- (1) The spacing requirements of Table 4 below are met.

- (i) The maximum individual tank capacity of 12,000 gallons, indicated in Table 4 below, shall be permitted to be increased to 20,000 gallons for Class II and Class III liquids, and the aggregate capacity for all tanks shall be 80,000 gallons; and
- (ii) No minimum separation shall be required between the dispensing device and a tank in a vault, a protected aboveground tank, or a fire-resistant tank.

TABLE 4		AST Separation at Fleet Motor Fuel Dispensing Facilities				
		Minimum Distance (ft)				
Type of Tank	Individual Tank Capacity (gal)	From Nearest Important Building on the Same Property	From Nearest Fuel Dispensing Device	From Property Line That Is or Can Be Built Upon Including Opposite Side of Public Way	From Nearest Side of Any Public Way	Between Tanks
Tanks in vaults (measured from vault perimeter)	0 – 15,000	0	0	0	0	Separate vault compartments for each AST
Protected ASTs (UL 2085)	≤ 6,000	5	0	15	5	3
	6,001 – 12,000	15	0	25	15	3
Fire-resistant ASTs (UL 2080)	0 – 12,000	25	0	50	25	3
Other ASTs meeting NFPA 30 requirements	0 – 12,000	50	50	100	50	3

3-2-2-3 Unattended Cardlock Systems

(a) On or after April 14, 2011, unattended cardlock systems are those motor fuel dispensing facilities already in existence which are located at bulk plants, governmental, industrial, and commercial facilities where only proprietary cards (or keys) issued by the facility, and that are specific to the facility's fuel management or point of sale system, can be used to dispense fuel. Proprietary cards do not include cards that are available for regional or national fleet fueling.

- (1) Cardlock systems installed before October 1, 1994 shall meet the AST separation distances of 3-2-2-4(a).
- (2) Cardlock systems installed on October 1, 1994 or thereafter shall meet the AST separation distances of 3-2-2-4(a), and the tank-to-dispenser separation distances of 3-2-2-1(b).
- (3) Persons that are issued proprietary cards (or keys) must be knowledgeable in site-specific operating and emergency procedures for dispensing operations.

3-2-2-4 Bulk Plants (And Other Facilities Without Motor Fuel Dispensing)

This section applies to ASTs storing regulated substances, including emergency generator tanks, outdoors at bulk plants and other facilities (except those facilities covered by 3-2-2-1) where there is no motor fuel dispensing.

The following requirements and tables showing required minimum separation distances apply to facilities in this section that store stable liquids in atmospheric ASTs where internal operating pressures do not exceed 2.5 psi. Requirements for the storage of other liquids in other types of ASTs at greater operating pressures are found in NFPA 30, and must be followed.

- (a) Every AST which is installed after September 30, 1994 and used for the storage of Class I, Class II, or Class IIIA stable liquids and operating at pressures not in excess of 2.5 psig (17.2 kPa) and designed with a weak roof-to-shell seam, or equipped with emergency venting devices that will

not permit pressures to exceed 2.5 psig (17.2 kPa), shall be located in accordance with Table 5 in this section. Where tank spacing is contingent on a weak roof-to-shell seam design, the user shall present evidence certifying such construction to the Director, upon request.

Exception: Vertical tanks with weak roof-to-shell seams that store Class IIIA liquids shall be permitted to be located at one-half the distances specified in Table 5, provided the tanks are not within the same diked area as, or within the drainage path of, a tank storing a Class I or Class II liquid.

- (b) Every AST which is installed after September 30, 1994 and used for the storage of Class I, Class II, or Class IIIA stable liquids and operating at pressures exceeding 2.5 psig (17.2 kPa) or equipped with emergency venting that will permit pressures to exceed 2.5 psig (17.2 kPa), shall be located in accordance with, and meet the requirements of NFPA 30.
- (c) Every AST which is installed after September 30, 1994 and used for the storage of liquids with boil-over characteristics shall be located in accordance with, and meet the requirements of NFPA 30.
- (d) Every AST which is installed after September 30, 1994 and used for the storage of unstable liquids shall be located in accordance with, and meet the requirements of NFPA 30.
- (e) For ASTs installed before April 14, 2011, spacing (Shell-to-Shell) between any two adjacent ASTs, where one AST is installed after September 30, 1994, with tanks storing Class I, II, or IIIA stable liquids shall be separated in accordance with Table 5 in this section.
- (f) On or after April 14, 2011, tanks used only for storing Class IIIB liquids shall not be required to be separated by more than 3 ft provided they are not within the same diked area as, or within the drainage path of, a tank storing a Class I or II liquid. If located within the same diked area as, or within the drainage path of, a tank storing a Class I or II liquid, the tank storing Class IIIB liquid shall be spaced in accordance with the requirements for Class IIIA liquids in Table 5.
- (g) Every AST which is installed after September 30, 1994 and used for the storage of Class IIIB stable liquids shall be located in accordance with Table 7 in this section.

Exception: If located within the same diked area as, or within the drainage path of, a tank storing a Class I or Class II liquid, the tank storing Class IIIB liquid shall be located in accordance with 3-2-2-4(a).

TABLE 5	Location of Atmospheric ASTs Storing Stable Liquids (Class I, II, IIIA) Internal Pressure Not to Exceed a Gauge Pressure of 2.5 psi			
		Minimum Distance (ft)		
Type of Tank	Protection	From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way	From Nearest Side of Any Public Way or from Nearest Important Building on the Same Property	Minimum Tank Shell-to-Shell Spacing
Floating Roof	Protection for exposures	1/2 x tank diameter	1/6 x tank diameter	Greater of 1/6 x sum of adjacent tank diameters <u>or</u> 3 ft
	None	Tank diameter	1/6 x tank diameter	
Vertical with weak roof-to-shell seam	Approved foam or inerting system	1/2 x tank diameter	1/6 x tank diameter	Greater of 1/6 x sum of adjacent tank diameters <u>or</u> 3 ft
	Protection for exposures	Tank diameter	1/3 x tank diameter	
	None	2 x tank diameter	1/3 x tank diameter	
Horizontal and vertical tanks with emergency relief venting to limit pressures to 2.5 psi	Approved foam or inerting system	1/2 x value in table 6	1/2 x value in table 6	Greater of 1/6 x sum of adjacent tank diameters <u>or</u> 3 ft
	Protection for exposures	Value in table 6	Value in table 6	
	None	2 x value in table 6	Value in table 6	
Protected aboveground tank	None	1/2 x value in table 6	1/2 x value in table 6	Greater of 1/6 x sum of adjacent tank diameters <u>or</u> 3 ft
In most cases “protection for exposures” will apply.		Greater of values shown above <u>or</u> 5 ft		3 ft min. where sum of adjacent tank diameters is ≤ 18 ft
PROTECTION FOR EXPOSURES - Fire protection for structures on property adjacent to liquid storage that is provided by (1) a public fire department or (2) a private fire brigade maintained on the property adjacent to the liquid storage, either of which is capable of providing cooling water streams to protect the property adjacent to the liquid storage.				

TABLE 6	Distances for Use with Table 5 (Above)	
	Minimum Distance (ft)	
Tank Capacity (gal)	From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way	From Nearest Side of Any Public Way or from Nearest Important Building on the Same Property
660 - 750	10	5
751 – 12,000	15	5
12,001 – 30,000	20	5
30,001 – 39,999	30	10

TABLE 7	Location of ASTs Storing Class IIIB Liquids	
	Minimum Distance (ft)	
Tank Capacity (gal)	From Property Line That Is or Can Be Built Upon, Including the Opposite Side of a Public Way	From Nearest Side of Any Public Way or from Nearest Important Building on the Same Property
12,000 or less	5	5
12,000 - 30,000	10	5
30,001 - 39,999	10	10

3-2-2-5 ASTs in Vaults

The provisions in this section apply only to ASTs installed after September 30, 1994.

- (a) There shall be no openings in the vault enclosure except those necessary for access to, inspection of, and filling, emptying, and venting of the tank. The walls and floor of the vault shall be constructed of reinforced concrete at least 6 inches (15 cm) thick. The top shall be constructed of non-combustible material constructed to be weaker than the walls. The top, floor, and tank foundation shall be designed to withstand the anticipated loading. The vault shall be substantially liquid tight (able to contain the product for enough time until any release therein can be cleaned up) and there shall be no backfill material around the tank. There shall be sufficient space between the tank and vault to allow for inspection of the tank and its appurtenances.
- (b) Each vault and its tank shall be suitably anchored to withstand uplifting by groundwater or flooding, including when the tank is empty.
- (c) A vault shall be designed to be wind and earthquake resistant in accordance with good engineering practice. The vault shall be resistant to damage from the impact of a motor vehicle, or suitable collision barriers shall be provided.
- (d) Each tank shall be in its own vault. Adjacent vaults may share a common wall.
- (e) Connections shall be provided to permit venting of each vault to dilute, disperse, and remove any vapors prior to personnel entering the vault.
- (f) Vaults that contain tanks of Class I liquids shall be provided with continuous ventilation at a rate of not less than 1 cubic foot per minute per square foot of floor area ($0.3\text{m}^3/\text{min-m}^2$), but not less than 150 cfm ($4\text{m}^3/\text{min}$). Failure of the exhaust air flow shall automatically shut down the dispensing system. The exhaust system shall be designed to provide air movement across all parts of the vault floor. Supply and exhaust ducts shall extend to within 3 in. (7.6 cm), but not more than 12 in. (30.5 cm), of the floor. The exhaust system shall be installed in accordance with the provisions of NFPA 91, *Standard for Exhaust Systems for Air Conveying of Materials*. Means shall be provided to automatically detect any flammable vapors and to automatically shut down the dispensing system upon detection of such flammable vapors in the exhaust duct at or above a concentration of 25 percent of the lower flammable limit.
- (g) Each vault shall be equipped with a detection system capable of detecting liquids, including water, and of activating an alarm.
- (h) Means shall be provided to recover liquid from the vault. If a pump is used to meet this requirement, the pump shall not be permanently installed in the vault. Electric powered portable pumps shall be suitable for use in Class I, Division 1 locations, as defined in NFPA 70, National Electrical Code.
- (i) Vent pipes that are provided for normal tank venting shall terminate at least 12 ft. (3.6m) above ground level.
- (j) Emergency vents shall be vapor tight and shall be permitted to discharge inside the vault. Long-bolt manhole covers shall not be permitted for this purpose.
- (k) Each vault shall be provided with a means for personnel entry. At each entry point, a warning sign indicating the need for procedures for safe entry into confined spaces shall be posted. Each entry point shall be secured against unauthorized entry and vandalism.
- (l) Each vault shall be provided with a suitable means to admit a fire suppression agent.

- (m) The interior of any vault containing a tank that stores a Class I liquid shall be designated a Class I, Division 1 location, as defined in NFPA 70, *National Electrical Code*.

3-2-2-6 Tanks Inside Buildings

Exception: Tanks storing Class IIIB liquids need not comply with these provisions.

Tanks shall not be permitted inside of buildings unless the storage of liquids in outside aboveground or underground tanks is not practical because of government regulations, temperature considerations or production considerations. Tanks may be permitted inside of buildings or structures only when permitted by the Director and only under the following conditions:

- (a) ASTs installed after September 30, 1994 inside buildings shall be permitted only in areas at or above grade that have adequate drainage and are separated from other parts of the building by construction having a fire resistance rating of at least 2 hours. Day tanks, running tanks, and surge tanks are permitted in process areas. Class I, Class II and Class IIIA liquids that may be heated above their flash points shall not be stored in basements. Openings to other rooms or buildings shall be provided with noncombustible liquid tight raised sills or ramps at least 4 in. (10 cm) in height, or the floor in the storage area shall be at least 4 in. (10 cm) below the surrounding floor. As a minimum, each opening shall be provided with a listed, self-closing 1 1/2-hr (B) fire door installed in accordance with the current versions of NFPA 80, *Standard for Fire Doors and Fire Windows*; NFPA 90A *Standard for the Installation of Air Conditioning and Ventilating Systems*, or NFPA 91, *Standard for the Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying*. The room shall be constructed without floor drains and with seals between walls and floor of the room in order to contain the product in case of leakage or spillage from the tank.
- (1) Secondary containment tanks do not remove the requirement for the raised sills or ramps at openings to other rooms or buildings, or lowered floor requirements described in (a) above. An open-grated trench across the width of the opening inside of the room that drains to a safe location shall be permitted to be used as an alternative to a sill or ramp.
- (2) The room shall be liquid tight where the walls join the floor and for at least 4 in. above the floor.
- (3) Access aisles of at least 3 ft. width shall be maintained for movement of firefighting personnel and fire protection equipment.
- (b) Each connection to a tank inside buildings through which liquid can normally flow shall be provided with an internal or an external valve located as close as practicable to the shell of the tank; and connections for all tank openings shall be liquid tight.
- (c) Tanks for storage of Class I or Class II liquids inside buildings shall be provided with either:
- (1) A normally closed remotely activated valve,
- (2) An automatic-closing heat-activated valve, or
- (3) Another approved device on each liquid transfer connection below the liquid level, except for connections used for emergency disposal, to provide for quick cutoff of flow in the event of fire in the vicinity of the tank. This function can be incorporated in the valve required in subsection (b) above and, if a separate valve, shall be located adjacent to the valve required in subsection (b).
- (d) Vents for tanks inside of buildings shall be as required in 3-2-1(c), 3-2-1(d), 3-2-2-5, except that emergency venting by the use of weak roof seams on tanks shall not be permitted. Vents shall terminate outside the buildings.

- (1) Section 3-2-1(c)(5) requires that adequate ventilation exist to guarantee that flammable liquid vapors cannot build up to 25% percent or more of the lower flammable limit, including inside buildings.
- (e) Vent piping shall be constructed and equipped as in 3-2-1(b) and 3-2-1(c).
- (f) Openings for manual gauging of Class I or Class II liquids, if independent of the fill pipe, shall be provided with a vapor tight cap or cover. Openings shall be kept closed when not gauging. Each such opening for any liquid shall be protected against liquid overflow and possible vapor release by means of a spring-loaded check valve or other approved device. Substitutes for manual gauging include, but are not limited to, heavy-duty flat gauge glasses, magnetic, hydraulic, or hydrostatic remote reading devices, and sealed float gauges.
- (g) The inlet of the fill pipe and the outlet of a vapor recovery line for which connections are made and broken shall be located outside of buildings at a location free from any source of ignition and not less than 5 ft. (1.5 m) away from any building opening. Such connections shall be closed and tight when not in use and shall be properly identified.
- (h) Tanks storing Class I, Class II, and Class IIIA liquids inside buildings shall be equipped with a device, or other means shall be provided to prevent overflow into the building. Suitable devices include, but are not limited to, a float valve, a preset meter on the fill line, a valve actuated by the weight of the tank contents, a low head pump incapable of producing overflow, or a liquid tight overflow pipe at least one pipe size larger than the fill pipe, discharging by gravity back to the outside source of liquid or to an approved location.
- (i) Tank openings provided for purposes of vapor recovery shall be protected against possible vapor release by means of a spring-loaded check valve or dry-break connections, or other approved device, unless the opening is pipe-connected to a vapor processing system. Openings designed for combined fill and vapor recovery shall also be protected against vapor release unless connection of the liquid delivery line to the fill pipe simultaneously connects the vapor recovery line. All connections shall be vapor tight.

3-2-2-7 Separation from Propane ASTs

- (a) The minimum horizontal separation between an LP-Gas container and a Class I, Class II or Class IIIA liquid storage tank installed after September 30, 1994 shall be 20 ft (6 m). When flammable or combustible liquids storage tanks are within a diked area, the LP-Gas containers shall be outside the diked area and at least 10 ft (3 m) away from the centerline of the wall of the diked area. For all tanks, suitable measures shall be taken to prevent the accumulation of Class I, Class II, or Class IIIA liquids under adjacent LP-Gas containers such as by dikes, diversion curbs, or grading.
- (b) Subsection (a) shall not apply when LP-Gas containers of 125 gal (475 L) or less capacity are installed adjacent to fuel oil supply tanks of 660 gal (2498 L) or less capacity. No horizontal separation is required between aboveground LP-Gas containers and underground flammable and combustible liquids tanks installed in accordance with UST rules.

3-2-3 Installation, Upgrade, and Repairs

- (a) Application for Permit for ASTs

- (1) An application must be submitted to and approved by the Director before beginning construction;
- (i) On any new or used/reinstalled AST system that will store a regulated substance; or
- (ii) Before beginning construction on any existing regulated substance AST system at a facility that is being upgraded to the standards described in these regulations or applicable statutes.

- (A) This requirement applies to alterations made to tanks, piping, or equipment affecting their operation, to containment (diking or impounding), and to the security provisions of 3-2-1(i)(5) or (6).

[Note: Where a tank will be moved from and returned to its original location in order to allow an alteration to its containment (e.g., changing from bare earthen diking to lined earth or concrete diking), or where a tank will be moved to a new location outside of its current footprint, a permanent closure must be performed in accordance with 3-4-2, and an application must be submitted for its reinstallation. For tanks installed before October 1, 1994 that will be moved from and returned to their original location, requests for variance from separation requirements of 3-2-2 that cannot be met must be made in writing at the time of application.]

(2) The application must include:

- (i) Site Plan - A dimensioned drawing of the facility, showing the name and address of the facility, the location of existing tanks and piping that will remain at the facility, as well as new tanks and piping proposed in the application, the location of dispensers and buildings at the facility, the location of loading/unloading facilities, the location of guard posts and fences, the location of property lines, and the location and names of streets adjacent to the facility; and
- (ii) A written application, using the form supplied by the Director, containing information about the proposed construction.

[Note: If a used AST will be installed/reinstalled, the requirements of 3-2-3(d) apply, and the results of the required inspections and testing must be submitted with the application.]

(b) AST Facility Inspections Required

- (1) Except in emergencies, if underground piping will be replaced or added to the AST system, the Director must be notified at least 72 hours prior to beginning the air pressure/soap solution test of the piping in order that an inspection of the system may be scheduled at that time. Emergency situations will be dealt with individually by the Director, possibly by delegation of the inspection.
- (2) The Director will make an inspection of the AST system, to verify that the facility was constructed according to plan. This inspection will be as detailed as practicable, but does not exempt the owner/operator from certifying that the installation was made according to all the requirements of these regulations. The owner/operator shall provide the Director with a 72 hour notice prior to the filling of the tank system.

(c) Denial or Revocation of Permit

- (1) An AST permit application may be denied or revoked if the AST installation or operation is not in conformance with these AST regulations or is not in conformance with all applicable sections of the National Fire Protection Association codes.
- (2) An AST permit may be denied or revoked if the AST permit application is not complete or is determined to be inaccurate.
- (3) An AST permit may be revoked if the AST installation or operation is not in conformance with the NFPA Codes in effect at the time of installation, and may be revoked for misrepresentation of facts in the application.

- (4) An AST permit may be revoked if an inspection by the Director reveals that the construction performed is not in accordance with the installation plan submitted for approval; and may be revoked for failure to meet the operating or fire safety rules established by these regulations or established by the various provisions of the NFPA Codes that apply to the AST facility.
- (5) An AST system permit is automatically revoked six months after the date of issue unless the Director grants an extension in writing.
- (6) Six months or later, after an AST permit is issued, the permit may be modified by subsequent statutory or regulatory changes.

(d) Reinstallation of ASTs

- (1) Used ASTs being installed to store a regulated substance must meet the following requirements:
 - (i) The AST itself must meet all of the fabrication, construction and performance requirements, and be equipped with all of the required equipment listed in 3-2 of these regulations.
 - (ii) The tank must be inspected per 3-3-4-2, and manufacturer reinstallation/relocation requirements.
 - (iii) The AST installation and registration requirements of 3-2-3 and 3-2-4.
 - (iv) Emergency relief vent devices must be tested and certified to be in good working order.

(e) Upgrading AST Systems

The deadlines for the upgrading of AST systems that existed prior to AST regulations being promulgated have expired. This section remains in this revision for historical reference.

- (1) On or before December 22, 1996, AST systems must meet the requirements of these regulations or permanently close the tanks in accordance with these regulations. The following requirements take effect December 22, 1996:
 - (i) Each AST must be sound and have an emergency relief venting device which is equivalent to those described in these regulations. The owner/operator is required to provide proof that the tank meets this requirement.
 - (ii) Secondary containment methods or devices must be provided and in regular use at the facility as described in 3-3-1.
 - (iii) The facility must meet the security requirements of 3-2-1(i).
- (2) By December 22, 1998 certain AST systems must be equipped with a solenoid valve or a vacuum-actuated shutoff valve, with a shear section as described in 3-2-1(g).

[Note: In applying these requirements, the following quotation will be carefully considered by the Director - "Existing plants, equipment, buildings, structures, and installations for the storage, handling or use of flammable or combustible liquids that are not in strict compliance with the terms of this code may be continued in use at the discretion of the Director provided they do not constitute a recognized hazard to life or adjoining property. The existence of a situation that might result in an explosion or sudden escalation of a fire, such as inadequate ventilation of confined spaces, lack of adequate emergency

venting of a tank, failure to fireproof the supports of elevated tanks, or lack of drainage or dikes to control spills, may constitute such a hazard."]

(f) Repairs Allowed

- (1) If an AST system is damaged, it must be repaired to meet applicable requirements, or be properly closed. Owners/operators of AST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the AST system is used to store regulated substances.
- (2) The repairs must meet the following requirements:
 - (i) Repairs to AST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. [Note: The following codes and standards may be used to comply with this section: National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; American Petroleum Institute Publication 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines"];
 - (ii) Above ground metal pipe that has released product must be immediately repaired or replaced and appropriately tested. [Note: repaired piping that has previously contained flammable liquid must not be subjected to an air pressure test unless the piping has been completely cleaned and rendered vapor free]
 - (iii) Underground metal pipe sections and fittings connected to an AST that have released product as a result of corrosion or other damage must be replaced immediately and protected from future corrosion. Fiberglass pipes and fittings may be repaired in accordance with the equipment manufacturer's specifications.
 - (iv) Repaired AST underground piping must be tightness tested in accordance with 2-3-4-3(a)(2)(i) within 30 calendar days following the date of the completion of the repair. New replacement piping runs that have never contained product may be tested by an air pressure/soap bubble test at 1.5 times operating pressure if inspected and approved by the Director.
- (3) If a release of regulated substance is identified during repairs to AST system equipment, the owner/operator shall report the release according to Article 4.

3-2-4 AST System Registration and Transfer of Ownership

(a) Registration and Notification for ASTs.

- (1) AST Registration Required. All ASTs and facility data must be registered, re-registered or updated on a form provided by the Director, regardless of whether the ASTs and facilities are currently in service or in temporary closure, according to the following provisions:
 - (i) The registration form must be filled out as completely as possible by the owner/operator of the AST; and must include each tank owned or operated at the facility.
 - (ii) Owners/operators may provide notice for several tanks at a single facility using one notification form, but owners/operators who own or operate tanks located at more than one facility must file a separate notification form for each separate facility.

- (2) **Registration Timing.** Each owner/operator of an AST must register each AST with the Director as follows:
- (i) By July 1, 1993 if the tanks were not registered previously.
 - (ii) Within 30 calendar days after the first day on which any AST is actually used to contain a regulated substance.
 - (iii) This registration information must be updated within 30 calendar days after any additional tank construction, AST system upgrading, temporary or permanent closure, or changes in operation including a change of owner or operator, has been completed.
 - (iv) This registration must be renewed annually during the month designated by the Director, and during the same month in each succeeding year thereafter.
- (3) **Registration Fee Required.** The owner/operator is required to pay an annual registration fee in the amount allowed by the current state law for each regulated tank owned or operated, until the regulated AST is permanently closed as in 3-4-2 or until the owner/operator has instituted a change-in-service to a substance other than a regulated substance as in 3-4-3.
- (4) **Tank Vendor Responsibility.** Any person who sells a tank intended to be used as an AST must notify the purchaser of such tank of the purchaser's registration and registration fee obligations under this section.

Section 3-3 Operation

3-3-1 Spill and Overfill Protection

(a) General Requirements

- (1) After December 22, 1996, facilities shall be provided so that any accidental discharge of any Class I, II or IIIA liquids will be prevented from endangering important facilities, and adjoining property, or reaching waterways, as provided for in subsections (b) or (c) except that tanks storing Class IIIB liquids do not require special drainage or diking provisions for fire protection purposes.
- (2) Owners/operators of ASTs must ensure that releases due to spilling or overfilling do not occur. The owner/operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made; and that the transfer operation is monitored constantly to prevent overfilling and spilling.
 - (i) Where electronic or mechanical gauges are used for determining tank volume (ground-level tape gauges, clock face gauges, etc.), the gauge shall be calibrated annually, per manufacturer instructions. These calibrations shall be documented and maintained.
- (3) Spill and overfill prevention equipment is required for all ASTs installed after September 30, 1994. Means shall be provided for determining the liquid level in each tank and be accessible to the delivery operator. Specifically, for all ASTs installed after September 30, 1994 at service stations, and for all secondary containment type tanks without diking or impounding protection, the equipment shall automatically stop the delivery of liquid to the tank when the liquid level in the tank reaches 95 percent of capacity or sound an audible alarm when the liquid level in the tank reaches 90 percent of capacity.
- (4) Delivery operations shall comply with the following requirements:

- (i) The delivery vehicle shall be separated from any AST by at least 25 ft. (7.6 m) for class I liquids and by at least 15 ft. for class II and class III liquids, measured from the nearest fill spout or transfer connection.
 - (ii) Tank filling shall not begin until the delivery operator has determined tank ullage (available capacity) based on direct liquid level measurement converted to gallons or some equivalent method.
 - (A) Where spill and overfill prevention equipment that will automatically stop the delivery of liquid to the tank or sound an audible alarm that can be heard by the delivery operator described in 3-3-1-(a)(3) does not exist, tank ullage and the amount of product delivered must be documented and maintained.
 - (iii) For ASTs installed after September 30, 1994, a check valve and a shutoff valve with a quick-connect coupling or a check valve with a dry-break valve shall be installed in the piping at a point where connection and disconnection is made for delivery from the bulk delivery vehicle to the AST. This device shall be protected from tampering and physical damage.
- (5) The owner/operator must report, investigate, and clean up any spills and overfills in accordance with Articles 4 and 5 of these Regulations.

(b) Remote Impounding.

Where protection of adjoining property or waterways is by means of drainage to a remote impounding area, so that impounded liquid will not be held against tanks, such systems shall comply with the following:

- (1) A slope of not less than 1 percent away from the tank shall be provided for at least 50 ft. toward the impounding area.
- (2) The impounding area shall have a net capacity not less than that of the largest tank that can drain into it plus an allowance for precipitation.
- (3) The route of the drainage system shall be so located that, if the liquids in the drainage system are ignited, the fire will not seriously expose tanks or adjoining property.
- (4) The confines of the impounding area shall be located so that, when filled to capacity, the liquid level will not be closer than 50 ft. from any property line that can be built upon, or from any tank.

(c) Impounding Around Tanks by Diking

Exception: Size and spacing requirements for dikes enclosing existing ASTs may be reduced or waived by the Director if he determines that there are equivalent safety measures at the facility.

When protection of adjoining property or waterways is by means of impounding by diking around the tanks, such system shall comply with the following:

- (1) For ASTs installed after September 30, 1994, a slope of not less than 1 percent away from the tank shall be provided for at least 50 ft. or to the dike base, whichever is less.
- (2) After December 22, 1996, the volumetric capacity of the diked area shall not be less than the greatest amount of liquid that can be released from the largest tank within the diked area, assuming a full tank. To allow for volume occupied by tanks, the capacity of the diked area enclosing more than one tank shall be calculated after deducting the volume of the tanks, other than the largest tank, below the height of the dike.

- (3) For ASTs installed after September 30, 1994, to permit access, the outside base of the dike at ground level shall be no closer than 10 ft. to any property line that is, or can be, built upon.
- (4) After December 22, 1996, walls of the diked area shall be of non-permeable earth, steel, concrete, or solid masonry designed to be liquid tight and to withstand a full hydrostatic head for enough time until any release therein can be cleaned up. For all AST dikes installed after September 30, 1994, the floor of the diked area must be impervious enough to contain the product for enough time until any release therein can be cleaned up. Earthen walls 3 ft. or more in height shall have a flat section at the top not less than 2 ft. wide. The slope of an earthen wall shall be consistent with the angle of repose of the material of which the wall is constructed. Diked areas for tanks containing Class I liquids located in extremely porous soils may require special treatment to prevent seepage of hazardous quantities of liquids to low-lying areas or waterways in case of spills.
- (5) Except as provided in subsection (6) below, the walls of the diked area shall be restricted to an average interior height of 6 ft. above interior grade.
- (6) Dikes may be higher than an average of 6 ft. above interior grade where provisions are made for normal access and necessary emergency access to tanks, valves, and other equipment, and safe egress from the diked enclosure.
 - (i) Where the average height of the dike containing Class I liquids is over 12 ft high, measured from interior grade, or where the distance between any tank and the top inside edge of the dike wall is less than the height of the dike, provisions shall be made for normal operation of valves and access to tank roof without entering below the top of the dike. These provisions may be met through the use of remote-operated valves, elevated walkways, etc.
 - (ii) Piping passing through dike walls shall be designed to prevent excessive stresses as a result of settlement or fire exposure.
 - (iii) For ASTs installed after September 30, 1994, the minimum distance between tanks and toe of interior dike walls shall be 5 ft.
- (7) Where provision is made for draining water from diked areas, such drains shall be controlled in a manner so as to prevent flammable or combustible liquids from entering natural water courses, public sewers, or public drains. Control of drainage shall be accessible under fire conditions from outside the dike.
- (8) Storage of combustible materials, empty or full drums, or barrels, shall not be permitted within the diked area.
- (d) Secondary Containment Tanks may be installed without special drainage or diking if they are constructed to meet all the following requirements:
 - (1) The capacity of the tank shall not exceed 12,000 gallons for Class I liquids or 20,000 gallons for Class II and IIIA liquids; and
 - (2) All piping connections to the tank are made above the normal maximum liquid level; and
 - (3) Means are provided to prevent the release of liquid from the tank by siphon flow; and
 - (4) The outer tank must contain a release from any portion of the inner tank within the outer wall; and
 - (5) For ASTs installed after September 30, 1994, spacing between adjacent tanks shall be not less than three (3) feet (0.9 M); and

- (6) Tanks that are not listed as UL 2085 Protected Tanks must be protected from collisions as described in 3-2-1(i); and
- (7) The system must prevent spills by being equipped with:
 - (i) A check valve and a shutoff valve with a quick-connect coupling or a check valve with a dry-break valve which is installed in the piping at a point where connection and disconnection is made for delivery from the vehicle to any AST; or
 - (ii) If the delivery hose is connected directly to the tank, the fill line at the tank shall be equipped with a tight-fill device for connecting the hose to the tank to prevent or contain any spill at the fill opening during delivery operations; and
- (8) ASTs must prevent overfills by means of equipment that will shut off liquid flow to the tank when the liquid level in the tank reaches 95% of capacity or sound an audible alarm when the liquid level in the tank reaches 90% of capacity.
- (e) Secondary containment areas must be maintained free of accumulations of water, leaves, weeds, flammable material, non U.L. listed tanks or drums, and anything else that might interfere with the containment purpose of such areas.

3-3-2 Corrosion Protection

- (a) Internal Corrosion Protection For ASTs Installed After September 30, 1994.

When ASTs installed after September 30, 1994, are not designed in accordance with the American Petroleum Institute, American Society of Mechanical Engineers, or the Underwriters Laboratories Inc. Standards, or if corrosion is anticipated beyond that provided for in the design formulas used, additional metal thickness or suitable protective coatings or linings shall be provided to compensate for the corrosion loss expected during the design life of the tank.

- (b) External Corrosion Protection for ASTs installed after September 30, 1994.

For those portions of an AST system installed after September 30, 1994, including the product pipelines that normally contain regulated substances and are in contact with the soil or with an electrolyte that may cause corrosion of the AST system, tanks and piping must be protected by either:

- (1) A properly engineered, installed and maintained cathodic protection system in accordance with recognized standards of design, such as:
 - (i) National Association of Corrosion Engineers Standard RP-01-69, *"Control of External Corrosion of Underground or Submerged Metallic Piping Systems"* ;
 - (ii) National Association of Corrosion Engineers Standard RP-02-85 , *"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"* ; or;
- (2) Approved or listed corrosion-resistant materials or systems, which may include special alloys, fiberglass reinforced plastic, or fiberglass reinforced plastic coatings.

- (c) External Coating of all Elevated Tanks.

For installations where tanks and piping are not in contact with soil or with an electrolyte, corrosion protection may consist of an appropriate external coating.

- (d) Cathodic Protection Requirements.

Owners/operators must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as a cathodically protected AST system is used to store regulated substances:

- (1) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.
 - (2) Performance criteria - The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association.
 - (3) Periodic Inspections - AST systems with impressed current cathodic protection systems must be inspected every 60 calendar days to ensure that the equipment is running properly.
- (e) Tanks that are not cathodically protected must be tested within 5 years after October 1, 1994; and once every two years thereafter by either;
- (1) An external visual inspection, that includes the bottom of the tank, for corrosion or other visible damage; or
 - (2) A leakage test of any type approved by the Director; or
 - (3) An internal inspection for corrosion or other visible damage; or
 - (4) Comply with some other alternative test for corrosion or leakage as specified by and approved by the Director in the future.

3-3-3 Release Detection

(a) General Requirements for all AST Systems.

- (1) ASTs that are not in contact with the ground or any electrolyte that might cause corrosion of the tank must be visually inspected at least once per month by operating personnel to detect any leakage from tank seams, connections, and fittings, including piping. Any such leakage must be repaired immediately and reported under the repair and reporting requirements of these regulations.
- (2) ASTs, including metal supporting structures, that are in contact with the soil or that are in contact with an electrolyte that may promote corrosion of the tank must be inspected as in subsection (1) above and be protected from corrosion or tested periodically to prove that they are not seriously corroded, as described in 3-3-2(e).
- (3) AST system piping that is not in contact with the soil or with an electrolyte that might cause corrosion of the piping must be inspected at least once each month to detect leakage from pipe seams, connections, and fittings. Any such leakage that may exceed the reportable quantity (25 gallons) must be repaired immediately and reported as in Article 4.
- (4) Underground AST piping shall meet the release detection requirements in 2-3-4-3.
 - (i) Pressurized piping described in 3-2-1 (g)(1)(i) shall meet the release detection requirements (automatic leak detector and line tightness testing) in 2-3-4-3(a), except that where there is no pump installed between the tank and underground piping, the requirement for an automatic line leak detector in 2-3-4-3(a)(1) does not apply.

- (ii) Suction piping described in 3-2-1(g)(1)(A) shall meet the release detection requirements in 2-3-4-3(b).
- (5) Inventory control shall be performed and documented for all single-wall ASTs installed on earthen materials, and all ASTs connected to underground pressurized piping that is not being monitored for releases in accordance with 2-3-4-3(a)(2)(ii). Accurate daily inventory records shall be maintained and reconciled for all applicable storage tanks.

(b) Release Detection for Secondary Containment Tanks

Secondary Containment tanks that are installed without special drainage or diking according to 3-3-1(b) or (c) must be visually inspected at least once each month to ensure that there has been no failure of the outer wall of the secondary containment tank. An interstitial liquid detector or some other positive means of leak detection must be installed to detect leaks from the inner wall of the tank; and operation of that leak detector must be verified at least monthly. A record of the inspection must be maintained [See § 3-3-5].

- (c) All AST system tank and piping fittings, connections, valves, auxiliary equipment that contains product, secondary containment areas, etc. must be maintained free of obstructions that would interfere with visual detection of leaks and spills.

3-3-4 Testing and Compliance Inspections

3-3-4-1 Testing

(a) Initial Testing

- (1) All new ASTs shall be tested before they are placed in service in accordance with the requirements of the standard or code under which they were built.
 - (i) An AST marked with an approved listing is considered to be in compliance with this requirement, as the testing is part of the standard to which it was constructed. Tanks not marked with an approved listing shall be tested before they are placed in service in accordance with recognized engineering standards.

(b) Tightness Testing

- (1) In addition to the initial testing of 3-3-4-1(a), all new and used tanks and connections shall be tested for tightness after installation/reinstallation and before being placed in service in accordance with manufacturer instructions, or NFPA 30 where no manufacturer instructions exist. This test shall be made at operating pressure with air, inert gas, or water.
 - (i) Air pressure shall not be used to test tanks that contain flammable or combustible liquids or vapors.
 - (ii) Where the vertical length of the fill and vent pipes is such that, when filled with liquid, the static head imposed on the bottom of the AST exceeds a gauge pressure of 10 psi, the tank and its related piping shall be tested hydrostatically to a pressure equal to the static head, using recognized engineering standards. Under no circumstances should the test pressure exceed the design pressure of the AST.

3-3-4-2 Inspections

- (a) All steel ASTs shall be inspected and maintained in accordance with STI SP001, *Standard for the Inspection of Aboveground Storage Tanks*, or API Standard 653, *Tank Inspection, Repair, Alteration, and Reconstruction*, whichever is applicable.

(b) Monthly Visual Inspections

The owner/operator must conduct visual inspections of the tank system each month and document the results of the inspection on a form provided by the Director or on an equivalent form. These monthly visual inspections satisfy the requirements described in 3-3-3 (a)(1) through (3).

(c) Annual Visual Inspections

(1) Annual inspections of all steel ASTs shall be performed, documented, and retained according to the requirements of STI SP001.

(i) This inspection does not include ultrasonic testing (UT), and can be performed by an individual knowledgeable of storage facility operations, the type of AST and its associated components, and characteristics of the liquid stored.

(ii) Annual inspections shall be performed within 12 months after April 14, 2011, and during the same month in each year thereafter.

(d) Periodic Inspections

(1) External and internal inspections, and leak testing, shall be performed and documented according to the requirements of the standard being followed.

(i) These inspections shall be performed by inspectors meeting the qualifications required by the standard being followed.

(ii) The applicability and frequency of these inspections is determined by the AST type, capacity, type of installation, corrosion rate, inspection history, and standard being followed according to guidance provided by OPS.

(iii) For any new or used AST being installed, and all existing ASTs, the first inspections and testing required by this subsection are due as indicated in Table 8 below.

[Note: For Table 8, inspection frequency shall be determined based on the requirements in the selected inspection standard listed in (c)(1).]

TABLE 8		First External and Internal Inspections, and Leak Testing Due			
Type of AST		Age of AST	Previous inspections conducted?	Re-inspection due date is exceeded ?	The inspection is due
AST Installations	New	at the time of installation is new	No	N/A	when the age of the AST = the inspection frequency
	Used	at the time of installation is \leq the inspection frequency	Yes	Yes	before installation **
	Used	at the time of installation is \leq the inspection frequency	Yes **	No	re-inspect per subsection (iv) below
	Used	at the time of installation is \leq the inspection frequency	No	N/A	when the age of the AST = the inspection frequency
	Used	at the time of installation is $>$ the inspection frequency	Yes	Yes	before installation **
	Used	at the time of installation is $>$ the inspection frequency	Yes **	No	re-inspect per subsection (iv) below
	Used	at the time of installation is $>$ the inspection frequency	No	N/A	before installation **
Existing	on 10/14/2012 is \leq the inspection frequency	Yes	Yes	before 10/14/2012	
Existing	on 10/14/2012 is \leq the inspection frequency	Yes	No	re-inspect per subsection (iv) below	
Existing	on 10/14/2012 is \leq the inspection frequency	No	N/A	when the age of the AST = the inspection frequency	
Existing	on 10/14/2012 is $>$ the inspection frequency	Yes	Yes	before 10/14/2012	
Existing	on 10/14/2012 is $>$ the inspection frequency	Yes	No	re-inspect per subsection (iv) below	
Existing	on 10/14/2012 is $>$ the inspection frequency	No	N/A	before 10/14/2012	

****A copy of the inspection report must be included with the installation application required by 3-2-3(a).**

(iv) Re-inspection of all ASTs shall occur in the same month as the previous inspection, during the next inspection year established by the applicable inspection frequency.

(e) The Director shall have authority to enter in or upon the premises of any facility that contains an AST system containing a regulated substance, for the purpose of verifying that such AST system and its required records are in compliance with these regulations.

3-3-5 Record Keeping

(a) Owners/operators must maintain the following records for an AST site as applicable:

- (1) Installation permits for newly installed tanks, reinstalled used tanks or permits for upgrading existing tanks must be maintained for 5 years.
- (2) Tank registration records or record of facility ID number retained until closure.
- (3) Records of repairs that have been performed within the last 5 years.
- (4) Monthly and annual visual inspection records of the AST system must be kept for one year. Formal inspection reports and supporting documents shall be retained for the life of the tank.
- (5) Most recent underground piping precision test records must be maintained.
- (6) Records showing the history of each AST in terms of which Class and type of product has been stored in that tank, shall be maintained for at least one year.
- (7) Electronic/mechanical tank gauge calibration documentation required by 3-3-1(a)(2)(i) must be kept for one year.
- (8) Tank ullage documentation required by 3-3-1(a)(4)(ii)(A) must be kept for one year.

- (9) Inventory control records required by 3-3-3(a)(5) must be kept for one year.
 - (10) Free product removal records must be maintained to document proper operation following any release of product within the last five years.
 - (11) Records showing the changes in status of tanks that have been temporarily closed at times then returned to service, should be maintained for at least two (2) years. Records need not be kept for tanks that have been permanently closed.
 - (12) Records of the operation of the cathodic protection system including results of 60-day inspection as required in 3-3-2 (d)(3).
- (b) Records must be maintained at the AST site and immediately available for inspection by the Director; or at a readily available alternative site and be provided for inspection within 24 hours to the Director upon request.
 - (c) Notwithstanding the above, to be eligible for the Fund, persons may be required to maintain the above or other records in accordance with Fund requirements.

Section 3-4 Closure of AST Systems

3-4-1 Temporary Closure

- (a) Owners/operators shall notify the Director in writing at least 10 calendar days prior to placing an AST system in temporary closure, and at that same time submit records documenting the prior 12 months of monthly visual inspections, inventory control, ullage records, piping release detection records, and corrosion protection testing (if applicable) for tanks and piping. In lieu of submitting these records, the owner/operator may conduct a tightness test of the tanks and underground piping, and complete a site assessment as required by the Director, and submit these results with the temporary closure notification.
- (b) Temporarily closed tanks must be emptied of liquid, rendered vapor free and safeguarded against trespassing by means of locked gates, fences etc. When an AST system is temporarily closed, owners/operators must continue the operation, maintenance, inspection, and testing of corrosion protection in accordance with these regulations. Because the tanks must be emptied, release detection is not required.
- (c) When an AST system is temporarily closed, vent lines must be left open and functioning. If the temporary closure period is 3 months or more, all pumps, manways, ancillary equipment and lines other than vent lines must be capped and secured, unless an alternate schedule is approved by the Director.
- (d) When an AST system is temporarily closed for more than 12 months, owners/operators must permanently close the AST system in accordance with 3-4-2, unless the Director provides a written extension of the 12-month temporary closure period. Before requesting this extension, owners/operators must complete a site assessment as required by the Director.
- (e) Owner/operators shall notify the Director in writing no more than 30 calendar days prior to placing an AST back in service, and at that same time submit corrosion protection records (if applicable) for the period of temporary closure, and documentation of passing tightness tests for the AST conducted within the past 30 calendar days. The owner/operator shall obtain passing tightness tests for underground lines immediately upon introduction of fuel into the lines and submit documentation of testing to the Director within 10 calendar days.
- (f) If an owner/operator operates a facility which has a specific period of time or season during the year when the tank system is empty, as described in (b) of this section, the requirements for maintaining corrosion protection and the following requirements below will apply:

- (1) The owner/operator shall notify the Director that the facility does include seasonal operation on a form provided by the Director. If this information changes, the owner/operator shall complete and submit the form to the Director.
- (2) The period may not exceed 6 consecutive months.
- (3) The owner/operator shall maintain manifest documentation completed during emptying of the tank.
- (4) At the end of the seasonal period, the owner/operator must conduct one of the following actions:
 - (i) Return the tank to service.
 - (ii) Place the tank into proper temporary closure. The owner/operator must notify the Director in writing within 10 calendar days, submit records according to (a) as applicable and complete requirements in (c) immediately.
 - (iii) Permanently close the tank as required by 3-4-2.

3-4-2 Permanent Closure

- (a) Owners/operators shall notify the Director in writing at least 10 calendar days prior to placing an AST system in permanent closure, and at that same time submit records documenting the prior 12 months of monthly visual inspections, inventory control, ullage records, piping release detection records, and corrosion protection testing (if applicable) for tanks and piping.

Exception: Records do not need to be submitted where they have already been submitted as part of placing the tank into temporary closure as required by 3-4-1.

- (b) Empty and clean the tank by removing all liquids and accumulated sludges as described in 3-4-5; and
- (c) Clean out and plug both ends of all connected piping; and
- (d) Remove all dispensers; and
- (e) Render all connected loading facilities completely inoperative; and
- (f) Safeguard the AST system from trespassing as described in 3-4-1, or remove the tanks from the facility; and

3-4-3 Change in Service

- (a) Continued use of an AST system to store a substance other than a regulated substance is considered a change-in-service. Before a change-in-service, owners/operators must empty and clean the tank, connected piping, and any other equipment that previously contained a regulated substance as described in 3-4-5; then notify the Director in writing of the change of service.

3-4-4 Site Assessment

- (a) Before an extension to temporary closure, permanent closure or a change-in-service is completed, or upon request by the Director for previously closed sites, owners/operators must measure for the presence of a release where contamination is most likely to be present at the site. In selecting sample types, sample locations, and measurement methods, owners/operators must consider the method of closure, the nature of the stored substance, the depth to groundwater, and other factors appropriate for identifying the presence of a release.

- (1) For assessments when the tank system is removed during permanent closure, the owner/operator must collect soil samples from beneath each tank, beneath each dispenser island, beneath areas of piping, and beneath any loading racks.
- (2) For assessments when the tank system is left in-place during permanent closure, prior to placing the tank into temporary closure, or when there is a change-in-service, the owner/operator shall collect samples of the type and at locations as specified by the Director. Samples collected at all sites must be analyzed for individual chemicals of concern (COC) as described in 5-2.
- (b) If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered, owners/operators must report a release in accordance with Article 4.
- (c) If the tank closure assessment does not identify a release, the owner/operator must submit documentation of the assessment to the Director within 30 calendar days of the tank closure.

[Note 1: Permanently closed or non-regulated ASTs may be returned to active regulated substance service only after meeting the reinstallation rules described in 3-2-3(d).]

[Note 2: These closure rules are the minimum required in Colorado; they do not preempt local fire district rules, local building codes, or local zoning rules. In fire districts where the Uniform Fire Code is in effect, the fire district may require that temporarily closed ASTs be removed or demolished.]

[Note 3: The following procedures may be used to comply with 3-4:

- (A) American Petroleum Institute Publication 2015, "*Cleaning Petroleum Storage Tanks*";
- (B) American Petroleum Institute Publ. 2015A, "*Lead Hazard Associated with Tank Entry*";
- (C) American Petroleum Institute 2015B, "*Cleaning Open Top and Floating Roof Tanks*";
- (D) National Institute for Occupational Safety and Health "*Criteria for a Recommended Standard...Working in Confined Space*" may be used as guidance for conducting safe closures.]

3-4-5 Waste Handling

- (a) All liquids and accumulated sludges must be removed and disposed of according to the rules adopted pursuant to the Solid Waste Disposal Regulations and the Colorado Hazardous Waste Regulations adopted by the Colorado Department of Public Health and Environment.

Section 3-5 Oil Pollution Prevention - SPCC Plan

The US EPA's SPCC rule regulates non-transportation-related onshore and offshore facilities that could reasonably be expected to discharge oil into navigable waters of the United States or adjoining shorelines. It is the responsibility of the facility owner/operator to make the determination whether the facility is subject to the requirements of the SPCC rule. This determination is subject to review by the EPA's Regional Administrator. All requests for information regarding SPCC should be directed to the US EPA.

Compliance with the US EPA's SPCC rule is required. Documentation used to demonstrate compliance with the US EPA's SPCC rule may be used to demonstrate compliance with this section.

ARTICLE 4 RELEASE IDENTIFICATION AND REPORTING

Section 4-1 Suspected Releases

The following conditions require reporting of a suspected release from a regulated UST or AST system to the Director within 24 hours by telephone (303-318-8547) or facsimile (303-318-8546). If outside normal working hours or on a weekend and emergency assistance is needed, call the emergency response number (877-518-5608) at the Colorado Department of Public Health and Environment:

- (a) A failed line or tank tightness test.
- (b) Unusual operating conditions such as the erratic behavior of product dispensing equipment.
- (c) The presence of water in the tank if investigation results indicate the UST system is not liquid tight.
- (d) Inventory loss as indicated by the release detection method (unless the release detection equipment is found to be defective, is immediately repaired, and the correctly operating release detection equipment does not identify a loss of fuel).
- (e) Inconclusive or failed SIR results that are not overturned by the third-party SIR vendor within 24 hours of the receipt of the report from the vendor.
- (f) Identification of a regulated substance in secondary containment:
 - (1) Under dispenser container (UDC), sump containments, tank or line interstitial space, when that regulated substance is in contact with a penetration point or damage (crack) to containment equipment.
 - (2) Spill prevention devices (spill bucket), when that regulated substance is in contact with a damaged portion of the device, or when damage to the bottom of the device is identified and the device is free of liquid.
- (g) The discovery of released regulated substances at the site or in the surrounding area, such as the presence of contamination, free phase hydrocarbons, or vapors in soils, basements or utility lines, or the presence of contamination in surface, ground, well or drinking water when the source of the contamination is not known.

Section 4-2 Response to Suspected Releases

In response to a suspected release, the owner/operator shall:

- (a) Perform a system test that determines whether a leak exists in that portion of the tank system that routinely contains product (i.e. tanks and attached delivery piping) or secondary containment devices (e.g. under dispenser containment) that is suspected of releasing regulated substance. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release. All system test results shall be submitted to the Director within 10 calendar days of the suspected release. If the system test has a failed result, a site check must be performed according to (b) of this section.
- (b) Perform a site check, if stained soils, soils with petroleum odors, or field screening readings is the basis for suspecting a release (4-1(g)). Owner/operators must collect soil and groundwater samples for laboratory analysis as described in 5-2(a). These samples must be collected from appropriate locations and depths in the vicinity of the suspected source(s) (i.e. tanks, lines, dispensers) to determine if a release to the environment has occurred. All site check results shall be submitted to the Director within 30 calendar days of the suspected release.

Section 4-3 Confirmed Releases

The following conditions require reporting of a confirmed release to the Director within 24 hours by telephone (303-318-8547) or facsimile (303-318-8546). If outside normal working hours or on a weekend and emergency assistance is needed, call the emergency response number (877-518-5608) at the Colorado Department of Public Health and Environment.

- (a) The site check or other sample analyses indicate a release (any detection of any chemical(s) of concern),
- (b) A released regulated substances at the site or in the surrounding area is observed, such as the presence of fuel outside of the storage tank system, identification of contamination during routine inspections, system repairs, installation, replacement or other sub-pavement work, the presence of contamination, free phase hydrocarbons or vapors in soils, basements or utility lines, or the presence of contamination in surface, ground, well or drinking water when the source of the contamination is known to be the owner/operator's UST or AST system, or
- (c) If a fuel spill or overfill of regulated substance of any volume is not cleaned up within 24 hours or if a fuel spill or overfill of regulated substance that exceeds 25 gallons is observed.

[Note: Pursuant to 40 CFR § 302.6 and 355.40, a release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986.]

ARTICLE 5 RELEASE RESPONSE

Section 5-1 Response to Confirmed Releases

The owner/operator of a regulated substance system shall, in response to a confirmed release, comply with the requirements of these regulations, which incorporate a risk-based corrective action (RBCA) approach. Any work performed or required under these regulations does not automatically qualify the owner/operator for reimbursement from the Petroleum Storage Tank Fund (PSTF). The obligation of the owner/operator responsible for the release remains with that owner/operator in the event that the tank system and/or property changes ownership.

5-1-1 Acute human health hazards

Upon discovery of a regulated substance on ground surface or surface water, or if a regulated substance has the potential to create a fire, explosion or acute health hazard, emergency response action shall be initiated immediately.

The owner/operator responsible for the release shall:

- (a) Identify and mitigate fire, explosion, vapor and acute health hazards by contacting the local fire department or other first-responder and conducting other mitigation activities as capability allows;
- (b) Identify and mitigate impacts to water supply wells, supply lines or surface intake;
- (c) Initiate containment and removal of any free-phase hydrocarbons observed on the ground surface or surface water body; and
- (d) Report identification of either (a), (b) or (c) of this subsection to OPS within 24 hours of discovery.

5-1-2 Chronic and secondary human health hazards and other environmental impacts

After abatement of any acute human health hazards, the owner/operator responsible for the release shall:

- (a) Take action to prevent any further release into the environment;
- (b) Identify the source of the release and repair, replace or upgrade the portion of the petroleum storage tank system that failed;
- (c) Monitor and mitigate any health hazards posed by vapors or free-phase hydrocarbons that have entered into subsurface structures (such as sewers or basements); and
- (d) Remedy hazards posed by contaminated media that are excavated or exposed as a result of abatement activities. The owner/operator must comply with applicable state and local requirements if these remedies include treatment or disposal of contaminated media.

Section 5-2 Site Characterization

The purpose of site characterization is to define the extent of source area(s) of the release, determine the distribution of contamination in the subsurface, determine if POEs are impacted or potentially impacted, evaluate all exposure pathways and determine whether active remediation is necessary. Site characterization results must be submitted to OPS within 180 days of the release discovery in the report format provided on the OPS website.

Upon confirmation of a release and completion of emergency response, the owner/operator shall complete the following tasks.

- (a) Define the extent of the source area(s) and determine the distribution and extent of sorbed, dissolved, vapor and free-phase contamination. Access must be obtained to off-site properties, including rights-of-way, if the extent of contamination extends beyond the release property boundary.
- (1) Collect environmental samples to define the extent of contamination in the subsurface. Groundwater must be assessed unless there is reason to believe that it is not impacted and with the concurrence of the Director.
- (2) Laboratory analysis of samples shall be as follows.
- (i) Soil samples:
 - (A) Benzene, toluene, ethyl benzene, xylenes (BTEX);
 - (B) The appropriate range(s) of total petroleum hydrocarbons (TPH);
 - (C) Priority poly-nuclear aromatic hydrocarbons (PAHs) must be analyzed for from the sample with the highest TPH concentration if TPH exceeds the Tier I screening level of 500 mg/kg; and
 - (D) Other petroleum fuel additives or petroleum compounds that are suspected to have been released.
 - (ii) Groundwater samples:
 - (A) BTEX, methyl tertiary-butyl ether (MTBE);
 - (B) The appropriate range(s) of TPH; and
 - (C) Other petroleum fuel additives or regulated compounds that are suspected to have been released.
 - (iii) Soil vapor samples:
 - (A) Benzene.
- (3) Identify all concentrations relative to the Tier I risk-based screening levels (RBSLs) listed in Table 5-1.

Table 5-1. Tier I RBSLs.

Media	Complete Exposure Pathway	Benzene	Toluene	Ethyl-benzene	Xylenes	MTBE
Surficial Soil [mg/kg]	Ingestion/ Dermal/ Inhalation	2.8	4,000	2,100	10,000	N/A
Subsurface Soil [mg/kg]	Leachate to Groundwater Ingestion	0.26	140	190	>Sat* or 260**	N/A
Soil Vapor [µg/m³]	Indoor Air Inhalation	2,900	>VP	>VP	>VP	N/A

Groundwater [mg/l]	Indoor Air Inhalation	0.016	10	26	2.9	N/A
	Groundwater Ingestion	0.005	1.0	0.7	10* or 1.4**	0.020

> VP Denotes that even at a concentration equal to the vapor pressure of the chemical, a hazard quotient of 1 is not exceeded.

> Sat Denotes that even at a concentration equal to the saturation of the chemical, a hazard quotient of 1 is not exceeded.

N/A Not applicable. No established RBSL.

* This RBSL will be in effect for releases that occurred prior to September 14, 2004.

** This RBSL will be in effect for releases that occurred on or after September 14, 2004

(b) Collect site-specific geologic and hydro-geologic data.

- (1) Determine the predominant lithology in the unsaturated and saturated zones;
- (2) Determine the depth to water, hydraulic gradient and groundwater flow direction;
- (3) Determine the site-specific hydraulic conductivity; and
- (4) Evaluate other geologic conditions that influence groundwater flow.

(c) Evaluate all exposure pathways and identify impacted or potentially impacted POEs.

(d) Calculate Tier II site-specific target levels (SSTLs) for on-site contamination.

(e) Develop a Conceptual Site Model (CSM).

Section 5-3 Corrective Action

The owner/operator shall develop and implement a Corrective Action Plan (CAP) based on the need for remediation identified during Site Characterization. The purpose of the CAP is to develop an approach to reach cleanup goals of less than Tier I RBSLs at the impacted POEs and to Tier II SSTLs on-site and calculate the time frame to achieve the cleanup goals. A completed CAP report must be submitted to OPS within one year of the release discovery date in the report format provided on the OPS website. Proposed scope of work costs must be presented if the release event is eligible for reimbursement from the PSTF.

(a) If active remedial action is not warranted, the owner/operator shall:

- (1) Calculate the time frame to achieve the remediation goals utilizing site-specific natural attenuation rates;
- (2) Present milestones to evaluate the natural attenuation progress; and
- (3) Present a monitoring and reporting schedule.

(b) If active remedial action is warranted, the owner/operator shall:

- (1) Define remedial objectives, identify targeted treatment areas, perform a remedial technology evaluation, and select a technically and economically feasible remedial approach.

- (2) Identify and collect critical data needs (e.g., pilot testing) for the selected remedy(s).
 - (3) Prepare a full-scale remediation design;
 - (4) Calculate the time frame to achieve the remediation objectives;
 - (5) Present an implementation schedule;
 - (6) Present milestones to evaluate remediation progress; and
 - (7) Present a monitoring and reporting schedule.
- (c) The owner/operator must implement the CAP immediately in accordance with the implementation schedule of the approved CAP, or as directed by the Director. The owner/operator must report the results of CAP implementation in accordance with a schedule and in a format approved by the Director. Any deviation from the approved CAP, including schedule revisions, must be approved by the Director.

Section 5-4 No Further Action Request

The owner/operator may request No Further Action (NFA) for a release when the owner/operator can demonstrate that contamination is at concentrations that are protective of human health and the environment at all POE(s) and that data collected confirms no future risk according to the RBCA process. NFA can be requested under Tier I and Tier II closure criteria at any time when the conditions are met. Tier III and Tier IV closure criteria will only be considered after corrective action measures have been implemented, contamination has been removed to the maximum extent practicable and all other closure conditions are met.

An NFA determination will be based on the empirical data provided, fate and transport modeling, current property use and exposure to known contamination. The release event may be re-opened if subsequent information indicates a change in exposure scenarios. OPS cannot release the owner or operator from any liability that may be associated with any contamination at or from this site.

In order to reduce the potential for risk of exposure to contamination, the owner/operator must contact OPS immediately if the function of the property is modified for a different use and the new use does not include dispensing of petroleum products.

ARTICLE 6 ENFORCEMENT

Section 6-1 Enforcement Program

The Director provides these regulations to assist owners/operators with safe and proper operation of regulated storage tank systems. When a facility is found to be out of compliance with these regulations (7 C.C.R. § 1101-14) and/or statutes (C.R.S. § 8-20 and 8-20.5), the Director will pursue enforcement actions against the owner/operator. The enforcement process will include requiring the owner/operator to make repairs and/or upgrades, perform system tests, keep records, and other actions to bring the facility back into compliance. During and following the enforcement process, the Director will continue to assist the owner/operator to remain in compliance. The enforcement process may include monetary penalties up to five thousand dollars (\$5,000) per tank per day according to statute (C.R.S. § 8-20.5-107) if the enforcement obligations are not implemented according to the required schedule. Additionally, reductions to reimbursement amounts may be applied in accordance with Article 8.

6-1-1 Notice of Violation

- (a) The Director may issue a Notice of Violation (NOV) when an owner/operator does not fully respond to actions as required by the Director:

- (1) Request for records.
 - (2) Requested actions as indicated by Director's inspector.
 - (3) Request for reports or information regarding release identification or response.
- (b) The Director may issue a NOV upon the discovery of a significant violation that poses an imminent threat to human health or safety or to the environment.
 - (c) Within ten (10) working days after a NOV has been issued, the owner/operator may file a written request with the Division Director for an informal conference regarding the NOV. If the owner/operator does not request an informal conference within this time frame, all provisions of the NOV shall become final and not subject to further discussion. If the NOV is not resolved within the time frame prescribed in the NOV, the Division Director may seek judicial enforcement of the NOV, or an Enforcement Order may be issued.

6-1-2 Enforcement Order

- (a) An Enforcement Order may be issued when the violations included within a NOV or Settlement Agreement are not resolved within the prescribed time frame. The Enforcement Order may include increased fines up to five thousand dollars (\$5,000) per tank for each day of violation. In addition, the Enforcement Order may include Delivery Prohibition (Section 6-2).
- (b) Within ten (10) working days after an Enforcement Order has been issued, the owner/operator may file a written request with the Executive Director (or designee) for an informal conference regarding the Enforcement Order. If the owner/operator does not request an informal conference within this time-frame, all provisions of the Enforcement Order shall become final and not subject to further discussion. If the Enforcement Order is not resolved within the prescribed time frame, the Director may then seek judicial enforcement of the Enforcement Order.

6-1-3 Informal Conference

- (a) Upon receipt of the request, the Director shall provide the owner/operator with notice of the date, time and place of the informal conference. The Director shall preside at the informal conference, during which the owner/operator and OPS personnel may present information and arguments regarding the allegations and requirements of the NOV or the Enforcement Order.
- (b) Within twenty working days after the informal conference, the Director shall issue a Settlement Agreement in which the issues from the NOV and/or Enforcement Order will be upheld, modified or stricken. The Settlement Agreement will include a schedule of required activity for resolution of the violations. If the terms and/or schedule in the Settlement Agreement are not satisfied, either an Enforcement Order will be issued, re-issued, or the Director may seek judicial enforcement.
- (c) The Settlement Agreement issued by the Director may be appealed within twenty working days to the Executive Director of the department. The Executive Director may either conduct the hearing personally or appoint an administrative law judge from the office of administrative courts in the department of personnel to conduct the hearing.

Section 6-2 Underground Storage Tank Delivery Prohibition

Delivery prohibition is an enforcement action prohibiting the delivery, deposit, or acceptance of product to an UST that has been determined by OPS to be ineligible for such delivery, deposit, or acceptance. For purposes of this section, the term "UST" means those tanks that satisfy the definition of UST in C.R.S. §8-20.5-101, except for those tanks identified in §8-20.5-101 17(b) and as defined in 2-1-1(b) as excluded or deferred storage tanks. These requirements apply to regulated substance USTs. OPS will prohibit delivery, deposit, or acceptance of product on an individual UST basis, instead of to every UST at a facility, except if warranted.

UST owners/operators and product deliverers are responsible for not delivering, depositing, or accepting product to a UST identified by OPS as ineligible to receive product.

6-2-1 Criteria for Delivery Prohibition

(a) Field Inspection: OPS shall prohibit delivery, deposit, or acceptance of product during an inspection if any of the following conditions exist.

- (1) Required spill prevention equipment is not installed or functional.
- (2) Required overfill protection equipment is not installed, or functional.
- (3) Required leak detection equipment is not installed, or functional.
- (4) Required corrosion protection equipment is not installed or functional.
- (5) Failure to register or maintain current registration on an UST.
- (6) Upon the discovery of a significant violation that poses an imminent threat to human health or safety or the environment. In addition to delivery prohibition, OPS may also require the removal of product from the tank:

(b) Enforcement Notice: OPS shall prohibit delivery, deposit, or acceptance of product if the owner/operator of that tank has been issued a written warning or citation (Settlement Agreement or Notice of Violation per C.R.S. § 8-20.5-107) under any of the following circumstances and the owner/operator has failed to take corrective action within the requested time frame.

- (1) Inability to demonstrate proper operation and/or maintenance of leak detection equipment.
- (2) Inability to demonstrate proper operation and/or maintenance of spill, overfill, or corrosion protection equipment.
- (3) Discovery of a significant violation that poses an imminent threat to human health or safety, or to the environment. In addition to delivery prohibition, OPS may also require the removal of product from the tank.

6-2-2 Red Tag Mechanisms Used to Identify Ineligible USTs

Upon determination that any of the criteria for delivery prohibition have been met, including the discovery of a significant violation that poses an imminent threat to human health or safety or the environment, OPS will attach a red tag to each fill pipe of the ineligible UST clearly identifying the tank as ineligible for delivery, deposit, or acceptance of product. Before affixing a red tag to the fill pipe of an UST system, OPS shall document the level of stored product in the tank.

(a) The red tag will be attached to the fill pipe using a tamper-resistant wire seal so that the tag is visible to any person attempting to deliver a regulated substance to the UST.

(b) The tag shall be red in color and made of plastic or other durable and damage resistant material and shall bear the following information:

- (1) The following wording, printed in white at the top of the tag in all capital letters in at least 36 point bold-faced type: "DELIVERY PROHIBITED!"
- (2) The following wording, printed in white below the wording described in subsection (b)(1) in at least 16 point type: "Delivering a regulated substance, or removing, defacing, altering, or otherwise tampering with this tag may result in civil penalties of up to \$5000 per day."

- (3) Printed below the wording described in subsection (b)(2), the following wording in at least 16 point type: "If you have questions call OPS (303) 318-8547"
- (4) Following the wording described above, there shall be a blank area at least 1/2 inch wide by four inches long in which the OPS inspector shall, at the time of placement, write legibly in permanent ink the date, facility identification number, product type, and the inspector's initials.

No owner or operator of a facility or delivery person may deposit or allow the deposit of a regulated substance into an UST system that has a red tag affixed to the system's fill pipe. Unless authorized by OPS, no person shall remove, deface, alter, or otherwise tamper with a red tag such that the information contained on the tag is not legible.

6-2-3 Notification Processes For UST Owners/Operators and Product Deliverers

- (a) Immediately after affixing a red tag, OPS shall notify the operator, if present on site, of the significant violation(s) for which the red tag was issued, along with a written report noting the violations. OPS shall also request current owner/operator contact information for future notifications.
- (b) Within 24 hours of affixing a red tag, OPS shall notify the owner in writing of the significant violation(s) for which the red tag was issued.
- (c) Within 24 hours of affixing a red tag, OPS shall add the red tagged tank(s) to the OPS website list of facilities that have delivery prohibitions.
- (d) If a permit is required by OPS in order to correct one or more significant violations identified, OPS shall, to the extent feasible, expedite its review and issuance of such permit(s).

6-2-4 Reclassifying Ineligible USTs as Eligible to Receive Product

- (a) Upon notification by the owner or operator documenting to the satisfaction of OPS that there was not a significant violation or the significant violation has been corrected, or an emergency condition as described in 6-2-6 exists, OPS shall provide verbal and written authorization to the owner or operator to remove the red tag. If OPS disputes the notification provided by the owner or operator, then the procedural provisions of C.R.S. § 8-20.5-107 shall apply, except that the owner/operator may request and be entitled to an informal conference with the Director within three working days. A delivery prohibition required by a red tag shall remain in effect during the time that the procedural provisions of C.R.S. § 8-20.5-107 are invoked, unless the owner or operator requests and the Director grants a stay of the effect of the red tag.
- (b) By close of business (5pm) on that same day, OPS will also remove that tank from the OPS website list of facilities that have delivery prohibitions.
- (c) OPS may inspect the UST system within five working days of notification to determine whether the system continues to be in significant violation, regardless of whether it has authorized removal of the red tag by the owner or operator. If, upon inspection, OPS determines that the system is no longer in significant violation and it has not already authorized removal of the red tag, OPS shall immediately remove the red tag.
- (d) Upon removing a red tag from an UST system, OPS shall document the level of stored product in the tank. If the owner or operator removes a red tag pursuant to written authorization by the field inspector, the owner or operator shall document the level of stored product in the tank immediately after removing the red tag.
- (e) A red tag that has been removed by the owner or operator shall be returned to the OPS within five working days, or sooner if requested by the field inspector.

6-2-5 Delivery Prohibition Deferral in Rural and Remote Areas

OPS may decide not to identify an UST as ineligible for delivery, deposit, or acceptance of product if such a prohibition would jeopardize the availability of, or access to, motor fuel in any rural and remote areas. However, OPS shall only defer application of delivery prohibition for 30 calendar days after determining that an UST is ineligible for delivery, deposit, or acceptance of product.

6-2-6 Delivery Prohibition Deferral in Emergency Situations

In emergency situations, the Director may decide not to identify an UST as ineligible for delivery, deposit, or acceptance of product if such a prohibition is not in the best interest of the public, even in the cases of significant and/or sustained noncompliance. In such emergency situations, OPS shall only defer application of delivery prohibition for up to 180 calendar days after determining an UST is ineligible for delivery, deposit, or acceptance of product.

6-2-7 Removal of Red Tag from Emergency Generator Tank Systems

OPS may remove or authorize the removal of a red tag from an emergency generator tank system before a significant violation has been corrected if OPS determines that an emergency situation exists requiring operation of the system and the delivery of petroleum is necessary for the continued operation of the system during the emergency.

ARTICLE 7 FINANCIAL RESPONSIBILITY REQUIREMENTS FOR OWNERS/OPERATORS OF PETROLEUM UNDERGROUND STORAGE TANKS

Section 7-1 Applicability

- (a) Owners and operators of petroleum underground storage tanks are required to demonstrate compliance with the financial responsibility (FR) requirements in federal regulations by any of the mechanisms described in 40 CFR 280.94 through 280.103. Per C.R.S. § 8-20.5-206, FR is required for underground storage tanks. Per the June 2015 revision of EPA regulations, airport hydrant fuel distribution systems, UST systems with field constructed tanks, and UST systems that store fuel solely for use by emergency power generators must also demonstrate FR. Approved mechanisms per these Colorado regulations are described later in this article. FR is intended to ensure that adequate monies are available in the event of an accidental release from a petroleum storage tank system to provide for cleanup of the release (corrective action) and to potentially compensate impacted third parties for bodily injury and property damage resulting from the release. According to 40 CFR 280.93, the amount of FR required ranges from \$500,000 up to \$2 million depending on the type of facility, monthly throughput of petroleum product and number of tanks. If an owner or operator cannot meet the required deductible amounts listed in Article 8, another FR mechanism must be identified and obtained in order for the owner or operator to remain in compliance and continue operation of the storage tank system.
- (b) This FR requirement applies to the following:
 - (1) Owners/operators of all petroleum UST systems except as otherwise provided in this section.
 - (2) If the owner and operator of a petroleum UST are separate persons, only one person is required to demonstrate FR; however, both persons are jointly liable for release cleanup and third-party damages, if neither person complies with Article 7.
- (c) This FR requirement does not apply to the following:
 - (1) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States.
 - (2) Owners/operators of any UST system described in 2-1.

Section 7-2 Financial Responsibility Mechanisms

Mechanisms to satisfy FR as described in 7-1 are listed below:

- (a) 40 CFR Part 280.101 designates state funds as an approved mechanism. The Colorado Petroleum Storage Tank Fund, referred to in this section as the "Fund", is an EPA approved Fund to provide FR to tank owners and operators in the State of Colorado. Moneys in the Fund, created pursuant to C.R.S. Section 8-20.5-103, may be used by certain owners and operators of petroleum storage tanks to demonstrate their compliance with the FR requirements in federal regulations.
- (b) Owners and operators not eligible for access to the Fund shall be solely responsible for securing independent financial assistance, but may use any federally approved financial assurance mechanism identified in 40 C.F.R. 280.94 through 280.103 to help fund the cost of complying with such requirements. These federally approved mechanisms are as follows.
 - (1) Financial Test of Self-Insurance.
 - (i) An owner/operator may satisfy the requirements of C.R.S. § 8-20.5-206 by passing a financial test as specified in this section. To pass the financial test of self-

insurance, the owner/operator's net worth must be based on year-end financial statements for the latest fiscal year.

- (ii) The fiscal year-end financial statements of the owner/operator must be examined by an independent certified public accountant and be submitted along with the accountant's report of the examination.
- (iii) The owner/operator's year-end financial statements must not include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.
- (iv) To demonstrate that it meets the financial test under this subsection the chief financial officer of the owner/operator must sign, within 120 calendar days of the close of each financial reporting year, a letter stating that the owner/operator has met the financial test for self-insurance covering USTs at the facilities listed. The letter must contain a list of the facilities covered, and the following information must be provided for each facility: the name and address of the facility, the number of tanks at the facility, the size of each tank and the regulated substance contained in each tank.
- (v) If an owner/operator using the test to provide FR finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the owner/operator must obtain alternate coverage as described in this article within 150 calendar days of the end of the year for which financial statements have been prepared or within 30 calendar days of the date of the financial statement, whichever is earlier.
- (vi) The Director may require reports of financial condition from the owner/operator at any time. If the Director finds, on the basis of such reports or other information, that the owner/operator no longer meets the financial test requirements of this subsection, the owner/operator must obtain alternate coverage within 30 calendar days after notification of such a finding.
- (vii) If the owner/operator fails to obtain alternate FR within 60 calendar days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 calendar days of notification by the Director that he or she no longer meets the requirements of the financial test, the owner/operator must notify the Director of such failure within 10 calendar days.

(2) Insurance Coverage.

- (i) An owner/operator may satisfy the requirements of C.R.S. § 8-20.5-206 by obtaining a liability insurance policy that conforms to the requirements of this section from a qualified insurer or risk retention group.
- (ii) If the policy contains any type of deductible, the policy must state that the insurer will be liable for such deductible amount in the event of a default by the owner/operator.
- (iii) Each insurance policy must be issued by an insurer that is authorized to transact the business of insurance or authorized to provide insurance as an excess or surplus lines insurer in Colorado. The insurer must be in compliance with all applicable regulations, policies and procedures of the Colorado Division of Insurance.
- (iv) Each owner/operator must obtain a certificate of insurance from the insurer showing the name and address of each covered location, the policy number, period of coverage, name and address of the insurer and the name and address of the

insured for each facility covered by insurance. In the policy, the insurer must certify the following with respect to the insurance described herein.

- (A) Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this certificate applies.
- (B) When requested by the Director, the insurer agrees to furnish a signed duplicate original of the policy.
- (C) Notice of cancellation of the insurance by the insurer must be sent to the Director and to the insured at least 60 calendar days prior to the effective date of the cancellation of the insurance. However, if the cancellation is based on one or more of the following reasons, then such notice may be sent less than 60 calendar days prior to the effective date of the cancellation of the insurance: fraud; material misrepresentation; nonpayment of premium; or any other reason approved by the Commissioner of Insurance.
- (D) The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the insurer within six months of the effective date of the cancellation or other termination of the policy.

(3) Letter of Credit.

- (i) An owner/operator may satisfy the requirements of C.R.S. § 8-20.5-206 by obtaining an irrevocable letter of credit that conforms to the requirements of this section. The issuing institution must be an entity that has the authority to issue letters of credit in Colorado and whose letter of credit operations are regulated and examined by the Colorado Department of Regulatory Agencies.
- (ii) The letter of credit must be irrevocable for a term specified by the issuing institution. The letter of credit must provide that credit be automatically renewed for the same term as the original term, unless, at least 90 calendar days before the current expiration date, the issuing institution notifies the Director by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 90 calendar days will begin on the date when the Director receives the notice, as evidenced by the return receipt.
- (iii) The letter of credit must be payable to the Director and may be drawn on to cover corrective action and/or compensating third parties for bodily injury and property damage caused by accidental releases arising from operating the UST(s) identified in the letter of credit.
- (iv) The letter of credit must list the name(s) and address(es) of the covered facility(ies) where the tanks are located, the number of tanks at each facility and the regulated substances contained by the tanks at each facility.

(4) Trust Fund.

- (i) An owner/operator may satisfy the requirements of C.R.S. § 8-20.5-206 by establishing a trust fund that conforms to the requirements of this section. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Colorado Department of Regulatory Agencies.
- (ii) The trust fund, when established, must be funded for the full required amount of coverage.

- (iii) The trustee must be instructed to disburse funds from the trust fund to pay the costs of corrective action and/or third-party bodily injury and property damage only as directed or approved by the Director.

(5) Certificate of Deposit or Other Secured Financial Instrument.

A certificate of deposit or another financial instrument secured by an agency of Colorado or the US Government may be used to satisfy the requirements of C.R.S. § 8-20.5-206 provided that such financial instrument is made payable to the Director. Any interest or dividends payable by such instrument may be made payable to the owner/operator using this method of assuring FR. This financial instrument will be returned to the owner/operator by the Director only after the instrument has been replaced by an alternate FR mechanism or the owner/operator is released from the FR requirement under 7-3(f) below.

Section 7-3 Maintenance of Financial Responsibility

(a) Substitution of FR Mechanisms.

- (1) An owner/operator may use any alternate FR mechanism specified above provided that at all times the owner/operator maintains an effective FR mechanism that satisfies the requirements of C.R.S. § 8-20.5-206.
- (2) After obtaining alternate FR as specified in this Article 7, an owner/operator may cancel a prior FR mechanism by providing notice to the provider of FR.

(b) Cancellation by a Provider of FR.

If a provider of FR cancels or fails to renew for reasons other than incapacity of the provider as specified in subsection (c) below, the owner/operator must obtain alternate coverage within 60 calendar days after receipt of the notice of termination. If the owner/operator fails to obtain alternate coverage within 60 calendar days after receipt of the notice of termination, the owner/operator must notify the Director of such failure and submit:

- (1) The name and address of the provider of FR;
- (2) The effective date of termination; and
- (3) The evidence of the FR mechanism subject to termination, maintained in accordance with subsection (d).

(c) Reporting by Owner/Operator.

- (1) An owner/operator must submit current evidence of FR to the Director:
 - (i) Within 30 calendar days after the owner/operator identifies a release from an UST, which is required to be reported under Article 4.
 - (ii) Within 30 calendar days after the owner/operator receives notice of any of the following and fails to obtain alternate coverage as required by Article 7.
 - (A) Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), US Code, naming a provider of FR as a debtor;
 - (B) Suspension or revocation of the authority of a provider of financial responsibility to issue a FR mechanism; or
 - (C) Any other incapacity of a provider of FR. or

- (iii) As required by 7-2(b)(1) (vii) and 7-3 (b).
 - (2) An owner/operator must certify compliance with the FR requirements of Article 7 as specified in the new tank registration form when notifying the Director of the installation of a new UST under 2-2-3(f)(3).
 - (3) The Director may require an owner/operator to submit evidence of FR as described in subsection (d)(2) or other information relevant to compliance with Article 7 at any time.
- (d) Record keeping.
- (1) Owners/operators must maintain evidence of all FR mechanisms used to demonstrate financial responsibility for an UST until released under subsection (f). An owner/operator must maintain such evidence at the site or at the owner's or operator's place of business. Records maintained off-site must be made available upon request by the Director.
 - (2) An owner/operator must maintain the following types of evidence of FR:
 - (i) An owner/operator using a financial test of self-insurance must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent financial reporting year. Such evidence must be on file no later than 120 calendar days after the close of the financial reporting year or 30 calendar days from the date of the financial statement, whichever is earlier.
 - (ii) An owner/operator using a letter of credit must maintain a copy of the signed agreement and copies of any amendments to the agreement.
 - (iii) An owner/operator using an insurance policy must maintain a copy of the signed insurance policy, the certificate of insurance specified in subsection 7-2(b)(2)(iv) and any amendments to the policy.
- (e) Drawing on FR Mechanisms.
- (1) The Director shall require the insurer, trustee, or institution issuing a letter of credit or certificate of deposit to make available the amount of funds stipulated by the Director, up to the limit of funds provided by the financial responsibility mechanism if:
 - (i) The owner/operator fails to establish alternate FR within 60 calendar days after receiving notice of cancellation of insurance, letter of credit, or other FR mechanism; and
 - (ii) The Director determines or suspects that a release from an UST covered by the mechanism has occurred and so notifies the owner/operator or the owner/operator has notified the Director of a release from an UST covered by the mechanism.
 - (2) The Director may draw on these available funds when:
 - (i) The Director makes a final determination that a release has occurred and immediate or long term corrective action for the release is needed, and the owner/operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required; or
 - (ii) The Director has received either:
 - (A) Certification from the owner/operator, and the third-party liability claimant(s) and from the attorneys representing the owner/operator and the third-party liability claimant(s) that a third-party liability claim should be paid; or

- (B) A valid final court order establishing a judgment against the owner/operator for bodily injury or property damage caused by an accidental release from an UST covered by FR under Article 7; and the Director determines that the owner/operator has not satisfied the judgment.
- (f) Release from the Requirements. An owner/operator is no longer required to maintain FR under Article 7 for an UST after any necessary corrective action has been completed and the tank has been permanently closed or undergoes a change-in-service as required by these regulations.
- (g) Bankruptcy or Other Incapacity of Owner/Operator or Provider of FR.
 - (1) Within 10 calendar days after the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), US Code, naming an owner/operator as debtor, the owner/operator must notify the Director by certified mail of such commencement and submit a list of all affected UST facilities.
 - (2) An owner/operator will be deemed to be without the required FR in the event of a bankruptcy or incapacity of its provider of FR, or a suspension or revocation of the authority of the provider of FR to issue an insurance policy, letter of credit, or other FR mechanism. The owner/operator must obtain alternate FR as specified in Article 7 within 30 calendar days after receiving notice of such an event. If the owner/operator does not obtain alternate coverage within 30 calendar days after such notification, the owner/operator must notify the Director immediately.
- (h) Reestablishment of FR.
 - (1) Whenever the required amount of FR has been reduced by payment of claims due to a release at any facility, and the owner/operator is responsible for another facility or other facilities then the owner/operator must immediately reestablish the ability to pay the required amounts for any release at the other facility(ies).
 - (2) Whenever the required amount of FR for the owner/operator of a single facility has been reduced by payment of claims due to a release at a facility and the period of corrective action for that release has been completed, the owner/operator must then immediately reestablish the required amount of FR.

ARTICLE 8 PETROLEUM STORAGE TANK FUND

Section 8-1 Eligibility

- (a) Only the following persons are potentially eligible for reimbursement from the Fund, provided they meet the other criteria:
 - (1) The current owner/operator of a regulated UST or AST system;
 - (2) Any past owner/operator of a regulated UST or AST system; or
 - (3) Other persons considered not responsible for the release as set forth in C.R.S. § 8-20.5-206 (3)(a) through (e) and CRS 8-20.5-303 (3)(a) through (e).
- (b) Insurance companies or their agents are not eligible to make claims against the fund.
- (c) An applicant making any claim against the Fund shall be held accountable for compliance with the following requirements.
 - (1) Each applicant must meet the owner/operator criteria for corrective action as established by the Director.
 - (2) When required by the Director, an owner/operator must demonstrate that accurate and complete records are maintained that confirm a release detected on or after July 1, 1989, except for those releases discussed in 8-1(g).
 - (3) Each owner/operator must have registered the tank(s) and paid the current and past annual tank registration fees. Payment penalties and percent reductions may be imposed by the Committee for non-payment or late payment of registration fees for each petroleum storage tank owned.
 - (4) Each owner/operator must have paid the environmental response surcharge applied to petroleum products in Colorado and must not be in default on any obligation caused by the environmental response surcharge.
 - (5) Each owner/operator must be in substantial compliance (as determined by the Committee) with all Colorado laws and regulations that address the handling, storage, record keeping, and dispensing of regulated substances, including but not limited to C.R.S. § 8-20-230, 8-20-231, all of 8-20.5, and Code 30 and Code 30A of the NFPA, to be eligible for participation in the Fund.
 - (6) Each owner/operator must demonstrate evidence of FR of \$10,000 for corrective action and \$25,000 for compensation of third-party personal injury or property damage through the mechanisms or combination of the mechanisms contained in the financial responsibility established by the Director and in C.R.S. Sections 8-20.5-206 and 303.
 - (7) Each owner/operator must demonstrate that allowable costs have exceeded the deductible (as described in subsection (6)) for assessment and corrective action per C.R.S. § 8-20.5-208, 209, and 304.
 - (8) Each owner/operator must comply with the criteria for reporting of a release to the Director, including but not limited to C.R.S. § 8-20.5-208.

(d) A mortgagee making any claim against the Fund shall comply with the following requirements:

- (1) A mortgagee whose mortgage or deed of trust is dated before September 30, 1995 is eligible to participate in the Fund if the mortgagee has acquired, by foreclosure or receipt of a deed in lieu of foreclosure, the property on which the petroleum tank system is located and each of the following conditions has been met:
 - (i) The mortgagee has not actively managed the property during the period that it held a security interest;
 - (ii) The mortgagee has notified the Director of his/her acquisition of the property by certified mail (return receipt requested) or other documented delivery within 30 working days of the acquisition, if acquired after September 30, 1995;
 - (iii) The mortgagee has complied with all applicable corrective action requirements; and
 - (iv) The mortgagee is not affiliated with or related to the mortgagor.
- (2) A mortgagee whose mortgage or deed of trust is dated on or after September 30, 1995, is eligible to participate in the Fund if the mortgagee meets all provisions of subsection (1) above and has a Certificate of Eligibility issued pursuant to subsection (3) below. There must be an operating petroleum storage tank system, which is not orphaned or abandoned, on the property at the time a Certificate of Eligibility is issued. A Certificate of Eligibility may be issued at any time before foreclosure or receipt of a deed in lieu of foreclosure; however, if the certificate is issued prior to the loan closing, the certificate will only be effective upon closing. A Certificate of Eligibility will not cover contamination detected on a property before the Certificate of Eligibility is issued.
- (3) A Certificate of Eligibility may be issued to a mortgagee if the site is in compliance with all applicable laws, a Petroleum Storage Tank Status Sheet has been properly completed, and one of the following conditions has been satisfied:
 - (i) For a petroleum UST system:
 - (A) Documentation has been provided to the Director showing that all petroleum storage tanks and tank lines at the site passed a tightness test no more than 60 calendar days prior to the completion of the Petroleum Storage Tank Status Sheet; or
 - (B) Documentation has been provided to the Director showing tanks and lines at the site are monitored by a properly installed and operating third-party certified monthly monitoring device; or
 - (C) Documentation has been provided to the Director showing that an environmental site assessment performed no more than 60 calendar days prior to completion of the Petroleum Storage Tank Status Sheet indicates the site does not require site characterization or corrective action.
 - (ii) For an AST system, documentation has been provided to the Director showing that all underground lines at the site passed a tightness test no more than 60 calendar days prior to completion of the Petroleum Storage Tank Status Sheet and:
 - (A) The AST system meets the standards in 3-2-3(e) if installed before October 1, 1994;
 - (B) The AST system meets the standards for ASTs installed after September 30, 1994; or

(C) Documentation has been provided to the Director showing that an environmental site assessment performed no more than 60 calendar days prior to completion of the Petroleum Storage Tank Status Sheet indicates the site does not require initial site characterization or corrective action.

(4) A mortgagee who is eligible to participate in the Fund pursuant to these regulations may sell the property and transfer the Certificate of Eligibility to the buyer. The buyer may participate in the Fund pursuant to C.R.S. § 8-20.5-206 (3) and 303 (3) C.R.S., provided that:

(i) The buyer is not a former tank owner/operator of the site or an affiliate or relation to such a former tank owner/operator;

(ii) The buyer, within three months of acquiring the property from the mortgagee, completes and submits to the Director sufficient documentation to show that the site is in compliance with applicable regulations; or, within three months of acquiring the property, the Director approves a plan, submitted by the buyer, showing how and when the site will be brought into compliance; and,

(iii) Within six months of acquiring the property, the buyer either provides documentation to the Director showing that an environmental site assessment indicates the site does not require initial site characterization or corrective action, in which case the transferred Certificate of Eligibility is no longer a valid document; or, provides to the Director documentation that petroleum contamination is present on the property, in which case the transferred Certificate of Eligibility remains valid for the balance of the remediation, provided such remediation is conducted pursuant to Colorado statutes and regulations.

(e) Eligible Releases

Only releases satisfying all of the following criteria shall be considered eligible:

- (1) The release must be accidental in nature;
- (2) The storage tanks and related piping are regulated under these regulations and contain petroleum product regulated by these regulations;
- (3) Subject to any Committee policies on reimbursement, the Director has approved the design for corrective action at the site; and
- (4) Subject to any Committee policies on reimbursement, the Director has determined that the corrective action has, or when completed will have, adequately addressed the release in terms of protecting public health, welfare and the environment.

(f) Releases Not Eligible

Releases with the following criteria shall be considered not eligible:

- (1) Releases from USTs and ASTs used to store petroleum products intended for aviation purposes.
- (2) Releases from USTs and ASTs used to store petroleum products intended for use by railroad equipment or locomotives.
- (3) Releases from USTs and ASTs that are exempt or deferred in 2-1-1(b) and (c) and 3-1(b).

- (4) Releases at sites on the National Priorities List (NPL) or sites being cleaned up by the State under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). Owners and operators of tanks containing regulated substances other than petroleum are not eligible to the Fund but must demonstrate FR using some other approved FR mechanism.

(g) Eligibility of Expenses

- (1) Only expenses incurred on or after July 1, 1989 are potentially eligible for reimbursement. All expenses incurred before July 1, 1989 are not eligible for reimbursement.
- (2) For releases detected on or after December 22, 1988 but before July 1, 1989, expenses incurred on or after July 1, 1989, are potentially eligible for reimbursement only if the original application was submitted before January 1, 1992. This January 1, 1992 deadline does not apply to applicants determined to bear no responsibility for the release pursuant to statute.
- (3) Expenses related to releases detected before December 22, 1988 are not eligible for reimbursement.
- (4) Expenses related to tanks closed in place or removed before December 22, 1988 are not eligible for reimbursement. This December 22, 1988 deadline does not apply to applicants determined to bear no responsibility for the release pursuant to statute.

(h) In addition to the above, the following subsections apply to all ASTs,

- (1) The Director will make positive eligibility recommendations to the Committee for facilities that were in operation prior to October 1, 1994 provided that:
 - (i) Existing ASTs were installed and operated in substantial compliance with the applicable statutes and regulations that were in effect at the time the tank system was installed; and
 - (ii) Existing ASTs that were required to prepare and implement a "Spill Prevention, Control and Countermeasures" (SPCC) plan as specified in the 40 CFR Part 112 were in substantial compliance with that requirement.

[Note: Installation and operating rules can be found in NFPA Codes 30 and 30A that were in effect at the time of installation.]

- (2) The Director will also make positive eligibility recommendations to the Committee for facilities that were in operation prior to October 1, 1994, that are not able to demonstrate 100% compliance with the regulations in effect at the time the ASTs were installed, provided that:
 - (i) There are no serious safety violations, and the safety concerns listed here are satisfied.
 - (A) Adequate ventilation, either natural or forced must exist to guarantee that flammable liquid vapors cannot build up to 25% of the lower flammable limit anywhere because of the presence of the tank facility in question.
 - (B) Normal vent lines must be of sufficient capacity to ensure that no fuel drop will cause the pressure inside the tank to exceed the test pressure. A spark arrester cap is required at the end of the vent line and it must be located "in the clear" and at least 12 feet above ground level.

- (C) A label such as U.L. 142, UL ABOVEGROUND TANK, or equivalent must be attached to the tank to verify that it meets the emergency relief venting requirement of NFPA 30.
- (D) Adequate spill control, overflow prevention control, and secondary containment methods or devices must be provided and in regular use at the facility; and
- (ii) A SPCC plan, if required for the facility, has been developed, approved and followed.
- (3) The Director will consider closure of a facility and/or removal of non-compliant tanks to be a mitigating factor in making the recommendation to the Committee.
- (4) Nothing herein shall be construed to prevent the Committee from imposing percentage reductions upon applicants who are in substantial compliance with regulations but not in total compliance.

Section 8-2 Reimbursement

- (a) The owner/operator of the petroleum storage tanks from which a release has occurred, or another person eligible pursuant to statute, and for which corrective action has been performed, or his duly authorized agent; may file an application for reimbursement.
- (b) An application for reimbursement shall include a completed application form provided by the Director and shall contain the following:
 - (1) Legible copies of invoices according to the format required by the Director.
 - (2) The application shall provide proof of payment of invoices as follows:
 - (i) The amounts shown on the invoices for which reimbursement is requested have been paid in full by the applicant according to one of the following methods;
 - (A) Business receipts, indicating payments received;
 - (B) Fronts and backs of cancelled checks;
 - (C) The certification of a certified public accountant that the expenses for which reimbursement is requested have been paid in full;
 - (D) Provided the parties are unaffiliated and unrelated, a notarized affidavit signed by the person that performed the corrective action affirming that the amounts which the applicant represents as being paid were paid in full; or
 - (ii) Provided the parties are unaffiliated and unrelated, a notarized affidavit stating that the invoices relative to the referenced application for reimbursement from the Fund will be paid in full by the applicant upon receipt of the reimbursement in accordance with a promissory agreement.
 - (3) Any other information which the Committee may reasonably require.
- (c) Subject to Committee policies regarding reimbursement, all applicants must comply with all corrective action requirements and a corrective action plan (including a technical and economic feasibility summary) must be approved before costs, associated with the corrective action, are eligible. The applicant can be required to provide proof that all corrective action requirements have been met.

- (d) The applicant may file the application at any phase of the corrective action subject to any policies adopted by the Committee.
- (e) Incomplete submittals shall suspend processing of applications.
- (f) Technical information may be required by the Committee or the Director as part of any application for reimbursement:
 - (1) A detailed account of what corrective action has been taken, why specific actions were taken, when, by whom, and with what results.
 - (2) An estimate of other corrective action measures that may be required to remediate the facility and the estimated time required to complete such measures.
 - (3) Line and tank tightness tests, release detection and release prevention records. These records may include time periods ranging from six months to three years prior to a release or detection of contamination.
 - (4) Documentation that a release being cleaned up is not a new release requiring payment of a separate deductible, if the Director or the Committee has any information indicating a separate release may have occurred.
- (g) Applications for reimbursement shall be submitted according to the electronic format and location as required by the Director and by hard copy to:

Petroleum Storage Tank Committee
Department of Labor and Employment
Division of Oil and Public Safety
633 17th St, Ste 500
Denver, CO 80202-3610

- (h) The date of filing of any document shall be the receipt date stamped on the document.

Section 8-3 Allowable Costs

- (a) Allowable costs are those costs and expenses which arise directly from the performance of necessary corrective action in accordance with the requirements of the Director and are deemed reasonable by the Committee subject to the limitations prescribed by this section.
- (b) Allowable costs shall include but not be limited to the following:
 - (1) Abatement of impacts and immediate threats of impact to human health, safety, and the environment;
 - (2) Temporary provision of a water supply utilized specifically for domestic consumption;
 - (3) Collection and analysis of surface and subsurface soil and water, free phase hydrocarbons, and vapor samples;
 - (4) Emplacement of soil borings and/or monitor wells for remediation purposes;
 - (5) Removal, storage, treatment, recycling, transport, and disposal of free phase hydrocarbons, vapors, contaminated soils, contaminated water in accordance with applicable laws;
 - (6) Removal and disposal (including transport) of soils and pavement where removal is necessary to the performance of corrective action;

- (7) Identification and testing of affected or potentially affected drinking water sources;
- (8) Design of plans for site assessment and remediation;
- (9) Permitting, acquisition, installation, startup, operation and maintenance of site assessment and remediation systems, including monitoring;
- (10) Temporary relocation of utility structures when necessary to the performance of corrective action;
- (11) Preparation of technical reports required pursuant to the requirements of these regulations;
- (12) The fair market value of access to property outside of the facility boundaries where such access is necessary for the performance of corrective action;
- (13) Performance of any corrective action measure, which is specifically required by a section of these regulations, or an order of the Director, or a written request or confirmation by the Committee;
- (14) Equipment costs which are related solely to remediation. If the costs of the equipment is reimbursed by the Fund, when the equipment is no longer needed any salvage value of the equipment shall be returned to the Fund.
- (15) Bodily injury or property damage suffered by third parties.
- (16) Any other costs determined by the Committee to be allowable in accordance with the provisions of these regulations.
- (17) Costs associated with preparing and filing an application for reimbursement not to exceed 1% of the net allowable reimbursement per application up to a maximum of \$2,000 per event.

Section 8-4 Unallowable Costs

- (a) Costs and expenses which are not applicable to the performance of necessary corrective action in accordance with the requirements of the Director or are deemed unreasonable by the Committee are unallowable for reimbursement.
- (b) The following types of costs are not allowable for reimbursement.
 - (1) The cost of replacement, repair, maintenance, testing and upgrading of affected tanks and associated piping.
 - (2) The loss of income or profits, including without limitation, the loss of business income arising out of the review, processing, or payment of an application or request for assistance under these regulations.
 - (3) Decreased property values.
 - (4) Bodily injury or property damage except for injuries or damages suffered by third parties.
 - (5) Fees for legal services.
 - (7) The costs of making improvements to the facility beyond those that are required for corrective action.

- (8) Costs, including those associated with contamination assessments performed, for any purpose other than investigating the extent and impacts of a release, where no corrective action is required by Colorado statutes and regulations.
 - (9) Costs of compiling and storing records.
 - (10) Any activities, including those required by these regulations, which are not conducted in compliance with applicable state and federal environmental laws, including laws relating to the transport and disposal of waste.
 - (11) Penalties or payment for damages assessed by the Committee, Director, the Department of Public Health and Environment, and/or the Federal government.
 - (12) At the Committee's sole discretion, claims for reimbursement relating to a tank owned or operated by a person who has been convicted of a violation of any law or rule that relates to the installation, operation, or management of petroleum storage tanks.
 - (13) Costs in excess of those considered reasonable by the Committee.
 - (14) At the Committee's sole discretion, cleanup costs resulting from negligence or misconduct on the part of the owner/operator or applicant.
 - (15) Subject to Committee policy, costs incurred during the closure of a tank
 - (16) Costs for the rental of equipment owned by the applicant if the equipment was previously reimbursed by the Fund.
 - (17) Interest paid on loans.
 - (18) Costs that are a part of normal business expenses (i.e. insurance charges).
- (c) Any attempt by an applicant to claim reimbursement under circumstances when the applicant knew or should have known (this includes knowledge held by the applicant's environmental consultant) that some or all costs would be unallowed authorizes the Committee to reduce otherwise allowable costs submitted by the applicant (whether on the same or a different application). Any reduction imposed under this section shall be equal to the amount of the unallowed costs. This subsection applies only to the unallowed costs in subsections 8-4(b)(1), (6), (7), (8), (11), (15) and (16) above and only to applications received after March 1, 1997.

Section 8-5 Committee Review of Application

- (a) The Committee shall review each eligible original application received and make a determination of reimbursement, inform the applicant of its determination and, as appropriate, reimburse the applicant from the Fund.
- (b) Prior to approval of reimbursement, the Committee shall affirmatively determine that:
 - (1) Requested reimbursement expenses are:
 - (i) Eligible costs;
 - (ii) Reasonable as determined by the Committee;
 - (ii) Actually, necessarily incurred for the preparation or implementation of a corrective action plan approved by the Director or for eligible third-party damages.
 - (2) The applicant is:

- (i) Eligible for reimbursement; and
 - (ii) In substantial compliance with all applicable rules and regulations.
- (c) An application which does not contain all of the information required, may be rejected by the Committee, without prejudice. Rejection of the application by the Committee does not prevent the applicant from filing another application for the same release.
 - (d) The Committee is not required to commence the substantive review of an application until receipt of all information required from the applicant and the Director determines the application is properly and fully completed.
 - (e) If during the course of the substantive review, additional information of the type required by these regulations is needed to evaluate the application, the applicant may be required to provide such additional information. Further review of the application may be suspended until such information is received.
 - (f) The Committee's approval of the proposed corrective action(s) shall not be considered a finding or guarantee of safety or effectiveness of the plan(s). Nothing in these regulations shall be construed to abrogate or limit the immunity or exemption from civil liability of any agency, entity or person under any statute including the Colorado Governmental Immunity Act, Article 10 of Title 24 or C.R.S. § 13 21 108.5.
 - (g) The approval and disbursement of funds by the Fund and/or Committee does not constitute transfer of ownership of any contaminated soils, equipment, or related items relating to corrective action. Ownership of any and all items relating to corrective action will remain the property of the applicant.
 - (h) Multiple releases at a facility may be considered by the Committee either as single or separate releases to make the most efficient use of the Fund or to provide the most effective protection to human health or the environment.

Section 8-6 Fund Payment Report

- (a) Upon completion of the review of an application, the Committee shall prepare a Fund Payment Report (FPR) indicating which of the applicant's costs the Committee believes should be reimbursed and which costs should not be reimbursed. If the Committee finds that any cost should not be paid to the full amount requested, it shall briefly state the reasons in its report. The Committee shall submit a copy of its report to the applicant.
- (b) The applicant shall review the FPR and shall, if dissatisfied with any facts therein, file a written protest with the Committee within 60 calendar days of the date of the FPR. If the applicant does not file a written protest within the 60 calendar days, the applicant will have waived his/her right to object to anything covered by the FPR. After the 60 calendar days, everything regarding the application, including the amount of reimbursement and percentage reductions (including any reductions applicable to future applications), will be deemed final. However, costs determined to be not eligible cannot be protested.
- (c) The protest of the FPR must be signed by the applicant and contain any information required by the Committee or the Director, including a clear statement of each item which the applicant disputes on the FPR.
- (d) The protest shall be submitted on a form provided by the Committee or the Director.

Section 8-7 Miscellaneous Regulations

- (a) Nothing in these regulations precludes the Committee or the Director from issuing orders, assessing administrative penalties, or taking any other action permitted by law against any person for violation of any statute, regulation or order.
- (b) Nothing in these regulations changes the responsibilities of an owner/operator of a storage tank to respond to a release of regulated substances or to comply with any other state or Federal requirements, statutes, regulations or orders.
- (c) No person shall knowingly submit false information to the Committee as part of any materials required to be submitted under these regulations.
- (d) If an applicant owes money to the Fund or to the Director, including but not limited to penalties or past due registration fees, or owes money to any other State agency via the Vendor Offset Subsystem pursuant to CRS § 24-30-202.4, the amount owed will be deducted from any proposed reimbursement amount to the applicant.

ARTICLE 9 PETROLEUM CLEANUP AND REDEVELOPMENT FUND (REDEVELOPMENT FUND)

Section 9-1 Redevelopment Fund Purpose

The Redevelopment Fund is administered by OPS.

- (a) The Redevelopment Fund will enable investigation and cleanup of petroleum contamination at petroleum storage tank sites that are not eligible for reimbursement from the Petroleum Storage Tank Fund (PSTF). Cleaning up these sites will minimize risk to Colorado's groundwater resources and enhance the potential for these properties to be redeveloped or reused.
- (b) Redevelopment Fund monies are available in the form of reimbursement to property owners upon completion of one or more of the following approved activities:
 - (1) Petroleum UST removal.
 - (2) Site assessment to determine if contamination from petroleum storage tanks is present on the property (Level I activity).
 - (3) Site characterization if petroleum contamination is discovered on the property (Level II activity).
 - (4) Cleanup of the petroleum contamination (Level III activity).
- (c) This article includes sections pertaining to eligibility criteria, eligible activities, the application and funding process, establishing project costs and required cost-matching for assessment and cleanup actions. Additionally, this article defines the mechanism for distributing monies from the Redevelopment Fund.

Section 9-2 Eligibility Criteria

- (a) Eligibility to participate in the Redevelopment Fund is dependent on the applicant satisfying all of the following criteria:
 - (1) Applicant is the current property owner.
 - (2) Applicant can provide evidence that petroleum storage tanks are present or existed on the property.

- (3) Applicant is not eligible for reimbursement from the PSTF.
- (4) Applicant has a plan for redevelopment or reuse of the property.

Section 9-3 Eligible Activities

(a) Petroleum UST Removal

- (1) Approved applicants shall be eligible for up to \$2,000 in reimbursement of direct costs associated with each petroleum UST removed.
- (2) Requests for reimbursement can be made at any time following the documented completion of the tank removal.

(b) Level I Site Assessment

- (1) The Level I site assessment to measure for the presence of a petroleum release from a storage tank system is considered an eligible activity. To meet the requirement to obtain a NFA determination, the petroleum storage tank area, product line and dispenser locations must be evaluated.
- (2) All proposed work conducted in Level I must be clearly identified in a project work plan prior to beginning the assessment activities. The work plan shall include a budget projection and estimated project completion timeline. Work plans shall be submitted prior to conducting Level I activities.
- (3) All approved applicants shall be responsible for 10% of the Level I site assessment costs, which will be deducted from the reimbursement award.
- (4) The maximum amount payable from the Redevelopment Fund for a Level I site assessment is \$20,000.

(c) Level II Site Characterization

- (1) The Level II site characterization to establish the extent of petroleum contamination that exceeds the current OPS Tier 1 RBSLs and a simple activity, such as limited excavation of petroleum-impacted soils or the development of a cleanup corrective action plan, are considered eligible activities.
- (2) All proposed work conducted in Level II must be clearly identified in a project work plan prior to beginning the characterization activities. The work plan shall include a budget projection and estimated project completion timeline. Work plans shall be submitted prior to conducting Level II activities.
- (3) All approved applicants shall be responsible for 10% of the Level II site characterization costs, which will be deducted from the reimbursement award.
- (4) The maximum amount payable from the Redevelopment Fund for a Level II site characterization is \$30,000.

(d) Level III Cleanup

- (1) The Level III cleanup activities associated with an economically and technically feasible approach to mitigate petroleum contamination to an acceptable level are considered eligible activities.

(2) Requests for cleanup funding must include a project work plan that contains a discussion of the project technical feasibility and cleanup goals, budget projection and estimated project completion timeline.

(3) All approved applicants shall be responsible for 50% of the Level III cleanup costs, which will be deducted from the reimbursement award.

(4) The maximum amount payable from the Redevelopment Fund for a Level III cleanup is 50% of the eligible cost or \$500,000, whichever is less.

Section 9-4 Application Process

(a) Applications for environmental assessment, characterization and cleanup financial assistance can be submitted at any time utilizing application forms posted on the OPS website. Applications will be periodically reviewed and evaluated based on the applicant's ability to demonstrate the following:

(1) Project plan results in reducing risk to the environment from petroleum contamination.

(2) Applicant has the ability to meet Level I and II deductibles and has leveraged matching funds for Level III cleanup activities.

(3) Redevelopment or reuse plan generates a positive economic and/or social impact on the community.

(b) Successful applicants will be notified at least quarterly, subject to the availability of money in the Redevelopment Fund.

(c) Applicants from the same corporate family are not eligible for awards at more than one property per year.

Section 9-5 Eligible Costs and Reimbursement

(a) Costs associated with eligible activities completed during the application process and subsequent project site assessment, characterization and cleanup will be reimbursed.

(b) In general, project costs shall not exceed the current Reasonable Cost Guideline unit rates.

(c) Requests for reimbursement must include the following:

(1) Documentation of the work performed per project work plan.

(2) Proof of payment for all invoices submitted for reimbursement.

(3) Affidavit of work performed, with regards to services, material, and equipment procured by the applicant.

(d) Reimbursement of Level III cleanup costs shall be contingent upon completion of project milestones in the approved cleanup work plan.

Section 9-6 Contractual Agreements

Property owners that are eligible for Level I, II and III activities shall enter into a contractual agreement with OPS for the appropriate level. Upon execution of a contractual agreement, OPS will issue the property owner a notice to proceed that affirms a commitment to reimburse a specified amount of money from the Redevelopment Fund.

Notice of Proposed Rulemaking

Tracking number

2017-00034

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Oil and Public Safety

CCR number

7 CCR 1101-15

Rule title

LIQUEFIED PETROLEUM GAS (LPG) REGULATIONS

Rulemaking Hearing**Date**

03/02/2017

Time

09:00 AM

Location

633 17th Street, Suite 500; Denver, CO 80202

Subjects and issues involved

The last time the Colorado LP-Gas Regulation (7 CCR 1101-15) was revised was February 1, 2011. Since that time the codes incorporated by reference have been updated to reflect the most recent technology, standards and safety necessary for the preservation of the public health, safety and welfare of the citizens of Colorado where related to the design, construction, location installation, and operation of equipment for storing, handling, transporting, dispensing, and utilizing LPG. In addition there are several issues related to permitting and installations, safety when making deliveries of propane, leak testing, and training for transport operators that need updated and addressed in the regulation in order to continue to ensure public health, safety, and welfare.

Statutory authority

Sections 8-20-302, 8-20-402 and 8-20-405 of the Colorado Revised Statutes.

Contact information**Name**

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Title

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**COLORADO DEPARTMENT OF
LABOR AND EMPLOYMENT**

DIVISION OF OIL AND PUBLIC SAFETY

**LIQUEFIED PETROLEUM GAS (LPG)
REGULATIONS**

7 CCR 1101-15

Effective: May 1, 2017



**LIQUEFIED PETROLEUM GAS (LPG) REGULATIONS
COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF OIL AND PUBLIC SAFETY**

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ARTICLE 1 GENERAL PROVISIONS

Section 1-1 Basis and Purpose

The basis and purpose of these regulations is to: adopt ~~nationally~~ nationally-recognized codes and standards; to add or clarify terminology; to add or clarify the duties of LPG facility owners, delivery drivers, and certain users; and to improve the effectiveness of the division's LPG program.

Section 1-2 Technical Rationale

The technical requirements of these regulations are generally accepted as national and international codes and standards governing the minimum levels of acceptability for the design, construction, location installation, and operation of equipment for storing, handling, transporting, dispensing, and utilizing LPG. The adoption of these consistent standards is necessary for the preservation of the public health, safety and welfare of the citizens of Colorado.

Section 1-3 Statutory Authority

The amendments to these regulations are created pursuant to [Sections](#) 8-20-302, 8-20-402 and 8-20-405 of the Colorado Revised Statutes.

Section 1-4 Effective Date

These amended regulations shall be effective on [May 1, 2017](#). The previous versions of these regulations ~~was~~ were effective [February 1, 2011](#), and September 1, 2005, and ~~February 1, 2011~~.

Section 1-5 Codes Incorporated by Reference

Section 1-5-1 Codes incorporated by reference

The following codes are incorporated by reference:

- (a) NFPA 58, *Liquefied Petroleum Gas Code*, 2011~~17~~ edition. ~~excluding Chapters 11, 13 and all reserved sections.~~
- (b) NFPA 54, *National Fuel Gas Code*, 2009~~15~~ edition.
- (c) NFPA 30A, *Code for Motor Fuel Dispensing Facilities & Repair Garages*, 2008~~15~~ edition.
- (d) NIST Handbook 44, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, 2016 edition.
- (e) NIST Handbook 130, *Uniform Laws and regulations in the Areas of Legal Metrology and Engine Fuel Quality*, 2016 edition.

Section 1-5-2 Inspection of incorporated codes

Interested parties may inspect the referenced incorporated materials by contacting the LPG Program Manager, 633 17th Street, Suite 500, Denver, CO 80202. ~~or the State Depository Libraries.~~

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Section 1-5-3 Later amendments not included

These regulations do not include later amendments to or editions of the incorporated material.

Section 1-6 Definitions

Terms in these regulations shall have the same meaning as those found in Title 8, Article 20 and Title 9, Article 4 of the Colorado Revised Statutes. -In addition, unless the context otherwise requires:

API – American Petroleum Institute.

ASME International – Formerly the American Society of Mechanical Engineers (ASME).

ASTM International – Formerly the American Society for Testing and Materials.

Condemned – A **condemned container assembly and piping system** is one determined by a state inspector to be so unsafe that further use is prohibited until it is satisfactorily repaired or replaced.

Container assembly – A **container assembly** includes US Department of Transportation (DOT) and ASME containers, commonly known as tanks or cylinders.

CRS – Colorado Revised Statutes.

Division – The **Division of Oil and Public Safety**, is the regulatory agency of the Colorado Department of Labor and Employment having jurisdiction over propane container assemblies and piping systems as defined in these regulations.

DOT – United States Department of Transportation.

Existing installation – ~~is a~~ any LPG container assembly and piping system that has been placed into service and received its initial inspection by a state inspector.

FSA – Fire Safety Analysis, also known as *Product Release Prevention and Incident Preparedness Review* or *Incident Prevention Review*. An FSA is a plan incorporating the various safety features used to control the product and operations at the facility, an evaluation of hazard to the immediate neighborhood; and a tool to be used by an emergency response agency, such as the local fire department.

Handling – Transferring LPG into a DOT container or an ASME tank. -Handling does not include transporting of LPG.

Incident – A reportable accident, as defined by 8-20-407(1), CRS.

Incident ~~Prevention-prevention Review-review~~ – See definition under FSA.

Installer – Person or company responsible for setting up for use any container assembly and piping system required by LPG statute or regulation to be inspected.

Interruption of service – An interruption of gas service including an out-of-gas call, except for conducting a test.

LPG facility – Facility that has an LPG container assembly and piping system.

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LPG liquid meter – A meter designed to measure LPG liquid, with an active National Type Evaluation Program (NTEP) Certificate of Conformance (CC), which includes a metering chamber or device, vapor eliminator, differential valve, and register.

Marking – Container information located on container name-plate or stamped into the shell or collar of an LPG container. Marking is done in accordance with the regulations of the DOT, ASME, or API-ASME, and is done by the original container manufacturer or a repair organization authorized by the National Board to utilize the "R" code symbol stamp.

NACE – The National Association of Corrosion Engineers.

National Board – The National Board of Boiler and Pressure Vessel Inspectors.

New installation – Any container assembly that has been placed into service and but has not received its initial inspection by a state inspector.

NFPA – The National Fire Protection Association.

NIST – The National Institute of Standards and Technology.

Out-of-gas call – A request for LPG delivery to an empty tank.

PERC – The Propane Education and Resource Council.

Product Release-release Prevention-prevention and Incident-incident Preparedness preparedness Review-review – see definition under **FSA**.

Proved – The act of having verified the accuracy of meters used to measure fuel and petroleum products using a "prover".

Prover – A calibrated volumetric receiver or mechanical device traceable to NIST standards.

PSI – Pounds per square inch.

Registered Serviceperson-serviceperson – Any individual who, for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device and who voluntarily registers with the division.

Registered Service-service Agency-agency (RSA) – Any agency, firm, company or corporation that, for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device and that voluntarily registers with the division. Under agency registration, identification of individual servicepersons shall be required.

Retail – The sale of LPG from fixed dispensing equipment or by means of bobtail delivery truck, or such as at a fueling station, in small or individual quantities for direct consumption by the purchaser.

State Inspector-inspector – A person who is employed or authorized by the division to perform inspections of LPG facilities.

Section 1-7 Applicability

~~(a)~~ The regulations contained herein shall apply to the operation of all LPG container assembly and piping systems including the following:

- (1a) Containers, piping and associated equipment, when delivering LPG to a building for use as a fuel gas.
- (2b) Pipeline terminals, natural gasoline plants, refineries, tank farms, underground storage facilities, aboveground storage facilities, and chemical plants utilizing LPG in the manufacture of their products.
- (3c) The design, construction, installation, and operation of pipeline terminals that receive LPG from pipelines under the DOT jurisdiction of the US Department of Transportation, whose primary purpose is the receipt of LPG for delivery to transporters, distributors or users. Coverage shall begin downstream of the last pipeline valve or tank manifold inlet.

Section 1-8 Condemning an LPG Container Assembly and Piping System

- (a) Conditions which a state inspector may determine to be unsafe include: bypassed safety controls, inoperative relief valves, any gas leak from an LPG container assembly, any excessive gas leak from the piping system, missing nameplate, or any other condition deemed by a state inspector to be unsafe. A container assembly or piping system that meets any condition described above may be condemned by a state inspector.
- (b) The owner or user must shut down the condemned LPG container assembly and piping system as directed by a state inspector. If neither the owner nor user is available, a state inspector will cause the system to be shut down.
- (c) A state inspector will affix a notice to a condemned LPG container assembly and piping system stating that it has been condemned and may not be used until satisfactory repairs are made, as determined by a re-inspection by a state inspector or other person authorized by the division.

ARTICLE 2 INSTALLATION

Section 2-1 General Requirements

- (a) All new and existing LPG installations shall be constructed in accordance with the 2011 incorporated editions of the NFPA and NIST codes, 58, including any retroactive requirements adopted by the division at the time of installation.
- (b) All existing LPG installations shall be constructed in accordance with the incorporated editions of the NFPA and NIST codes in effect at the time of construction, including any retroactive requirements adopted by the division at the time of installation.

Section 2-2 Installation Applications-Permits

- (a) Plans for all installations utilizing LPG storage containers of over two thousand 2,000 gallons water capacity shall be submitted to the division for approval before construction, including installation, replacement, or relocation of such installations, begins.
- (b) Plans for any of the following shall be submitted to the division for approval before installation:
 - (1) Service stations supplying liquefied petroleum gas LPG for motor fuel.

(2) Installations for filling of ~~DOT cylinders (bottles) or other portable~~ and ASME mobile containers and containers marked to demonstrate compliance with Federal Aviation Administration regulations. ~~meeting U.S. Department of Transportation DOT specifications;~~

(3) Industrial bulk storage installations and all other bulk storage installations utilizing storage containers for ~~liquefied petroleum gas~~ LPG of over ~~two thousand~~ 2,000 gallons aggregate water capacity.

(c) The ~~application~~ permit procedures are as follows:

(1) The permit application shall be submitted on an application form approved and provided by the division.

(2) The application shall include a plot plan containing all elements required by the division.

(3) The division may deny the application if the proposed installation does not conform to the division LPG statute or regulation, or to codes adopted by the division, or if the application is incomplete or determined to be inaccurate.

(4) Construction and installation of tank and piping shall conform to code(s) in effect at the time of installation.

(5) The division may revoke ~~a permit~~ an approved application if construction is not performed per the approved ~~permit~~ application, or if the construction fails to meet operating or fire safety regulations established by the division or by the applicable NFPA Code.

(6) An installation ~~permit~~ application approved by the division is automatically revoked if construction does not begin within 6 months of approval, unless a written request for an extension is submitted to and approved by the division.

(7) For new installations with an aggregate over 4,000 gallons, an fire safety analysis (FSA) must be in effect prior to the operation of the installation per NFPA 58, following guidance from Annex A, ~~A.6.29.2~~ A.6.23.2 and ~~A.6.29.3~~ A.6.23.3, or another ~~nationally~~ nationally accepted standard approved in advance by the division.

~~(8)~~ A local authority having jurisdiction, including fire departments, may require and enforce more stringent requirements than these regulations.

Section 2-3 Access Requirements

(a) The division may inspect an LPG facility at any time during its construction. ~~Access shall be provided to the division or its agent for such purpose upon request.~~

(b) After an LPG ~~ASME~~ container has been installed, the division may inspect the container to verify compliance with design, construction, location, installation and operation requirements. ~~LPG facility owners, tank owners, and owners of locations where an LPG ASME container is installed shall grant inspection access to the division or its agent for such purpose upon request.~~

Section 2-4 Corrosion Prevention Requirements

(a) ~~Cathodic Corrosion~~ protection is required for all underground steel LPG tanks, and piping installed after September 1, 2005, and for all other underground steel LPG tanks by January 1, 2011.

(b) Corrosion protection shall meet the requirements of NFPA 58. ~~2014 edition, sections 5.2.1.11, 6.6.1.4, 6.6.6.1(i) through (M), 6.9.3.14, 6.9.3.16, and 6.17.~~

(b) A corrosion protection system shall be installed on new installations of underground steel containers, unless technical justification is provided to and is approved by the authority having jurisdiction. The corrosion protection system shall include the following:

(1) A container coating that is recommended for the service, which is applied in accordance with the coating manufacturer's instructions.

(2) A cathodic protection system that consists of a sacrificial anode(s) or an impressed current anode.

(3) A means to test the performance of the cathodic protection system.

(c) Cathodic protection systems shall be installed and tested in accordance with the provisions of NFPA 58, 2014 edition, sections 6.6.6, and 6.17, and documentation of the results of the two most recent tests shall be retained. (b) shall be monitored by testing and the results documented. Confirming tests shall be described by one of the following:

(1) Producing a voltage of -0.85 volts or more negative, with reference to a saturated copper-copper sulfate half cell.

(2) Producing a voltage of -0.78 volts or more negative, with reference to a saturated KCl calomel half cell.

(3) Producing a voltage of -0.80 volts or more negative, with reference to a silver-silver chloride half cell.

(4) Any other method approved by the division.

(d) Sacrificial anodes installed in accordance with subsection (b) above shall be tested in accordance with the following schedule:

(1) Upon installation of the cathodic protection system, unless prohibited by climatic conditions, in which case testing shall be done within 180 days after the installation of the system.

(2) For continued verification of the effectiveness of the system, 12 to 18 months after the initial test.

(3) Upon successful verification testing and in consideration of previous test results, periodic follow-up testing shall be performed at intervals not to exceed 36 months.

(4) Systems failing a test shall be repaired as soon as practical unless climatic conditions prohibit this action, in which case the repair shall be made not more than 180 days thereafter. The testing schedule shall be restarted as required in subsection (d)(1) and (2) above, and the results shall comply with subsection (c) above.

(5) Documentation of the results of the two most recent tests shall be retained.

(e) Where an impressed current cathodic protection system is installed, it shall be inspected and tested in accordance with the following schedule:

(1) All sources of impressed current shall be inspected and tested at intervals not exceeding two months.

(2) All impressed current cathodic protection installations shall be inspected and tested annually.

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- (f) ~~Prior to burial, the container shall be visually examined for damage to the coating. Damaged areas shall be repaired with a coating recommended for underground service and compatible with the existing coating.~~
- (d) ~~The~~ installers of ~~a~~ ~~the~~ cathodic protection systems ~~should~~ ~~shall~~ be ~~qualified~~ ~~trained~~ in the proper installation of cathodic protection systems, using the PERC Cathodic Protection Training Guide. Training shall be documented per Section 4-1 of these regulations, and refresher training shall be required at least every three years. ~~anodes to be used for cathodic protection, but is not required to be certified by NACE.~~

Section 2-5 Nameplates

- (a) When an ASME container assembly has a nameplate with a legible serial number, but has insufficient data to be in service, and there is a Manufacturer's Data Report (U1A) with a matching serial number and the container fits the description on the U1A, the owner/operator may then make application to the division for a tag bearing the manufacturer's name, ASME Code symbol, maximum allowable working pressure, UG or AG, (or both AG and UG) and water gallon capacity. If granted, the division shall issue an identifying tag to be permanently attached to the container by a state inspector.
- (b) When an ASME container assembly has no nameplate but there is sufficient data to prove that it once had a nameplate showing the critical data thereon, the owner/operator may then make application to the division for a tag bearing the manufacturer's name or trademark, ASME Code symbol, maximum allowable working pressure, UG or AG, (or both AG and UG) and water gallon capacity. If granted, the division shall issue an identifying tag to be permanently attached to the container by a state inspector. A copy of the container's U1A form shall be considered important data.
- (ac) When a container assembly and piping system has a nameplate whose stamping becomes indistinct, or the nameplate is lost or illegible, but trace-ability to the original container assembly item is still possible, the owner or user shall have the stamped data replaced as follows:
- (1) All re-stamping shall be done in accordance with the version of the code in effect at the time of container construction.
 - (2) A request for permission to re-stamp or replace a nameplate shall be made in advance to the division. ~~Proof of the original stamping and the manufacturer's data report,~~ shall be furnished with the request.
 - (3) Permission from the division is not required for the reattachment of nameplates that are partially attached.
 - (4) Re-stamping or replacement authorized by the division shall be witnessed by a state inspector.
 - (5) The stamping shall be identical to the original stamping. ~~When the Code symbol is to be re-stamped, it shall be done by the original manufacturer and witnessed by a state inspector.~~
 - (6) Replacement nameplates shall be clearly marked "replacement,".
 - (7) After replacing a nameplate, the owner or user shall file with the division a facsimile copy of the stamping or nameplate as applied and shall include the signature of the state inspector who witnessed the replacement.

- (b~~d~~) If replacement of the nameplate is not possible because the container assembly cannot be traced, a hydrostatic test or other test approved by the division must be performed if the container is to remain in service.
- (1) Such test shall be performed by an independent contractor experienced in hydrostatic tests. The test shall be conducted according to the procedure outlined in ASTM International Designation: E 1003 – 95 (Reapproved 2000) at 1.5 times working pressure (250 psi x 1.5 = 375 psi) to evaluate the integrity of the container.
- (2) The owner/operator may then make application, including the results of the hydrostatic test, to the division for an exception. ~~If granted, the division shall assign a number to the container and issue an identifying tag with that number to be permanently attached to the container by a state inspector.~~
- (3) With the division's approval, the container may continue to operate at that location indefinitely. The container shall not be moved and reinstalled at any location, including elsewhere at the same facility.
- (c~~e~~) If a container was installed prior to September 1, 2005, and is missing the nameplate, one of the following shall be performed:
- (1) The nameplate shall be replaced per Section 2-5-1 (a), ~~or of these regulations.~~
- (2) A hydrostatic test or other test approved by the division shall be performed and approval to operate the container granted by the division per Section 2-5 (b), ~~or of these regulations.~~
- (3) The container shall be permanently removed from service ~~by July 1, 2008.~~

Section 2-6 Fire Safety Analysis (FSA)

- (a) ~~For LPG installations in excess of 4,000 gallons in aggregate, that are approved for installation by the division before September 1, 2005, and with no significant modifications to the approved installation, the FSA shall be completed by August 31, 2006.~~
- (b~~a~~) For all new LPG installations in excess of 4,000 gallons in aggregate, ~~that are approved for installation by the division after September 1, 2005,~~ the FSA is required to be completed by the operational date of the installation.
- (c~~b~~) The FSA shall be prepared in accordance with the requirements of NFPA-58, including Annex A, A.6.29.2 ~~A.6.25.2~~ and A.6.29.3 ~~A.6.25.3~~, or any other nationally ~~nationally~~-accepted standard approved by the division in advance.
- (d~~c~~) It is not required that the FSA be prepared or approved by a professional engineer; however, the preparation should be completed by someone who, at a minimum, is familiar with the properties of propane, the application of NFPA 58, and the physical layout of the installation. ~~The preparer shall consult with the local fire protection district to complete the section of the FSA entitled "Evaluation of Fire Services and Water Supply Requirements."~~ Some modifications to the installation may require the services of a registered professional engineer.
- (e~~d~~) The most current FSA document shall be maintained at the LPG installation, where it shall be available for inspection by the division upon request.

Section 2-7 ~~Protection from Snow Load~~ Marking Underground Containers in Snow Areas

- ~~(a) LPG piping, regulators, meters, and other equipment installed in the piping system shall be protected from forces anticipated as a result of accumulated snow.~~
- (b) For LPG systems installed after February 1, 2012, LPG piping, regulators, meters, and other equipment shall be protected from forces described in (a) of this Section. The following methods of protection shall be acceptable:
- ~~(1) A structure built over the top of piping, regulators, meters, and other equipment on buildings.~~
 - ~~(2) By installing piping, regulators, meters, and other equipment on the gable end of buildings.~~
 - ~~(1) Locating aboveground piping, regulators, and meters above snow levels.~~
 - ~~(2) Locating aboveground piping, regulators, and meters on the gable end of buildings.~~
 - ~~(3) Protecting aboveground piping, regulators, and meters with extended roof overhangs and eaves.~~
 - ~~(4) Adding support to aboveground piping, regulators, and meters or securing them to the structure to withstand snow and ice load.~~
 - ~~(5) Installing dedicated covers for regulators, and meters that are designed to withstand a vertical static load equal to two times the ground snow load (psf) for the area but not less than 350 psf~~
- (ae) In areas where deep snow can be expected to cover ~~aboveground containers or~~ the dome lids of underground containers, ~~the such~~ containers shall be marked so that emergency and propane service company personnel can locate the tank for emergency shut down purposes or to service the tank. Such marking shall be accomplished by placing a stake or other marking that shall be installed higher than the anticipated maximum snow level up to a height of 15 feet.

ARTICLE 3 DELIVERY AND DISPENSING

Section 3-1 LPG Delivery

- ~~(a) A properly installed LPG system, including containers and piping, shall be filled by trained delivery personnel only after determining by observation that the accessible above ground outside components of the system comply with the design, fabrication, inspection, marking, and requalification provisions of NFPA 58, NFPA 54, Colorado LPG Regulations, and Colorado Revised Statutes. This observation is not intended to be a comprehensive inspection of the entire LPG system but shall be sufficiently detailed to determine that the accessible above ground outside components of the LPG system comply with provisions of NFPA 58, NFPA 54, Colorado LPG Regulations, and Colorado Revised Statutes.~~
- ~~(a) No person shall deliver LPG into an improperly installed system, or into a container that does not have appropriate marking, such as an ASME nameplate, stamping, or a nameplate approved and stamped by the division per Section 2-5.~~

(a) Containers shall be filled only after determination from the point of transfer that the installation of the container and visible exterior piping system comply with the provisions of NFPA 58 and ~~these~~ regulations.

~~(c) If delivery of LPG is refused due to an improperly installed system, the delivery personnel shall document the reason for refusing to deliver LPG into the system. Such documentation shall be included on a standard PERC stop service tag, or equivalent tag, which shall be affixed to the LPG tank service valve.~~

(be) It is permissible to fill an ASME tank whose nameplate or other marking is damaged, provided the following information can be determined:

(1) If the container is registered with the National Board and the facility can produce the Manufacturer's Data Report (U-1A and/or U-2A) form, the manufacturer's name and container's serial number must be legible.

(2) If the container is not a National ~~Board-Board~~-registered container, the manufacturer's name, the container's serial number, the ASME stamp, and the pressure rating must be legible.

(cd) If the nameplate or other marking is missing, delivery to the tank is prohibited. -Refer to Section 2-5 of these regulations for instructions on re-attaching or re-placing nameplates.

(de) Delivery to a container with corrosion that appears to be greater than 1/3 of the thickness of the metal is prohibited.

(ef) When noncompliance with the provisions of the incorporated codes is found, the container owner and/or ~~customer-user~~ of record shall be notified in writing.

Section 3-2 Delivery after Interruption of Service

(a) When delivery is made to an LPG container assembly that has had an interruption of service, as defined by these regulations, a ~~leak check test for leakage~~ shall be performed immediately after LPG ~~being is~~ introduced into the piping.

(b) The ~~leak check test for leakage~~ shall be performed according to one of the methods set forth in Annex D (*Suggested Method of Checking for Leakage*) of NFPA 54 or an other method approved by the division in advance.

(c) The person performing the ~~leak check test for leakage~~ shall document that the test was performed. The documentation shall include, at minimum, the following information:

(1) Date the test was performed;

(2) Test start time;

(3) Test end time;

(4) Name of person performing the test;

(5) Name of person's employer;

(6) Address and phone number of person's employer;

(7) Type of test;

(8) ~~Test start pressure and end pressure. If~~ a constant pressure is used, ~~the test start pressure and end pressure.~~

(d) Documentation of the ~~leak check test for leakage~~ shall be retained for a minimum of one year by the employer of the person who performed the test.

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Section 3-3 Dispensing

(a) The requirements of Sections 3-4 ~~of these regulations~~ shall apply to dispensers at retail facilities.

(b) All retail and non-retail LPG dispensers must comply with the minimum standards as prescribed by the applicable sections of the incorporated codes.

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Section 3-4 Retail Motor Fuel and Fuel Gas Dispenser Meter Inspection and Testing

(a) All retail LPG dispensers shall be suitable for their intended use, properly installed, and accurate, and ~~they~~ shall be maintained in that condition by their owner/operator.

(b) All retail LPG dispensers shall have an active National Type Evaluation Program (NTEP) Certificate of Conformance (CC) prior to ~~its~~ ~~their~~ installation or use for commercial purposes.

(c) The division shall be notified when any new or remanufactured retail LPG dispenser is placed in service at a new or existing installation.

~~(1)~~ Notification shall be submitted using a placed in service report provided by the division.

(d) No owner/operator of any retail LPG dispenser shall use the dispenser for the measurement of LPG unless it has been proved in a manner acceptable to the Director ~~of the division~~ and sealed as correct by a state inspector or registered service agency.

(e) If any retail LPG dispenser fails to comply with any of the provisions of this regulation, a state inspector shall seal it in such a manner as to prohibit its use, and it shall remain sealed until it complies with all of the provisions of this regulation.

~~(4)~~ When a retail LPG dispenser is brought back into compliance with ~~the~~ ~~se~~ regulations, it must be placed back in service by a state inspector or registered service agency.

(f) All retail LPG dispensers shall comply with the minimum standards as prescribed by the applicable sections of the incorporated codes, except as modified or rejected by ~~the~~ ~~se~~ regulations or by the director.

(g) All retail LPG dispensers shall be labeled in accordance with the minimum standards as prescribed by the applicable sections of the incorporated codes except as modified or rejected by ~~this~~ ~~these~~ regulations or by the ~~director~~ ~~division~~.

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Section 3-5 Bobtail Delivery Truck Meter Inspection and Testing

- (a) All LPG bobtail delivery truck metering systems shall be suitable for their intended use, properly installed, and accurate, and they shall be maintained in that condition by their owner/operator.
- (b) All LPG bobtail delivery truck metering systems shall have an active National Type Evaluation Program (NTEP) Certificate of Conformance (CC) prior to ~~its~~ their installation or use for commercial purposes.
- (c) The division shall be notified when any new or remanufactured LPG bobtail delivery truck metering systems is placed in service at a new or existing installation.
 - ~~(1)~~ Notification shall be submitted using a placed in service report provided by the division.
- (d) No owner/operator of any LPG bobtail delivery truck metering systems shall use the meter for the measurement of LPG unless it has been proved in a manner acceptable to the Director of the division and sealed as correct by a state inspector or registered service agency.
- (e) If any LPG bobtail delivery truck metering systems fails to comply with any of the provisions of this these regulations, a state inspector shall seal it in such a manner as to prohibit its use, and it shall remain sealed until it complies with all of the provisions of this these regulations.
 - ~~(1)~~ When an LPG bobtail delivery truck metering systems is brought back into compliance with this these regulations, it must be placed back in service by a state inspector or registered service agency.
- (f) All LPG bobtail delivery truck metering systems shall comply with the minimum standards as prescribed by the applicable sections of the incorporated codes except as modified or rejected by this these regulations or by the director division.
- (g) All retail LPG bobtail delivery truck meters shall be labeled in accordance with the minimum standards as prescribed by the applicable sections of the incorporated codes except as modified or rejected by this these regulations or by the director division.

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Section 3-36 Filling Containers by Weight

- (a) All cylinders less than 200 pounds water capacity (i.e., 400-100-pound cylinders), with the exception of fork lift cylinders and hot air balloon containers, shall be filled by weight.
- (b) Volumetric filling of forklift cylinders from bobtail delivery trucks shall be allowed in accordance with NFPA 58, Section 6.7 6-5 and Table 6.7.2.1, 6-5-3 and all personnel shall be trained in proper handling procedures in accordance with NFPA 58, Chapter 7. 2014 edition.
- (c) Scales used for filling LPG containers must be inspected annually and found to be in compliance with the specifications and tolerances published in the National Institute of Standards and Technology NIST Handbook 44. This certification must be performed either by the Colorado Department of Agriculture, or by a person authorized by the Colorado Department of Agriculture. Any necessary repairs must be completed within 30 days.
- (d) If the Colorado Department of Agriculture fails to perform the annual inspection in a timely fashion, the scale may remain in operation, provided the scale owner has not prohibited or hindered such inspection by the Colorado Department of Agriculture, and further provided that any repairs required at the most recent previous inspection have been completed.

ARTICLE 4 TRAINING REQUIREMENTS

Section 4-1 General Training Requirements

- (a) Any person who transfers LPG including, but not limited to, dispenser operators, bobtail delivery drivers, and transport operators, delivers or dispenses LPG, or who services or installs exterior piping of LPG vapor distribution systems, shall receive adequate training to perform all related duties safely and in accordance with the provisions of NFPA 58, 2014 edition, sections Sections 4.4, and 7.2. compliance with requirements per sections 4.4 and 7.2.1.1 of NFPA 58, 2014 edition.
- (b) The employer of any person referenced in (a) above, who delivers or dispenses LPG, or services or installs exterior piping of LPG vapor distribution systems, shall document that person's training and shall make these records available to the division or its agent upon request. The records shall include the following information, at minimum:
 - (1) Person's name;
 - (2) Training date(s);
 - (3) Name of trainer;
 - (4) Topics covered by training;
 - (5) Verification by the person's supervisor or certification described in this Article that the person has demonstrated adequate knowledge and skill to perform assigned duties.
- (c) For all training required under Sections 4-2 through 4-4 of these regulations, refresher training shall be required at least every three years. The training shall be documented.
- (d) The employer of the person who received the training shall maintain that documentation as long as the person remains an employee.

Section 4-2 Dispenser Operator Training

- (a) The minimum training requirements for dispenser operators, that shall be completed prior to operating LPG dispensers, may be satisfied by certification by either of the following:
 - (1) Certified Employee Training Program (CETP) [Basic Principles and Practices](#) as published by PERC;
 - (2) A training program which contains, at minimum, certification by the [PERC Dispensing Propane Safely](#) program.

Section 4-3 Delivery Personnel Training

- (a) The minimum training requirements for delivery personnel shall include:
 - (1) Proper procedure for filling an ASME container;
 - (2) Knowledge of when a leak check test for leakage is required;
 - (3) Proper procedure for conducting and documenting a leak check test for leakage;

- (4) Criteria for determining when filling a container is prohibited because of improper installation, or because of excessive corrosion, dents, or gouges;
- (5) Emergency procedures as outlined in the employer's FSA;
- (6) ~~Completion of the following training programs published by PERC: Certification by the Certified Employee Training Program~~
 - (A) CETP Basic Principles and Practices as published by PERC;
 - (B) CETP Bobtail Delivery Operations;
 - (C) CETP Basic Plant Operations;

- (b) All CETP training for delivery personnel shall be completed within one year of ~~assuming current job duties. hire date.~~

Section 4-4 Service and Installation Personnel Training

- (a) The minimum training requirements for those who service or install exterior piping of LPG vapor distribution systems may be satisfied by ~~completing the following training programs published by PERC:~~
 - (1) ~~Certification by the Certified Employee Training Program~~ CETP Basic Principles and Practices; and
 - (2) ~~CETP Preparing, Designing & Installing Exterior Vapor Distribution Systems; Components~~
 - (3) ~~CETP Placing Vapor Distribution Systems and Appliances into Operation; as published by PERC.~~

- (b) All CETP training for those who service or install exterior piping of LPG vapor distribution systems shall be completed within one year of ~~assuming current job duties. hire date.~~

Section 4-5 Transport Operator Training

- (a) The minimum training requirements for transport operators may be satisfied by completing the following training programs published by PERC:
 - (1) CETP Basic Principles and Practices;
 - (2) ~~CETP Basic Plant Operations;~~
 - (2) PERC Transport Operator Training Program
- (b) All CETP training for transport operators shall be completed within one year of ~~assuming current job duties. hire date.~~

ARTICLE 5 ACCIDENT REPORTS AND INVESTIGATIONS

Section 5-1 Reportable Accidents

- (a) Reports of accidents, fires, explosions, injuries, damage to property, or loss of life at installations using liquefied petroleum gas shall be reported to the division within ~~twenty-four~~²⁴ hours after their occurrence.
- (b) Subsection (a) of this Section includes accidents resulting from the improper use of equipment, appliances, and appurtenances to LPG systems. The division may investigate such occurrences and shall maintain a written record of findings, which shall be available ~~to~~^{for} public examination.

Section 5-2 Reporting Requirements

- (a) The following persons are required to notify the division of an LPG accident that meets any of the criteria of Section 5-1 of these regulations:
 - (1) Owner or the owner's representative of the LPG facility, if the accident occurred at the facility;
 - (2) Employer of the delivery personnel, if the accident occurred during delivery;
 - (3) Employer of the delivery personnel, if the accident occurred post-delivery and the employer received notification of it.
- (b) Accidents may be reported by telephone, ~~facsimile~~, or ~~electronic mail~~ ^{using the following information}:
 - (1) Telephone: 303-318-8547
 - (2) Email: cdle_oil_inspection@state.co.us
- (c) The accident report shall include, at minimum, the following information:
 - (1) The names of the operator and person making the report and their telephone numbers;
 - (2) The date, time and location of the accident;
 - (3) The number of fatalities and personal injuries;
 - (4) All other significant facts known by the person making the report that are relevant to the cause of the accident or extent of the damages.

**COLORADO DEPARTMENT OF
LABOR AND EMPLOYMENT**

DIVISION OF OIL AND PUBLIC SAFETY

**LIQUEFIED PETROLEUM GAS (LPG)
REGULATIONS**

7 CCR 1101-15

Effective: May 1, 2017



**LIQUEFIED PETROLEUM GAS (LPG) REGULATIONS
COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF OIL AND PUBLIC SAFETY**

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ARTICLE 1 GENERAL PROVISIONS

Section 1-1 Basis and Purpose

The basis and purpose of these regulations is to: adopt nationally-recognized codes and standards; to add or clarify terminology; to add or clarify the duties of LPG facility owners, delivery drivers and certain users; and to improve the effectiveness of the division's LPG program.

Section 1-2 Technical Rationale

The technical requirements of these regulations are generally accepted as national and international codes and standards governing the minimum levels of acceptability for the design, construction, location installation and operation of equipment for storing, handling, transporting, dispensing and utilizing LPG. The adoption of these consistent standards is necessary for the preservation of the public health, safety and welfare of the citizens of Colorado.

Section 1-3 Statutory Authority

The amendments to these regulations are created pursuant to Sections 8-20-302, 8-20-402 and 8-20-405 of the Colorado Revised Statutes.

Section 1-4 Effective Date

These amended regulations shall be effective on May 1, 2017. The previous versions of these regulations were effective February 1, 2011, and September 1, 2005.

Section 1-5 Codes Incorporated by Reference

Section 1-5-1 Codes incorporated by reference

The following codes are incorporated by reference:

- (a) [NFPA 58, Liquefied Petroleum Gas Code](#), 2017 edition.
- (b) [NFPA 54, National Fuel Gas Code](#), 2015 edition.
- (c) [NFPA 30A, Code for Motor Fuel Dispensing Facilities & Repair Garages](#), 2015 edition.
- (d) [NIST Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices](#), 2016 edition.
- (e) [NIST Handbook 130, Uniform Laws and regulations in the Areas of Legal Metrology and Engine Fuel Quality](#), 2016 edition.

Section 1-5-2 Inspection of incorporated codes

Interested parties may inspect the referenced incorporated materials by contacting the LPG Program Manager, 633 17th Street, Suite 500, Denver, CO 80202.

Section 1-5-3 Later amendments not included

These regulations do not include later amendments to or editions of the incorporated material.

Section 1-6 Definitions

Terms in these regulations shall have the same meaning as those found in Title 8, Article 20 and Title 9, Article 4 of the Colorado Revised Statutes. In addition, unless the context otherwise requires:

API – American Petroleum Institute.

ASME International – Formerly the American Society of Mechanical Engineers (ASME).

ASTM International – Formerly the American Society for Testing and Materials.

Condemned – A **condemned container assembly and piping system** is one determined by a state inspector to be so unsafe that further use is prohibited until it is satisfactorily repaired or replaced.

Container assembly – A **container assembly** includes US Department of Transportation (DOT) and ASME containers, commonly known as tanks or cylinders.

CRS – Colorado Revised Statutes.

Division – The **Division of Oil and Public Safety**, the regulatory agency of the Colorado Department of Labor and Employment having jurisdiction over propane container assemblies and piping systems as defined in these regulations.

DOT – United States Department of Transportation.

Existing installation – Any LPG container assembly and piping system that has been placed into service and received its initial inspection by a state inspector.

FSA – Fire Safety Analysis, also known as *Product Release Prevention and Incident Preparedness Review* or *Incident Prevention Review*. An FSA is a plan incorporating the various safety features used to control the product and operations at the facility, an evaluation of hazard to the immediate neighborhood and a tool to be used by an emergency response agency, such as the local fire department.

Handling – Transferring LPG into a DOT container or an ASME tank. Handling does not include transporting of LPG.

Incident – A reportable accident, as defined by 8-20-407(1), CRS.

Incident prevention review – See definition under *FSA*.

Installer – Person or company responsible for setting up for use any container assembly and piping system required by LPG statute or regulation to be inspected.

Interruption of service – An interruption of gas service including an out-of-gas call, except for conducting a test.

LPG facility – Facility that has an LPG container assembly and piping system.

LPG liquid meter – A meter designed to measure LPG liquid, with an active National Type Evaluation Program (NTEP) Certificate of Conformance (CC), which includes a metering chamber or device, vapor eliminator, differential valve and register.

Marking – Container information located on container name-plate or stamped into the shell or collar of an LPG container. Marking is done in accordance with the regulations of DOT, ASME or API-ASME and is done by the original container manufacturer or a repair organization authorized by the National Board to utilize the “R” code symbol stamp.

NACE – The National Association of Corrosion Engineers.

National Board – The National Board of Boiler and Pressure Vessel Inspectors.

New installation – Any container assembly that has been placed into service but has not received its initial inspection by a state inspector.

NFPA – The National Fire Protection Association.

NIST – The National Institute of Standards and Technology.

Out-of-gas call – A request for LPG delivery to an empty tank.

PERC – The Propane Education and Resource Council.

Product release prevention and incident preparedness review – see definition under **FSA**.

Proved – The act of having verified the accuracy of meters used to measure fuel and petroleum products using a prover.

Prover – A calibrated volumetric receiver or mechanical device traceable to NIST standards.

PSI – Pounds per square inch.

Registered serviceperson – Any individual who, for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device and who voluntarily registers with the division.

Registered service agency (RSA) – Any agency, firm, company or corporation that, for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device and voluntarily registers with the division. Under agency registration, identification of individual servicepersons shall be required.

Retail – The sale of LPG from fixed dispensing equipment or by means of bobtail delivery truck, or such as at a fueling station, in small or individual quantities for direct consumption by the purchaser.

State inspector – A person who is employed or authorized by the division to perform inspections of LPG facilities.

Section 1-7 Applicability

The regulations contained herein shall apply to the operation of all LPG container assembly and piping systems including the following:

- (a) Containers, piping and associated equipment, when delivering LPG to a building for use as a fuel gas.
- (b) Pipeline terminals, natural gasoline plants, refineries, tank farms, underground storage facilities, aboveground storage facilities and chemical plants utilizing LPG in the manufacture of their products.
- (c) The design, construction, installation and operation of pipeline terminals that receive LPG from pipelines under DOT jurisdiction, whose primary purpose is the receipt of LPG for delivery to transporters, distributors or users. Coverage shall begin downstream of the last pipeline valve or tank manifold inlet.

Section 1-8 Condemning an LPG Container Assembly and Piping System

- (a) Conditions which a state inspector may determine to be unsafe include: bypassed safety controls; inoperative relief valves; any gas leak from an LPG container assembly; any excessive gas leak from the piping system; missing nameplate; or any other condition deemed by a state inspector to be unsafe. A container assembly or piping system that meets any condition described above may be condemned by a state inspector.
- (b) The owner or user must shut down the condemned LPG container assembly and piping system as directed by a state inspector. If neither the owner nor user is available, a state inspector will cause the system to be shut down.
- (c) A state inspector will affix a notice to a condemned LPG container assembly and piping system stating that it has been condemned and may not be used until satisfactory repairs are made, as determined by a re-inspection by a state inspector or other person authorized by the division.

ARTICLE 2 INSTALLATION

Section 2-1 General Requirements

- (a) All new LPG installations shall be constructed in accordance with the incorporated editions of the NFPA and NIST codes. (b) All existing LPG installations shall be constructed in accordance with the incorporated editions of the NFPA and NIST codes in effect at the time of construction, including any retroactive requirements adopted by the division.

Section 2-2 Installation-Permits

- (a) Plans for all installations utilizing LPG storage containers of over 2,000 gallons water capacity shall be submitted to the division for approval before construction, including installation, replacement or relocation of such installations, begins.
- (b) Plans for any of the following shall be submitted to the division for approval before installation:
 - (1) Service stations supplying LPG for motor fuel.
 - (2) Installations for filling of DOT and ASME mobile containers and containers marked to demonstrate compliance with Federal Aviation Administration regulations.

- (3) Industrial bulk storage installations and all other bulk storage installations utilizing storage containers for LPG of over 2,000 gallons aggregate water capacity.

(c) The permit procedures are as follows:

- (1) The permit application shall be submitted on an application form approved and provided by the division.
- (2) The application shall include a plot plan containing all elements required by the division.
- (3) The division may deny the application if the proposed installation does not conform to the division LPG statute or regulation or to codes adopted by the division, or if the application is incomplete or determined to be inaccurate.
- (4) Construction and installation of tank and piping shall conform to code(s) in effect at the time of installation.
- (5) The division may revoke a permit if construction is not performed per the approved permit, or if the construction fails to meet operating or fire safety regulations established by the division or by the applicable NFPA Code.
- (6) An installation permit approved by the division is automatically revoked if construction does not begin within 6 months of approval, unless a written request for an extension is submitted to and approved by the division.
- (7) For new installations with an aggregate over 4,000 gallons, an FSA must be in effect prior to the operation of the installation per NFPA 58, following guidance from Annex A, A.6.29.2 and A.6.29.3 or another nationally-accepted standard approved in advance by the division.

A local authority having jurisdiction, including fire departments, may require and enforce more stringent requirements than these regulations.

Section 2-3 Access Requirements

- (a) The division may inspect an LPG facility at any time during its construction. Access shall be provided to the division or its agent for such purpose upon request.
- (b) After an LPG container has been installed, the division may inspect the container to verify compliance with design, construction, location, installation and operation requirements. LPG facility owners, tank owners and owners of locations where an LPG container is installed shall grant inspection access to the division or its agent for such purpose upon request.

Section 2-4 Corrosion Prevention Requirements

- (a) Corrosion protection is required for all underground steel LPG tanks and piping installed after September 1, 2005, and for all other underground steel LPG tanks by January 1, 2011.
- (b) Corrosion protection shall meet the requirements of NFPA 58.
- (c) Cathodic protection systems shall be installed and tested in accordance with the provisions of NFPA 58, and documentation of the results of the two most recent tests shall be retained.
- (d) Installers of cathodic protection systems shall be trained in the proper installation of cathodic protection systems, using the [PERC Cathodic Protection Training Guide](#). Training shall be

documented per Section 4-1 of these regulations, and refresher training shall be required at least every three years.

Section 2-5 Nameplates

- (a) When an ASME container assembly has a nameplate with a legible serial number but has insufficient data to be in service, and there is a Manufacturer's Data Report (U1A) with a matching serial number and the container fits the description on the U1A, the owner/operator may then make application to the division for a tag bearing the manufacturer's name, ASME Code symbol, maximum allowable working pressure, UG or AG (or both AG and UG) and water gallon capacity. If granted, the division shall issue an identifying tag to be permanently attached to the container by a state inspector.
- (b) When an ASME container assembly has no nameplate but there is sufficient data to prove that it once had a nameplate showing the critical data thereon, the owner/operator may then make application to the division for a tag bearing the manufacturer's name or trademark, ASME Code symbol, maximum allowable working pressure, UG or AG (or both AG and UG) and water gallon capacity. If granted, the division shall issue an identifying tag to be permanently attached to the container by a state inspector. A copy of the container's U1A form shall be considered important data.
- (c) When a container assembly and piping system has a nameplate whose stamping becomes indistinct, or the nameplate is lost or illegible but traceability to the original container assembly item is still possible, the owner or user shall have the stamped data replaced as follows:
 - (1) All re-stamping shall be done in accordance with the version of the code in effect at the time of container construction.
 - (2) A request for permission to re-stamp or replace a nameplate shall be made in advance to the division. Proof of the original stamping and the manufacturer's data report shall be furnished with the request.
 - (3) Permission from the division is not required for the reattachment of nameplates that are partially attached.
 - (4) Re-stamping or replacement authorized by the division shall be witnessed by a state inspector.
 - (5) The stamping shall be identical to the original stamping. When the Code symbol is to be re-stamped, it shall be done by the original manufacturer and witnessed by a state inspector.
 - (6) Replacement nameplates shall be clearly marked "replacement."
 - (7) After replacing a nameplate, the owner or user shall file with the division a copy of the stamping or nameplate as applied and shall include the signature of the state inspector who witnessed the replacement.
- (d) If replacement of the nameplate is not possible because the container assembly cannot be traced, a hydrostatic test or other test approved by the division must be performed if the container is to remain in service.
 - (1) Such test shall be performed by an independent contractor experienced in hydrostatic tests. The test shall be conducted according to the procedure outlined in ASTM International

Designation: E 1003 – 95 (Reapproved 2000) at 1.5 times working pressure (250 psi x 1.5 = 375 psi) to evaluate the integrity of the container.

- (2) The owner/operator may then make application, including the results of the hydrostatic test, to the division for an exception. If granted, the division shall assign a number to the container and issue an identifying tag with that number to be permanently attached to the container by a state inspector.
 - (3) With the division's approval, the container may continue to operate at that location indefinitely. The container shall not be moved and reinstalled at any location, including elsewhere at the same facility.
- (e) If a container was installed prior to September 1, 2005, and is missing the nameplate, one of the following shall be performed:
- (1) The nameplate shall be replaced per Section 2-5-1 (a) of these regulations.
 - (2) A hydrostatic test or other test approved by the division shall be performed and approval to operate the container granted by the division per Section 2-5 (b) of these regulations.
 - (3) The container shall be permanently removed from service.

Section 2-6 Fire Safety Analysis (FSA)

- (a) For all new LPG installations in excess of 4,000 gallons in aggregate an FSA is required to be completed by the operational date of the installation.
- (b) The FSA shall be prepared in accordance with the requirements of NFPA-58, including Annex A, A.6.29.2 and A.6.29.3 or any other nationally-accepted standard approved by the division in advance.
- (c) It is not required that the FSA be prepared or approved by a professional engineer; however, the preparation should be completed by someone who, at a minimum, is familiar with the properties of propane, the application of NFPA 58 and the physical layout of the installation. The preparer shall consult with the local fire protection district to complete the FSA. Some modifications to the installation may require the services of a registered professional engineer.
- (d) The most current FSA document shall be maintained at the LPG installation, where it shall be available for inspection by the division upon request.

Section 2-7 Marking Underground Containers in Snow Areas

- (a) In areas where snow can be expected to cover the dome lids of underground containers, such containers shall be marked so that emergency and propane service company personnel can locate the tank for emergency shut down purposes or to service the tank. Such marking shall be accomplished by placing a stake or other marking that shall be installed higher than the anticipated maximum snow level up to a height of 15 feet.

ARTICLE 3 DELIVERY AND DISPENSING

Section 3-1 LPG Delivery

- (a) Containers shall be filled only after determination from the point of transfer that the installation of the container and visible exterior piping system comply with the provisions of NFPA 58 and these regulations.
- (b) It is permissible to fill an ASME tank whose nameplate or other marking is damaged, provided the following information can be determined:
 - (1) If the container is registered with the National Board and the facility can produce the Manufacturer's Data Report (U-1A and/or U-2A) form, the manufacturer's name and container's serial number must be legible.
 - (2) If the container is not a National Board-registered container, the manufacturer's name, the container's serial number, the ASME stamp and the pressure rating must be legible.
- (c) If the nameplate or other marking is missing, delivery to the tank is prohibited. Refer to Section 2-5 of these regulations for instructions on re-attaching or re-placing nameplates.
- (d) Delivery to a container with corrosion that appears to be greater than 1/3 of the thickness of the metal is prohibited.
- (e) When noncompliance with the provisions of the incorporated codes is found, the container owner or user of record shall be notified in writing.

Section 3-2 Delivery after Interruption of Service

- (a) When delivery is made to an LPG container assembly that has had an interruption of service as defined by these regulations, a leak check shall be performed immediately after LPG is introduced into the piping.
- (b) The leak check shall be performed according to one of the methods set forth in Annex D (*Suggested Method of Checking for Leakage*) of NFPA 54 or another method approved by the division in advance.
- (c) The person performing the leak check shall document that the test was performed. The documentation shall include, at minimum, the following information:
 - (1) Date the test was performed
 - (2) Test start time
 - (3) Test end time
 - (4) Name of person performing the test

- (5) Name of person's employer
 - (6) Address and phone number of person's employer
 - (7) Type of test
 - (8) Test start pressure and end pressure if a constant pressure is used
- (d) Documentation of the leak check shall be retained for a minimum of one year by the employer of the person who performed the test.

Section 3-3 Dispensing

- (a) The requirements of Section 3-4 of these regulations shall apply to dispensers at retail facilities.
- (b) All retail and non-retail LPG dispensers must comply with the minimum standards as prescribed by the applicable sections of the incorporated codes.

Section 3-4 Retail Motor Fuel and Fuel Gas Dispenser Meter Inspection and Testing

- (a) All retail LPG dispensers shall be suitable for their intended use, properly installed and accurate, and they shall be maintained in that condition by their owner/operator.
- (b) All retail LPG dispensers shall have an active National Type Evaluation Program (NTEP) Certificate of Conformance (CC) prior to their installation or use for commercial purposes.
- (c) The division shall be notified when any new or remanufactured retail LPG dispenser is placed in service at a new or existing installation. Notification shall be submitted using a placed in service report provided by the division.
- (d) No owner/operator of any retail LPG dispenser shall use the dispenser for the measurement of LPG unless it has been proved in a manner acceptable to the Director of the division and sealed as correct by a state inspector or registered service agency.
- (e) If any retail LPG dispenser fails to comply with any of the provisions of this regulation, a state inspector shall seal it in such a manner as to prohibit its use, and it shall remain sealed until it complies with all of the provisions of this regulation.

When a retail LPG dispenser is brought back into compliance with these regulations, it must be placed back in service by a state inspector or registered service agency.

- (f) All retail LPG dispensers shall comply with the minimum standards as prescribed by the applicable sections of the incorporated codes, except as modified or rejected by these regulations or by the director.
- (g) All retail LPG dispensers shall be labeled in accordance with the minimum standards as prescribed by the applicable sections of the incorporated codes except as modified or rejected by these regulations or by the division.

Section 3-5 Bobtail Delivery Truck Meter Inspection and Testing

- (a) All LPG bobtail delivery truck metering systems shall be suitable for their intended use, properly installed and accurate, and they shall be maintained in that condition by their owner/operator.
- (b) All LPG bobtail delivery truck metering systems shall have an active National Type Evaluation Program (NTEP) Certificate of Conformance (CC) prior to their installation or use for commercial purposes.
- (c) The division shall be notified when any new or remanufactured LPG bobtail delivery truck metering systems is placed in service at a new or existing installation. Notification shall be submitted using a placed in service report provided by the division.
- (d) No owner/operator of any LPG bobtail delivery truck metering system shall use the meter for the measurement of LPG unless it has been proved in a manner acceptable to the Director of the division and sealed as correct by a state inspector or registered service agency.
- (e) If any LPG bobtail delivery truck metering systems fails to comply with any of the provisions of these regulations, a state inspector shall seal it in such a manner as to prohibit its use, and it shall remain sealed until it complies with all of the provisions of these regulations.

When an LPG bobtail delivery truck metering system is brought back into compliance with these regulations, it must be placed back in service by a state inspector or registered service agency.

- (f) All LPG bobtail delivery truck metering systems shall comply with the minimum standards as prescribed by the applicable sections of the incorporated codes except as modified or rejected by these regulations or by the division.
- (g) All retail LPG bobtail delivery truck meters shall be labeled in accordance with the minimum standards as prescribed by the applicable sections of the incorporated codes except as modified or rejected by these regulations or by the division.

Section 3-6 Filling Containers by Weight

- (a) All cylinders less than 200 pounds water capacity (i.e., 100-pound cylinders), with the exception of fork lift cylinders and hot air balloon containers, shall be filled by weight.
- (b) Volumetric filling of forklift cylinders from bobtail delivery trucks shall be allowed in accordance with NFPA 58, Section 6.7 and Table 6.7.2.1, and all personnel shall be trained in proper handling procedures in accordance with NFPA 58, Chapter 7.
- (c) Scales used for filling LPG containers must be inspected annually and found to be in compliance with the specifications and tolerances published in NIST Handbook 44. This certification must be performed either by the Colorado Department of Agriculture or by a person authorized by the Colorado Department of Agriculture. Any necessary repairs must be completed within 30 days.
- (d) If the Colorado Department of Agriculture fails to perform the annual inspection in a timely fashion, the scale may remain in operation, provided the scale owner has not prohibited or hindered such inspection by the Colorado Department of Agriculture, and further provided that any repairs required at the most recent previous inspection have been completed.

ARTICLE 4 TRAINING REQUIREMENTS

Section 4-1 General Training Requirements

- (a) Any person who transfers LPG including, but not limited to, dispenser operators, bobtail delivery drivers and transport operators, , or who services or installs exterior piping of LPG vapor distribution systems, shall receive adequate training to perform all related duties safely and in accordance with the provisions of NFPA 58, Sections 4.4 and 7.2.
- (b) The employer of any person referenced in (a) above, shall document that person's training and shall make these records available to the division or its agent upon request. The records shall include the following information, at minimum:
 - (1) Person's name
 - (2) Training date(s)
 - (3) Name of trainer
 - (4) Topics covered by training
 - (5) Verification by the person's supervisor or certification described in this Article that the person has demonstrated adequate knowledge and skill to perform assigned duties
- (c) For all training required under Sections 4-2 through 4-4 of these regulations, refresher training shall be required at least every three years. The training shall be documented.
- (d) The employer of the person who received the training shall maintain that documentation as long as the person remains an employee.

Section 4-2 Dispenser Operator Training

- (a) The minimum training requirements for dispenser operators, that shall be completed prior to operating LPG dispensers, may be satisfied by certification by either of the following:
 - (1) Certified Employee Training Program (CETP) [Basic Principles and Practices](#) as published by PERC
 - (2) A training program which contains, at minimum, certification by the [PERC Dispensing Propane Safely](#) program

Section 4-3 Delivery Personnel Training

- (a) The minimum training requirements for delivery personnel shall include:
 - (1) Proper procedure for filling an ASME container
 - (2) Knowledge of when a leak check is required
 - (3) Proper procedure for conducting and documenting a leak check
 - (4) Criteria for determining when filling a container is prohibited because of improper installation or because of excessive corrosion, dents or gouges

- (5) Emergency procedures as outlined in the employer's FSA
- (6) Completion of the following training programs published by PERC
 - (A) CETP [Basic Principles and Practices](#)
 - (B) CETP [Bobtail Delivery Operations](#)
 - (C) CETP [Basic Plant Operations](#)
- (b) All CETP training for delivery personnel shall be completed within one year of assuming current job duties.

Section 4-4 Service and Installation Personnel Training

- (a) The minimum training requirements for those who service or install exterior piping of LPG vapor distribution systems may be satisfied by completing the following training programs published by PERC.
 - (1) CETP [Basic Principles and Practices](#)
 - (2) CETP [Designing & Installing Exterior Vapor Distribution Systems](#)
 - (3) CETP [Placing Vapor Distribution Systems and Appliances into Operation](#)
- (b) All CETP training for those who service or install exterior piping of LPG vapor distribution systems shall be completed within one year of assuming current job duties.

Section 4-5 Transport Operator Training

- (a) The minimum training requirements for transport operators may be satisfied by completing the following training programs published by PERC.
 - (1) CETP [Basic Principles and Practices](#)
 - (2) PERC [Transport Operator Training Program](#)
- (b) All CETP training for transport operators shall be completed within one year of assuming current job duties.

ARTICLE 5 ACCIDENT REPORTS AND INVESTIGATIONS

Section 5-1 Reportable Accidents

- (a) Reports of accidents, fires, explosions, injuries, damage to property or loss of life at installations using liquefied petroleum gas shall be reported to the division within 24 hours after their occurrence.
- (b) Subsection (a) of this Section includes accidents resulting from the improper use of equipment, appliances and appurtenances to LPG systems. The division may investigate such occurrences and shall maintain a written record of findings, which shall be available for public examination.

Section 5-2 Reporting Requirements

- (a) The following persons are required to notify the division of an LPG accident that meets any of the criteria of Section 5-1 of these regulations:
 - (1) Owner or the owner's representative of the LPG facility, if the accident occurred at the facility
 - (2) Employer of the delivery personnel, if the accident occurred during delivery
 - (3) Employer of the delivery personnel, if the accident occurred post-delivery and the employer received notification of it
- (b) Accidents may be reported by telephone or email—using the following information:
 - (1) Telephone: 303-318-8547
 - (2) Email: cdle_oil_inspection@state.co.us
- (c) The accident report shall include, at minimum, the following information.
 - (1) The names of the operator and person making the report and their telephone numbers
 - (2) The date, time and location of the accident
 - (3) The number of fatalities and personal injuries
 - (4) All other significant facts known by the person making the report that are relevant to the cause of the accident or extent of the damages

Notice of Proposed Rulemaking

Tracking number

2017-00036

Department

2505,1305 - Department of Health Care Policy and Financing

Agency

2505 - Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

CCR number

10 CCR 2505-10

Rule title

MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY

Rulemaking Hearing**Date**

03/10/2017

Time

09:00 AM

Location

303 East 17th Avenue, 11th Floor, Denver, CO 80203

Subjects and issues involved

see attached

Statutory authority

25.5.1-301 through 303 (CRS 2016)

Contact information**Name**

Chris Sykes

Title

Medical Services Board Coordinator

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COLORADO

Department of Health Care
Policy & Financing

Medical Services Board

NOTICE OF PROPOSED RULES

The Medical Services Board of the Colorado Department of Health Care Policy and Financing will hold a public meeting on Friday, March 10, 2017, beginning at 9:00 a.m., in the eleventh floor conference room at 303 East 17th Avenue, Denver, CO 80203. Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303-866-4416 or chris.sykes@state.co.us or the 504/ADA Coordinator hcpf504ada@state.co.us at least one week prior to the meeting.

A copy of the full text of these proposed rule changes is available for review from the Medical Services Board Office, 1570 Grant Street, Denver, Colorado 80203, (303) 866-4416, fax (303) 866-4411. Written comments may be submitted to the Medical Services Board Office on or before close of business the Wednesday prior to the meeting. Additionally, the full text of all proposed changes will be available approximately one week prior to the meeting on the Department's website at www.colorado.gov/hcpf/medical-services-board.

This notice is submitted to you for publication, pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

MSB 16-12-23-A, Revision to the Medical Assistance Rule Concerning the \$20 Unearned Income Disregard, Section 8.100.5.H.4.a

Medical Assistance. This is a correction to the unearned income disregard methodology to comply with a corrective action issued by the Centers for Medicare and Medicaid Services (CMS). The current rule only allows \$20 to be disregarded off unearned income. However, if there is less than \$20 or no unearned income, the \$20 or remainder thereof must be applied to any earned income of the applicant and/or spouse. The rule is a correction to comply with federal regulations.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303, C.R.S (2016).

MSB 17-01-17-A, Revision to Medical Assistance Community Living Office Rule concerning the Home and Community Based Services Supported Living Services Waiver (HCBS-SLS), section 8.500.90.

Medical Assistance. This revision adds Consumer Directed Attendant Support Services (CDASS), as a service delivery option, to the rule governing the Home and Community Based Services Supportive Living Services Wavier (HCBS-SLS). This will allow individuals utilizing services in the HCBS-SLS waiver to direct their Personal Care, Homemaker and Health Maintenance waiver services, including recruiting their support staff, setting wages, supervising and setting their supports staff schedules.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303, C.R.S (2016).

Permanent Rules Adopted

Department

Department of Revenue

Agency

Division of Motor Vehicles

CCR number

1 CCR 204-10

Rule title

1 CCR 204-10 TITLE AND REGISTRATION SECTION 1 - eff 03/02/2017

Effective date

03/02/2017

~~DEPARTMENT OF REVENUE~~

~~Division of Motor Vehicles—Title and Registration Section~~

~~1 CCR 204-10~~

~~RULE 15. FALLEN SERVICE MEMBER LICENSE PLATES~~

~~BASIS~~ : ~~This regulation is promulgated under the authority of 42-1-102(24.5), 42-1-204, 42-3-213(1)(a)(XIV), 42-3-213(1)(f) and 42-3-213(15), C.R.S.—~~

~~PURPOSE~~: ~~The purpose of this regulation is to establish processes for the application and issuance of the Fallen Service Member license plate.—~~

~~1.0 Definitions~~

~~1.1 “Applicant” and “Authorized Family Member” mean the current or past spouse, child, sibling, grandparent, or parent of a person who has died in the line of duty while serving in the United States Armed Forces while deployed to a combat zone. The term “child” shall include adopted children and the term “parent” shall include parents of adopted children.—~~

~~a. Statutorily foster parents, foster children, step parents, step children, aunts, uncles, nieces, nephews, cousins, fiancée, and friends or associates of the fallen service member may not be considered an authorized family member for the issuance of a Fallen Service Member license plate.—~~

~~1.2 “Department” for the purpose of this regulation means the Department of Revenue, Title and Registration Sections.—~~

~~1.3 “Fallen Service Member License Plate” means a distinctive special license plate that honors service in the armed forces of the United States, and may be issued to an authorized family member of a person who has died in the line of duty while serving in the United States Armed Forces while deployed to a combat zone.—~~

~~2.0 Requirements~~

~~2.1 Eligibility for issuance of a Fallen Service Member license plate is based on an application process with the Department.—~~

~~a. Applicants shall provide a photocopy of a DD214 Form issued by the United States Government and any other evidence sufficient to demonstrate that the service member was serving in the U.S. Armed Forces and died in the line of duty while deployed to a combat zone.—~~

~~b. Applicants must provide documentation to the Department indicating that they are an authorized family member of the service member identified in—~~

~~regulation 2.1a. This documentation may include but not be limited to photocopies of birth certificates, death certificates, census records, obituaries, historical archives, naturalization records, military records, adoption records, marriage certificates, any combination thereof.~~

~~2.2 Vehicles eligible for Fallen Service Member license plates shall be limited to trucks that do not exceed sixteen thousand pounds empty weight, passenger cars, motorcycles, or noncommercial or recreational vehicles. Applicant's must be listed as an owner of the vehicle for which he/she intends to register the Fallen Service Member license plates to.~~

~~2.3 The type of Fallen Service Member license plate issued will be based on the branch of the Armed Forces in which the service member was serving when he or she died in the line of duty in a combat zone. The approved Fallen Service Member license plates are designated as Fallen Airman (Air Force), Fallen Soldier (Army), Fallen Guardsman (Coast Guard), Fallen Marine (Marine Corps), and Fallen Sailor (Navy). An approved family member of a Reserve or National Guard service members that died in the line of duty while deployed in to a combat zone will be issued a Fallen Service Member license plate based on their parent service (i.e., Air Force, Army, Coast Guard, Navy, and Marine) of the Reserve or National Guard that service member served under.~~

3.0 Process

~~3.1 The Department will review and verify the accuracy of the information and documentation identified in regulation 2.1 above.~~

~~3.2 After review and verification, the Department will either approve or deny an application for a Fallen Service Member license plates. The applicant will be notified, in writing, of approval or denial.~~

~~a. If approved, the Department will notify the applicant of the approval via postal mail detailing payment of special plate fees, normal taxes and fees and issuance of the Fallen Service Members license plate.~~

~~b. Approved applicants shall pay all statutorily required taxes and fees associated with registering and renewing the Fallen Service Member license plate. Authorization shall not be construed to allow the authorized family member to receive a license plate without paying all applicable taxes and fees.~~

~~1) Any one-time and issuance fees will be collected by the Department prior to providing the Fallen Service Member license plate to the applicants County Motor Vehicle office for issuance and registration to the applicants vehicle.~~

~~2) Any taxes and fees required to register the applicants' vehicle will be collected by the applicants' county of residence upon issuance.~~

- ~~c.—All renewal transactions will be performed by the applicants' county of residence.~~
- ~~d.—The Department will only retain electronic copies of the original application and supporting documents. All original documents will be properly destroyed unless request for return of this documentation is specified by the applicant and a pre-paid envelope is provided for the return of the documents.—~~
- ~~e.—The Department will make an effort to work with applicants to correct applications or submitted paperwork prior to denying an application. If an application is denied, the Department will notify the applicant in writing, via postal mail, with the original application and submitted paperwork attached explaining the reason for denial.—~~

~~4.0—Denied Applicants~~

- ~~4.1—Applicants who have been denied issuance of Fallen Service Member license plates may request a hearing, in writing, within thirty days after the denial notice is issued. Written hearing requests shall be submitted to the Department of Revenue, Enforcement Unit, Hearings Section, 1881 Pierce Street, Room #106, Lakewood, CO 80214.~~
- ~~4.2—The hearing shall be held at the Department of Revenue, Enforcement Unit, Hearing Section, 1881 Pierce Street, Room #106, Lakewood, CO 80214. The presiding hearing officer shall be an authorized representative designated by the Executive Director. The Department's representative need not be present at the hearing unless his or her presence is required by the presiding officer, or requested by the applicant at the time the written request for hearing is submitted. If the Department's representative is not present at the hearing, any written documents and affidavits submitted by the Department may be considered at the discretion of the hearing officer.~~

CYNTHIA H. COFFMAN
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Office of the Attorney General

Tracking number: 2016-00579

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Motor Vehicles

on 01/10/2017

1 CCR 204-10

TITLE AND REGISTRATION SECTION

The above-referenced rules were submitted to this office on 01/17/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 10:30:47

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (405 Series, Parks)

CCR number

2 CCR 405-7

Rule title

2 CCR 405-7 CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS 1 - eff
03/02/2017

Effective date

03/02/2017

FINAL REGULATIONS - CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS

ARTICLE I - GENERAL PROVISIONS AND FEES RELATING TO PASSES, PERMITS AND REGISTRATIONS

VEHICLE PASSES

700 - VEHICLE PASS

1. Except as otherwise provided in these regulations or by Colorado Revised Statutes, no motor vehicle shall be brought onto any Parks and Outdoor Recreation lands unless a valid pass issued by the Division is properly attached. Passes that are designed to be affixed to the windshield shall be attached to the extreme lower right-hand corner of the vehicle's windshield in a position so that the pass may be observed and identified. For an annual vehicle pass, including an aspen leaf annual pass to be properly attached to a windshield it must be permanently affixed. Any vehicle whereby a pass cannot be secured inside the passenger compartment shall be treated as a special case, but evidence of a pass shall be required on the person or in the vehicle. Other types of passes, such as hang tag passes, shall be continuously displayed in the motor vehicle in the manner described on the pass while the motor vehicle is operated or parked on Division properties.
2. No vehicle pass shall be required for:
 - a. Any snowmobile as defined in section 33-14-101, C.R.S.;
 - b. Any off-highway vehicle as defined in section 33-14.5-101(3), C.R.S.;
 - c. Any government-owned vehicle, emergency vehicle, or law enforcement vehicle on official business;
 - d. Any commercial delivery vehicle delivering goods to the park or a park concessionaire when the goods are directly related to the operation of the park or concession;
 - e. Any resident's vehicle displaying a Colorado disabled veteran's license plate pursuant to section 42-3-213(5)(a), C.R.S., and as provided for in section 33-12-106(1), C.R.S.;
 - f. Any vehicle bringing a qualified holder of a transferable Columbine or a Centennial annual pass into a park;
 - g. Any vehicle that is not required to have a vehicle pass pursuant to the special activity regulation # 703;
 - h. Any vehicle entering a park on Colorado day; or
 - i. Any vehicle that is exclusively towed.
 - j. Any vehicle occupied by a veteran or current or reserve member of any branch of the armed forces of the United States, on the State observance of Veteran's Day. At least one form of past or present military identification shall be presented at the Park entrance. Acceptable forms of military identification include:
 - DD214;
 - DD Form 2;

- DD Form 2765;
 - Active, retired or veteran military identification cards;
 - A current Colorado Driver's License or state issued identification card with the word 'Veteran' printed on it as specified in 42-2-303 (5)(a), C.R.S.;
 - VA medical card;
 - The display of military license plates.
- k. Any vehicle occupied by a veteran, reserve, or active duty member of any branch of the armed forces of the United States, during the month of August. At least one form of past or present military identification shall be presented at any state park or Division office in order to receive a free vehicle hang tag pass. Acceptable forms of military identification include:
DD214;
- DD Form 2;
 - DD Form 2765;
 - Active, retired or veteran military identification cards;
 - A current Colorado Driver's License or state issued identification card with the word 'Veteran' printed on it as specified in 42-2-303 (5)(a), C.R.S.;
 - VA medical card.
- (1) As referenced in this chapter, "veteran" means a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable.
3. The types of annual vehicle passes available from the Division are as follows:
- a. An Aspen Leaf annual pass as provided for in section 33-12-103, C.R.S.; and
- b. An annual vehicle pass, which is available for any vehicle except passenger vans and buses operated by a commercial business.
- (1) Commercial passenger vans and buses are eligible to purchase daily, but not annual, vehicle passes.
- (2) School buses on official school outings, passenger vans and buses operated by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses operated by any government agency are eligible for either daily or annual vehicle passes.
4. Daily vehicle passes are as follows:
- a. A fee of \$7.00 per vehicle for any vehicle except for:
- (1) Passenger vans and buses operated by a commercial business;
- (2) A \$1.00 per vehicle capacity fee will be added to the cost of daily vehicle passes at Cherry Creek, Chatfield, and Boyd Lake State Recreation Areas, and Eldorado Canyon State Park.
- b. School buses on official school outings, passenger vans and buses operated by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses operated by any government agency are eligible to purchase a daily vehicle pass.

- c. For passenger vans and buses operated by a commercial business, the daily vehicle pass fee will be based upon the number of passengers on-board. The fee shall be \$10.00 for up to fifteen passengers on-board, \$40.00 for sixteen to thirty passengers on-board, and \$50.00 for more than thirty passengers on-board.
5. An annual vehicle pass shall be issued and, by appropriate language, authorize entrance by motor vehicle to all state recreation areas and state parks during the period beginning on the date of purchase through the last day of the same month in the following year. Such authorization shall apply to the user and all passengers in the motor vehicle to which the pass is affixed. One pass shall cover all state recreation areas and state parks.
6. Additional annual vehicle passes may be issued to an owner or to the owner's immediate family members. Additional annual vehicle passes authorize entrance by motor vehicle to all state recreation areas and state parks during the period beginning on the date of purchase of the additional pass through the expiration date of the associated original full-priced annual pass. Owners of school buses, passenger vans and buses owned by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses owned by any government agency are limited to purchasing no more than two additional annual vehicle passes at a reduced fee per each annual vehicle pass purchased at the full fee. For the purpose of this regulation, "immediate family members" are defined as spouses and children with valid driver's licenses living at the same address. "Owner" is defined as the person whose name appears on the registration of both the original vehicle for which an annual pass was purchased and the additional vehicle, or a person who can provide proof of ownership of the original and the additional vehicle at a designated Division office.
7. If the motor vehicle for which an annual vehicle pass or additional vehicle pass was issued is sold or traded, or if the pass is lost or destroyed during the period in which it is valid, the person to whom the pass was issued may obtain a duplicate thereof, upon signing an affidavit reciting where and by whom it was issued and the circumstances under which it was lost or traded. Upon payment of a fee of \$5.00, a new pass effective for the remainder of the period that the lost or destroyed pass would have been valid may be issued only by the Division to the original owner of such pass.
8. A daily park pass, valid for one day only, shall authorize entrance by motor vehicle to the state recreation areas and state parks by the user and all passengers in the motor vehicle to which the pass is affixed during the day used and until 12:00 P.M. (noon) the following day.
9. A no fee pass shall be issued to any vehicle towed or carried in by a motor home if a camping permit or proof of a campsite reservation is presented at an attended visitor center, office or entrance station. The no fee pass, valid for the same time period as the camping permit or camping reservation, shall authorize entrance by motor vehicle to the state recreation areas and state parks by the user and all passengers in the motor vehicle to which the pass is affixed. For the purpose of this regulation, motor home means a vehicle designed to provide temporary living quarters and which is built into, as an integral part of or a permanent attachment to, a motor vehicle chassis or van.

ARTICLE II - DIVISION AGENTS

See also § 33-4-101, C.R.S. and § 33-12-104 (1) C.R.S., for statutory provisions applicable to Division agents.

#710 – DEFINITIONS

- A. **"Division Product"** means any license, pass, permit, or registration which is sold through the Division of Parks and Wildlife integrated system.

- B. **"Accountable Inventory"** means equipment or stock which is assigned to agents and which they are responsible to return to the Division or the system agent upon request. Types of accountable inventory include, but are not limited to:
1. **"Division Product Stock"** means the specialized paper stock used for the printing of Division products by a Division agent.
 2. **"Receipt Stock"** means the specialized paper stock used for the printing of receipts or affidavits by a license agent.
 3. **"Point of Sale (POS) Terminal"** means all machine components which license agents use to access the Division's electronic licensing system and conduct license transactions.
- C. **"Automatic Cash Handling" ("ACH")** means the direct electronic transfer of funds from one bank account to another,
- D. **"Division Agent"** means a business (sole proprietorship, partnership, or corporation) which is authorized to sell Division products from a specific location as an agent of the Division of Parks and Wildlife. Types of agencies are defined as follows:
1. **"Retail Agent"** means a business which sells Division products for the Division from its retail store or other location of record.
 2. **"Consolidated Agent"** means a retail agent which sells Division products for the Division from two or more stores or other locations of record and which is licensed to conduct all business with the Division as a single entity.
 3. **"System Agent"** means the company contracted by the Division to operate its integrated parks and wildlife system, including, but not limited to, the provision of any accountable inventory or other necessary materials to retail agents; the maintenance of the electronic system and provision of electronic reports to the Division; the sale of Division products by telephone and through an internet site; the acceptance of applications through the internet site for the limited license drawings; and the printing and distribution of such licenses to the recipients (license fulfillment).
- E. **"Location of Record"** means the street address of the retail store or other specified business location(s) from which an agent sells Division products, as specified in the agent agreement or system agent contract.

#711 - DIVISION AGENT ESTABLISHMENT - AGENT REQUIREMENTS AND APPLICATION PROCESSING

- A. Agent Requirements and Function
1. Division Agent Establishment
 - a. Division agents will be established and authorized to sell Division products from a permanent location of record.
 - b. Prior to the sale of electronic Division products, all retail agents must enter into a written contract (agent agreement) with the Division which specifies the terms of operation and the services to be provided by the agent and the Division, in accordance with applicable statutes, regulations, or policies of the

Commission or Division.

- c. No Division product may be sold within the same portion of any business, building, or establishment where liquor is sold by the drink.
- d. Retail agents open for business must sell all license types available. Seasonal agents may restrict their hours of operation depending on the nature of their business according to their agent agreement.

2. Division Product Sales

- a. Retail agents must sell Division products from a location of record within the state of Colorado.
- b. The system agent may operate from a location of record within or outside of the state of Colorado.
- c. Retail agents who provide regular, established business hours will be provided with a minimum of one POS terminal. Consolidated agents who sell licenses to the general public during regular business hours will be provided with a minimum of one terminal per store.

B. Application Processing

- 1. New applicants for a Division agent must apply to the Division at least 60 days prior to the desired opening date. Provided further, however, that new agent applications are not processed between August 15 and December 31 without demonstration of immediate need. In such cases, applications for transfer of an agency from one owner to another shall have priority.
 - a. Prior to the processing of any license agent application, the applicant is required to submit the following:
 - i A completed application, on forms provided by the Division.
 - ii Proof of the required financial surety.
 - iii Proof of property insurance.
 - iv Verification that neither the applicant, nor any partner, officer, director or substantial shareholder thereof was the individual holder of any company, business, corporation or other entity which was a Division agent and which designation was either suspended or canceled for cause within the two year period preceding the application date.
 - v Except in the case of corporations, proof of lawful presence in the United States.

#712 - FINANCIAL GUARANTY (SURETY)

See also § 11-35-101 - 101.5, C.R.S. for general requirements concerning forms of surety.

A. Amount and Proof of Surety

1. Prior to the establishment of any Division agent, the applicant shall provide proof of financial surety, on forms provided by the Division, for a minimum period of twelve months. The initiation and expiration dates of the coverage must be stated on the surety certificate. A continuation certificate issued by the bonding company or financial institution or proof of other acceptable financial surety shall be required for renewal of the Division agent for each twelve month period, and must be provided to the Division no later than thirty days prior to expiration. All surety certificates must be originals and signed by both the surety (or their legal designee) and the Division agent.
2. Division agents shall be bonded in the amount necessary to ensure remittance of all funds due the Division. New license agents shall be required to be bonded for a minimum of \$2000. After the first twelve months for a new agent, or considering the historical sales records for existing agents, the amount of financial surety required of each agent shall be sufficient to ensure payment for licenses sold for the highest ten consecutive days sales in the current bonding period. Consolidated agents shall be responsible for the remittance of funds collected by their outlets, and shall be required to bond in the amount necessary to cover each outlet in the agency as if they were licensed individually.
3. Division agents shall not sell Division products in amounts that would exceed their bond level. Agents shall be responsible for payment of revenues at more frequent intervals, via ACH, if necessary to restore available bond.
4. Division agents shall have the option to adjust their surety level on a quarterly basis as determined by the highest ten consecutive days in the quarter. Quarters shall begin on the first days of January, April, July, and October. Proof of such adjustment must be posted before sales can be made against the higher bond amount.

#713 - DIVISION AGENT OPERATION AND PERFORMANCE STANDARDS

A. Division Agent Operation and Performance Standards

1. Division agents are required to meet the following standards at all times:
 - a. Maintain the required surety bond level.
 - b. Display and distribute all public information, such as brochures and placards, provided by the Division,
 - c. Maintain a file of receipts, affidavits, or any other document required in the agent agreement.
 - d. Keep all paper stock, POS terminals, and any other Division product equipment in a safe place and in good condition at the location of record, as specified in the agent agreement.
 - e. Obtain insurance adequate to cover replacement of any POS terminals or other Division product-related equipment leased from the system agent.
 - f. Sell all Division products and collect all donations specified in the agent agreement, and only at the location of record.
 - g. Sell Division products only at face value, and only to those who are eligible to purchase them, in compliance with all applicable statutes and regulations.

- h. Establish an agent bank account with ACH capability which is electronically accessible to the Division.
- i. Deposit the state share of all Division product revenues in the agent bank account in the total amount due, in accordance with the schedule in the agent agreement.
- j. Immediately report the theft or loss of any accountable inventory.
- k. Attend any training required by the Division concerning applicable statutes and regulations and performance of agent duties, at the location specified by the Division.
- l. Comply with all statutory and regulatory requirements, all provisions of the agent agreement, and all directives of the Division, including, but not limited to, those provided via direct correspondence or in the Division Agent Manual.
- m. Provide reasonable access to any Division officer or other peace officer upon request during normal business hours for the purpose of inspection of equipment, materials, records, or other applicable license agent documents or information.
- n. Read and comply by any correspondence sent to the agency by the Division, including, but not limited to: electronic bulletins; monthly agent bulletins; special communications by mail, email, or through the system; and non-compliance letters.
- o. Train all staff in the issuing of Division products as well as applicable policies and procedures prior to their use of the system.

#714 - DIVISION AGENT STATUS

A. TERMINATION OF AGENTS

1. Division Agent Termination

- a. Division agents who wish to terminate their agency shall notify the Division in advance of such termination and the effective date; and shall reconcile with the Division as follows:
 - i. All revenues due must be deposited in the agent account and all accountable inventory shall be returned to the Division, to the location or in the manner designated, within 10 business days after the termination date.
 - ii. Agents which have purchased their POS terminal must allow the Division or its system agent to remove the integrated system software from the POS terminal within 3 business days after notification of the effective date of the termination.

#715 - TRANSFER OF AGENCIES

A. Division Agency Transfer

- 1. Whenever a Division agent is to be sold, leased, or transferred in any manner, the

new owner or person having control of the business may file an application to become a new Division agent. The new agent must qualify to be an agent and independently comply with all other provisions of the statutes and these regulations.

#716 - SUSPENSION AND CANCELLATION OF AGENCIES

A. Failure to Comply with Performance Standards

1. General Performance Standards

- a. Failure of a Division agent to comply with applicable rules and regulations of the Parks and Wildlife Commission or any lawful directives of the Director of Colorado Parks and Wildlife shall be grounds for an agent being declared delinquent, or for the suspension or cancellation of the Division agent.
- b. When an agent does not comply with performance standards other than surety bond and payment of revenue, the agent shall be notified of the problem and the steps required to correct it. Any failure to correct the problem is grounds for revocation suspension, annulment, limitation, or modification of a Division agent.

2. Performance Standards for Surety and Monies Due the Division

- a. When, through agent error, the Division does not receive ACH revenues due to it, the following actions shall be taken:
 1. For the first failed ACH transaction within a twelve-month period, the agent shall be notified of a new date for an ACH transaction and shall deposit the required amount of funds in the agent account by that date.
 2. For a second failed ACH transaction within the same twelve-month period, the agent's POS terminal shall be disabled until the funds, including any interest due, have been received. The agent shall be notified of the date for another ACH transaction and shall deposit the required amount of funds in the agent account by that date.
 3. For a third failed ACH transaction within the same twelve-month period, the agent's POS terminal shall be disabled and the agent may be revoked. All funds due the Division must be immediately remitted to the Division in certified funds.
- b. When an agent's surety bond is not current, the agent shall be notified of the need to provide a current certificate and shall have fifteen business days to provide the required proof. The agent's POS terminal shall be disabled until the certificate is received. If no bond certificate is received, the agent may be revoked.

3. Consolidated Agent Suspension or Revocation

- a. One or more outlets (stores) of a consolidated agency may be suspended or revoked without suspension or revocation of the entire agency.

#717 – AGENT COMMISSION RATES

See also §33-4-101 C.R.S. relative to CPW agents and §33-4-102(1.6)(b) C.R.S. for price indexing information for nonresident big game licenses.

A. Commission Rates for Retail Agents:

1. Retail agents shall be paid a 4.75% commission for each license sold electronically, except for those licenses with fixed commissions as shown below.
2. Retail agents shall be paid a 5% commission for each pass sold electronically.
3. Agents who sell registrations shall be paid a flat rate of \$1.00 per registration issued.
4. Fixed Commissions:

Division Product Type	2016 Fee	2016 Commission	2017 Fee	2017 Commission
Second Rod Stamp	\$5.00	\$.31	\$5.00	\$.31
Fishing - 1 day	\$8.00	\$.62	\$8.00	\$.62
Fishing - 5 day	\$20.00	\$1.23	\$20.00	\$1.23
Small Game - 1 day	\$10.00	\$.62	\$10.00	\$.62
Nonresident Deer	\$375.00	\$13.10	\$385.00	\$13.50
Nonresident Pronghorn	\$375.00	\$13.10	\$385.00	\$13.50
Nonresident Bear	\$350.00	\$12.95	\$350.00	\$12.95
Nonresident Mountain Lion	\$350.00	\$12.95	\$350.00	\$12.95
Nonresident Antlerless Elk	\$465.00	\$13.10	\$480.00	\$13.50
Nonresident Either-sex Elk	\$625.00	\$22.05	\$640.00	\$22.70
Nonresident Antlered Elk	\$625.00	\$22.05	\$640.00	\$22.70
Nonresident Rocky Mtn Bighorn Sheep	\$2,080.00	\$72.80	\$2,145.0	\$74.95
Nonresident Desert Bighorn Sheep	\$1,385.00	\$48.60	\$1,430.0	\$50.05
Nonresident Goat	\$2,080.00	\$72.80	\$2,145.0	\$74.95
Nonresident Moose	\$2,080.00	\$72.80	\$2,145.0	\$74.95

All 2016 licenses sold through March 2017 shall be sold at the 2016 license fee and commission rates.

B. Commission Rates for the System Agent: The system agent shall be paid the commissions shown in the table below for each license sold through the system:

1. Fixed Commissions:

Division Product Sale Type	Commission			
	07/01/2008 - 06/30/2010	07/01/2010 - 06/30/2011	07/01/2011 - 06/30/2012	07/01/2012 - 12/31/2016*
Division products sold through point of sale terminals	\$1.29	\$1.32	\$1.34	\$1.35

Division products sold through the Internet	\$2.00	\$2.00	\$2.00	\$2.00
Division products sold by telephone	\$2.37	\$2.37	\$2.37	\$2.37
Limited Licenses fulfillment	\$1.00	\$1.00	\$1.00	\$1.00

*The Commission rates for 2017 will remain as listed until the new IPAWS system has been implemented.

- a. For Internet and telephone sales, the system agent shall receive an additional 2.2 percent of the cost of any wildlife product.

718 – REGISTRATIONS-ONLY AGENTS

1. Registration-only agents: except for agents exempted from surety requirements in accordance with C.R.S. 33-12-104(9) when cash sales are made to financially secured agents they shall be subject to the following conditions:
 - a. Purchase of accountable inventory registrations shall be made at the designated Division office or by submitting funds by mail to the designated address. Funds submitted for purchase must be in the exact amount of the Division's share for the number of registrations;
 - b. All mail orders shall be placed on forms supplied by the Division.
 - c. Redemption of unsold registrations may be made at the designated Division office or by submitting unsold registrations to the Division by mail.
 - d. The termination procedures of registration agents who purchase registrations for cash shall include having the agent turn over to the Division of its representative all unsold registrations.
 - e. Yearly submit final payment and return all unused accountable inventory by no later than November 15. Registrations may be carried over from year to year unless otherwise notified by the Division, in which case instructions will be given as to return/payment deadlines.

CYNTHIA H. COFFMAN
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Office of the Attorney General

Tracking number: 2016-00614

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (405 Series, Parks)

on 01/11/2017

2 CCR 405-7

CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS

The above-referenced rules were submitted to this office on 01/19/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 11:46:43

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (405 Series, Parks)

CCR number

2 CCR 405-8

Rule title

2 CCR 405-8 CHAPTER P-8 - AQUATIC NUISANCE SPECIES (ANS) 1 - eff
03/02/2017

Effective date

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FINAL REGULATIONS - CHAPTER P-8 - AQUATIC NUISANCE SPECIES (ANS)**ARTICLE 1 - GENERAL PROVISIONS****# 800 - DEFINITIONS**

Also see 33-10.5-102, C.R.S, for other applicable definitions.

A. Aquatic Nuisance Species (ANS)

1. Aquatic nuisance species means exotic or nonnative aquatic wildlife or any plant species that have been determined by the Commission to pose a significant threat to the aquatic resources or water infrastructure of the state, including, but not limited to the following:

Animals:

Common Name	Scientific Name
Crayfish, rusty	Orconectes rusticus
Mussel, quagga	Dreissena bugensis
Mussel, zebra	Dreissena polymorpha
New Zealand mudsnail	Potamopyrgus antipodarum
Waterflea, fishhook	Cercopagis pengoi
Waterflea, spiny	Bythotrephes longimanus (also known as Bythotrephes cederstroemi)

Plants:

Common Name	Scientific Name
African elodea	Lagarosiphon major
Brazilian elodea	Egeria densa
Eurasian watermilfoil	Myriophyllum spicatum
Giant salvinia	Salvinia molesta
Hyacinth, water	Eichornia crassipes
Hydrilla	Hydrilla verticillata
Parrotfeather	Myriophyllum aquaticum
Yellow floating heart	Nymphoides peltata

2. In addition to these species, the Director may jointly and temporarily designate a species as an aquatic nuisance species for a period not to exceed nine months when they determine that a species not listed herein poses a significant threat to Colorado's aquatic resources. Whenever such species are so designated, public notice shall be given, including posting at all watercraft inspection and decontamination facilities and the posting of any lands or waters where the designated species is known by the Divisions to be present.
- B. "Aquatic Plant" means a vascular plant (floating leafed, floating, submerged, or emergent vegetation) that naturally grows in water or saturated soils.
- C. "Authorized Agent" means a person that has passed the Division's watercraft inspection and decontamination training course and is otherwise authorized by statute and regulation to perform inspections and decontaminations at authorized locations in Colorado, and is employed by or, as evidenced by written authorization, is otherwise acting on behalf and at the direction of a local, state or federal government or subdivision of government.
- D. "Authorized location" means a location or an address where watercraft inspection and decontamination (WID) procedures are authorized and certified by the Division, and inspections are mandatory prior to launching or exiting, including, but not limited to, Division offices, government field stations, or non- governmental facilities as designated by the Division.
- E. "Clean" means a vessel or other floating device that does not show visible ANS or attached vegetation, debris or surface deposits. This includes mussel shells or residue on the watercraft, trailer, outdrive, or equipment that could mask the presence of attached mussels or other ANS.
- F. "Detected water" means a water body in which an aquatic nuisance species has been detected per #806D.
- G. "Director" means the Director of the Division of Parks and Wildlife.
- H. "Drain" means to the extent practical, all water is drained from all water holding compartments including live-well, bait-well, storage compartment, equipment lockers, bilge area, engine compartment, deck, ballast tanks or bags, water storage and delivery system, cooler or any other water storage area on the vessel or other floating device.
- I. "Dry" means no visible sign of standing water, or wetness on or in the vessel or other floating device. Watercraft that has been out of the water long enough for attached mussels to desiccate.
- J. "Private inspector and/or decontaminator" means a person employed by a business who is certified by the Division to provide services in the form of inspections only or both inspections and decontaminations, at sites other than authorized locations.
- K. "Vessels or other floating device" means watercraft of any and all kinds including their motors or engines, trailers, compartments, and any other associated equipment or containers that routinely or reasonably could be expected to contain or have come into contact with water. The term does not include hand-launched rafts, kayaks, belly boats, float tubes, canoes, windsurfer boards, sailboards, paddle boards or inner tubes.
- L. "Water Drain Plug" means a valve or device on or in a vessel or other floating device which is used to control the drainage of water from a compartment designed to hold water, including but not limited to, a bilge, well, compartment, locker, or ballast system.

- M. "WID procedures" means Watercraft Inspection and Decontamination procedures, as set forth in these chapter 8 regulations and documented in the State Watercraft Inspection and Decontamination Training Curriculum.
- N. "WID seals" means Watercraft Inspection and Decontamination tamper proof devices or markers that temporarily lock the vessel or other floating device to the trailer to indicate the vessel or other floating device has not launched since the last inspection or decontamination as documented on the accompanying WID seal receipt
- O. "WID Seal Receipt" means the written or electronic documentation required to verify a WID seal is valid.

803 - INSPECTIONS

- A. Inspections may be conducted by:
 - 1. Any qualified peace officer;
 - 2. Any authorized agent or private inspector and/or decontaminator who has been properly trained as required by the Division, who holds a valid, active certification and who is in good standing with the Division's quality assurance checks.
- B. All persons transporting a vessel or other floating device from a detected water of the state, as determined in regulation #806 D, must be inspected prior to leaving the detected water, or if state authorized inspection facilities are not open or otherwise available, must be inspected prior to launch in any other water of the state. All detected waters shall be posted and a list of detected waters will also be available from the Division.
- C. All persons transporting a vessel or other floating device must go to a state authorized inspection location and submit to and receive documentation of an inspection prior to launching in any water of the state if the vessel or other floating device has been in another state's waters in the last 30 days, or if the vessel or other floating device is not registered in Colorado.
- D. All persons transporting a vessel or other floating device must submit to an inspection prior to launching and/or exiting at an Authorized Location.
- E. Inspectors will determine if there is a reasonable belief that aquatic nuisance species are present by interviewing the person transporting the vessel or other floating device and using visual and/or tactile inspection methods and using appropriate forms supplied by the Division.
- F. All vessels or other floating devices of any kind, are subject to inspection in accordance with WID procedures prior to launch onto, operation on or departure from any waters of the state or vessel staging areas. All compartments, equipment and containers that may hold water, including, but not limited to, live wells and ballast and bilge areas shall be drained as part of all inspections.
- G. It is the responsibility of the vessel or other floating device operator to clean, drain water from all compartments and motors/engines in between launches and dry the vessel or other floating device in between launches.
- H. Upon removal of a vessel or other floating device from waters of the state, and before leaving the boat launch or parking area, the operator is required to remove aquatic plants and water drain plug(s). It is prohibited to transport a vessel or other floating device over land with aquatic plants or water drain plugs in place.

- I. Any vessel or other floating device found or reasonably believed to contain aquatic nuisance species shall be decontaminated by an authorized agent using WID procedures before said vessel or other floating device will be allowed to launch onto, operate on or depart from any waters of the state or vessel staging areas.
- J. Compliance with the above aquatic nuisance species inspection and removal and disposal requirements is an express condition of operation of any vessel or other floating device on waters of the state. Any person who refuses to permit inspection of their vessel or other floating device or to complete any required removal and disposal of aquatic nuisance species shall be prohibited from launching onto or operating the vessel or other floating device on any water of the state. Further, the vessel or other floating device of any person that refuses to allow inspection or to complete any required removal and disposal of aquatic nuisance species prior to departure from any water of the state or vessel staging area where any aquatic nuisance species is known to be present is subject to impoundment until said aquatic nuisance species inspection and/or decontamination is completed.
- K. Any person operating a vessel or other floating device may be ordered to remove the vessel or device from any water of the state by any qualified peace officer or authorized agent if they reasonably believe the vessel or other floating device was not properly inspected prior to launch or may otherwise contain aquatic nuisance species. Once removed from the water, the vessel or other floating device shall be subject to inspection for, and the removal and disposal of aquatic nuisance species.
- L. Any authorized agent or private inspector or private decontaminator who, through the course of an inspection, determines there is a reasonable belief that aquatic nuisance species are present shall document the inspection, including but not limited to, type and number of aquatic nuisance species suspected and/or detected and identification of the vessel or other floating device, including license plate numbers and hull and/or vehicle identification numbers, if available. Further, the authorized agent or private inspector/decontaminator shall advise the operator that the vessel or other floating device is suspected of possessing aquatic nuisance species and that it must be decontaminated according to WID procedures as soon as possible. Only qualified peace officers have the authority to order decontamination, impound or quarantine of a vessel or other floating device.
- M. Once a vessel or other floating device is inspected and/or decontaminated, a WID seal will be attached to the vessel or other floating device by a qualified peace officer, authorized agent, or private inspector/decontaminator. A receipt using the Division's form shall accompany all WID seals. WID seals shall be attached to a vessel or other floating device as specified by the Division. A WID seal, once properly attached to a vessel or other floating device by a qualified peace officer, authorized agent, or a private inspector/decontaminator, and when accompanied by the proper receipt, documents an inspection or decontamination procedure.
- N. If a vessel or other floating device contains live aquatic organisms in water as bait, then the owner or operator will be required to produce a receipt for the bait from a Colorado bait dealer with a purchase date clearly printed on the receipt per regulation 8 CCR 1201-21, VI. E and the purchase date is no more than 7 days previous. If the owner or operator does not have such a receipt, and the bait is allowed for use at the water body per regulation 2 CCR 406-1 #104.H.2, then they will be required to submit the bait for transfer into water from a known source and the bait container to decontamination as per the State ANS Watercraft Decontamination Manual available from the Division.

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Tracking number: 2016-00615

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (405 Series, Parks)

on 01/11/2017

2 CCR 405-8

CHAPTER P-8 - AQUATIC NUISANCE SPECIES (ANS)

The above-referenced rules were submitted to this office on 01/19/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 11:47:00

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-0

Rule title

2 CCR 406-0 CHAPTER W-0 - GENERAL PROVISIONS 1 - eff 03/02/2017

Effective date

03/02/2017

FINAL REGULATIONS - CHAPTER W-0 - GENERAL PROVISIONS

ARTICLE I - DEFINITIONS

#000 – The following definitions supplement the statutory definitions found in the Wildlife Act including, but not limited to, those definitions found in section 33-1-102, C.R.S.

A. General Definitions Including Manner of Take Definitions

1. **"Aggregate"** when applied to bag and possession limits, means the total number of species which are covered by such bag and possession limits. Any combination of the species may be possessed up to the total number established as the aggregate bag and possession limits.
2. **"Archery"** means the use of a hand-held bow.
3. **"Bag Limit"** means the maximum number of wildlife which may be taken in a single day during an established open season. This includes any wildlife which are consumed or donated during the same day they were legally taken. The terms "bag limit," "daily bag" and "bag" are considered to have the same meaning.
4. **"Baiting"** means the placing, exposing, depositing, distributing, or scattering of any salt, mineral, grain, or other feed so as to constitute a lure, attraction or enticement for wildlife.
5. **"Crossbow"** means a bow which is attached at a right angle to a stock with a mechanical mechanism for holding the bow string in a cocked position and fired from the shoulder.
6. **"Feral Hog"** means any species or hybrid of species from the family *Suidae* (European boar, Eurasian boar, Russian boar, feral hog) or the family *Tayassuidae* (Javelina and peccary), which possesses one or more morphological characteristic distinguishing it from domestic swine including, but not limited to, an elongated snout, visible tusks, muscular shoulders with small hams and short loins, coarse hair, or a predominant ridge of hair along its back. For the purposes of these regulations, any swine running at large which possesses one or more of the above characteristics, may be presumed to be a feral hog, unless a person has received actual notice that the swine has escaped containment and its return is actively sought, in which case the person should report its location to the owner, if known, and the Division and the Department of Agriculture.
7. **"Handgun"** means any pistol or revolver having no shoulder stock or attachment.
8. **"Hand-held bow"** means a long bow, recurved bow, or compound bow on which the string is not drawn mechanically or held mechanically under tension. String releases or mechanical releases which are hand-drawn and hand-held with no other attachment or connection to the bow other than to the bowstring are lawful devices.
9. **Licenses**
 - a. **"Leftover license"** means a limited license which is leftover after the primary application and drawing process.
 - b. **"Limited license"** means any license which is limited in number by regulation and which is issued through the drawing process.

- c. **"Over the counter license"** means a license that may be purchased at a license agent. Most over the counter licenses are unlimited in number, but some may have an established cap.
 - d. **"Private Land Only license"** means a limited license valid only for use on private land and State Trust Lands not leased by the Division, excluding those limited licenses issued as part of the Ranching for Wildlife program. Contact the State Land Board for access restrictions.
 - e. **"Unlimited license"** means a hunting license and carcass tag when appropriate which is not restricted in quantity and which is sold by license agents throughout the state and is not valid in any unit where licenses are available only through application and computer or hand drawn selection.
10. **"Mentor"** means a person eighteen years of age or older who holds a valid hunter education certificate or who was born before January 1, 1949, and accompanies a youth or apprentice while hunting. A person whose hunting and fishing license privileges are suspended can not be a mentor.
 11. **"Muzzle-loading rifle or musket"** means a firearm fired from the shoulder, with a single barrel which fires a single patched round ball or bullet.
 12. **"Pellet gun"** means any handgun or rifle of .177 caliber or larger firing pellets and powered by compressed air or gas.
 13. **"Private use"** means the possession of wildlife only for private enjoyment and not intended to be sold, traded, bartered, or entered into commerce.
 14. **"Privately-owned game birds"** means game birds held in private ownership and otherwise acquired in accordance with Commission regulations.
 15. **"Processed meat"** means those edible parts of wildlife which have been cut into normal portions and wrapped for storage. It does not include game meat that is whole, has been quartered, or has not been packaged into normally accepted butcher's portions including but not limited to steaks, roasts, loins, chops, and ground meat.
 16. **"Rifle"** means a firearm fired from the shoulder, with a rifled bore, having a barrel length of sixteen (16) inches or more and a minimum overall length of twenty-six (26) inches.
 17. **"Shotgun"** means a firearm fired from the shoulder with a smooth bore, having a barrel length of eighteen (18) inches or more and a minimum overall length of twenty-six (26) inches.
 18. **"Slingshot"** means a hand-held device, not drawn or held mechanically, with the arms or attachment points to which an elastic band is attached for propelling small stones or metal projectiles. Wrist-brace attachments and non-elastic projectile pouches are considered normal components of a slingshot.
 19. **"State Trust Lands"** means those lands owned or under the control of the State Board of Land Commissioners.

B. Definitions related to Aquatic Species or Fish Health

1. **"Aquatic Nuisance Species" (ANS)** means exotic or nonnative aquatic wildlife or any plant species that have been determined by the Commission to pose a significant threat to the aquatic resources or water infrastructure of the state.

2. **"Best management practices"** means the most effective, practicable (including technological, economic, constructible, and institutional considerations) means of preventing or minimizing the presence or spread of ANS, parasites, or diseases in a fish production facility.
3. **"Certification"** means a document issued by the Division certifying that the facility and the fish located thereon, have been tested for regulated fish pathogens in the numbers and by methods meeting the minimum standards established by these regulations, or any analogous document issued by a qualified fish health official from a recognized state, federal, or foreign fish and wildlife agency.
4. **"Coldwater stream"**- means a segment or reach of a creek, stream, or river that has water temperatures that do not exceed 68 degrees F for 24 consecutive hours.
5. **"Critical Habitat"**- means the following river reaches and their 100 year floodplains: the Gunnison River downstream of the Uncompahgre River confluence, the Colorado River downstream of the exit 90 north bridge from I-70, the White River downstream of Rio Blanco Dam, the Green River downstream of the Yampa River confluence, and the Yampa River downstream of the Colo 394 bridge.
6. **"Direct connection"** means waters in the Upper Colorado River Basin that flow directly into critical habitat. This does not include reservoirs, and waters above such reservoirs, where fish escapement has been addressed according to a management plan approved by the Division.
7. **"Drainages"**- means sub-sets of the USGS hydrologic code system as set forth in the Hydrologic Unit Maps (U.S. Geological Survey Water Supply Paper 2294, U.S. Dept. of Interior U.S. Geological Survey, 1974, State of Colorado section reprinted 1992). This document, but not later amendments or editions, have been incorporated by reference and can be viewed and copies obtained at the Division as set forth in the "Incorporated References" section of Chapter 0 of these regulations.
8. **"Gametes"**- means eggs or sperm.
9. **"Inlets"** - means the bay or recess at the confluence of a stream with the surface of a lake or reservoir.
10. **"Isolated Water"**- means ponds, lakes, or reservoirs that have no outlet.
11. **"*Myxobolus cerebralis* intensity"** means average spore levels in salmonid fish as determined by standardized testing in accordance with the provisions of #014 Aquatic Wildlife Health Management.
12. **"*Myxobolus cerebralis* negative salmonid fish production facility"** means a facility in which *Myxobolus cerebralis* has never been found or in which *Myxobolus cerebralis* has been eliminated in accordance with the provisions of #014 Aquatic Wildlife Health Management.
13. **"*Myxobolus cerebralis* negative water"** means a lake, pond or coldwater stream segment sampled for a statistically valid number of fish that do not test positive for *Myxobolus cerebralis*, or a water that has not been tested and has not been stocked with salmonid fish from a *Myxobolus cerebralis* positive facility.
14. **"*Myxobolus cerebralis* positive water"** means a lake, pond or coldwater stream segment sampled and found to have salmonids that test positive for *Myxobolus cerebralis*, or which has been stocked with salmonid fish from a *Myxobolus cerebralis* positive facility.

15. **"Myxospore (spore)"** means the stage of *Myxobolus cerebralis* formed in the cartilage of infected fish which re-infects the alternate host, the *Tubifex tubifex* worm.
16. **"Nonsalmonid fish"** - means all species of fish and their hybrids that are not in the family Salmonidae.
17. **"Ordinary high water line"**– means the point where perennial, hydrophytic plant life converges with bare substrate (rock, gravel, sand, fines) or with substrate interspersed with annual vegetation.
18. **"Prevalence"** is the percentage of individuals in a population found to be infected with a pathogen as determined by standardized testing in accordance with the provisions of #014 Aquatic Wildlife Health Management.
19. **"Qualified fish pathologist"** means an individual who meets professional standards as set forth by the CPW and who conducts inspections as set forth in #014 Aquatic Wildlife Health Management.
20. **"Salmonid fish"** - means all species of fish and their hybrids in the family Salmonidae, including but not limited to trout, salmon, char, whitefish, and grayling
21. **"Salmonid fish production facility"** - means one or more lakes, ponds, raceways, tanks or other containers in a single location and under the same ownership and management in which salmonid fish are reared for eventual live shipment or release.
22. **"Salmonid habitat"** means any water that supports, is capable of supporting, or is upstream of a water that supports a self-sustaining population of trout, salmon, char, whitefish, or grayling; and includes the drainages listed in Appendix D.
23. **"Spore concentration technique (SCT)"** means tests conducted according to:
 - a. *"Myxosoma cerebralis: Isolation and Concentration from Fish Skeletal Element – Sequential Enzymatic Digestion and Purification by Differential Centrifugation"*, Maria E. Markiw and Ken Wolf, Journal Fisheries Research Board of Canada, Volume 31, No. 1, 1974., or
 - b. *"Whirling Disease Myxobolus cerebralis Spore Concentration using the Continuous Plankton Centrifuge"*, Joseph J. O'Grodnick, Journal of Wildlife Diseases Volume 11 pp 54-57, 1975.

These documents, but not later amendments or editions, have been incorporated by reference and can be viewed and copies obtained as set forth in the "Incorporated References" section of Chapter 0 of these regulations.
24. **"Triactinomyxons (TAMS)"** are a stage of *Myxobolus cerebralis* formed in the gut lining of the *Tubifex tubifex* (tubifex) worm, and which are then released into the water column and re-infect fish with *Myxobolus cerebralis*.
25. **"Upper Colorado River Basin"** - means that portion of the Colorado River drainage that lies within the boundaries of the State of Colorado. This includes all waters in the Yampa, White, Gunnison, Dolores, San Juan, and Colorado River basins.
26. **"100-year floodplain"**- for the upper Colorado River Basin means river floodplain 5.5 vertical feet above the ordinary high water line (OHWL).

C. Definitions related to Terrestrial Species or Wildlife Health

1. **"Pelt"** means the skin of a furbearer with pelage intact on the skin.

ARTICLE II - LICENSE TYPES AND REQUIREMENTS

#001 - Hunt Codes

- A. Hunt Codes are a series of eight sequential letters and numbers which denote the species, sex of animal, unit number, season, and hunt type for each choice shown on the application:

1. Species - The first character of the hunt code is a letter denoting species:

A for pronghorn
B for black bear
C for desert bighorn sheep
D for deer
E for elk
G for mountain goat
H for small game or furbearer
L for mountain lion
M for moose
P for greater prairie-chicken
S for rocky mountain bighorn sheep
T for wild turkey

2. Sex of Animal - The second character of the hunt code is a letter denoting the sex of the animal for which the license is valid:

E for either-sex (antlerless or antlered) of animal, as defined in #200
F for antlerless or doe animals, as defined in #200
M for antlered or buck animals, as defined in #200

3. Unit Number - The third through fifth characters are numbers denoting the unit or group of units in which the license is valid. Units are numbered sequentially beginning with the number 1. Zeros appear before the unit number when it is less than three characters in length, i.e. 001, 023, etc. Where the license is valid in more than one unit, the lowest numbered complete unit in the group is used, and the season table shows the complete list of valid units or portions thereof. When the limited license is valid statewide, the unit number is 000. In the case of sheep and goat, the three characters are a letter denoting the species (C, S, or G) followed by the two digit unit number.

4. Season Dates or Type - The sixth and seventh characters are a letter and number (0 and up) or two numbers (1 and up) denoting the season and hunt number within the season type (chronologically):

A	for auction season/licenses + number
C	for private (match for public) combined ranches Ranching for Wildlife licenses + number
D	for game damage or distribution management hunts + number
E	for early seasons + number
F	for East of I-25 Family Only Landowner Pilot seasons + number
H	for seasons for hunters with mobility impairments /licenses + number
J	for public combined ranches Ranching for Wildlife licenses + number
K	for youth only season/licenses + number
L	for late seasons + number
M	for private (match for public) Ranching for Wildlife licenses + number or for private Bighorn Sheep Access Program licenses

N	for private (match for public) special population Ranching for Wildlife licenses + number
O	for combined or regular seasons + number
P	for private land only (PLO) seasons + number (when simultaneous with a regular season, uses the same number as the regular season)
R	for replacement license for CWD positive animals + number, for Raffle season/licenses + number, or TIPs license + number
S	for split seasons (either by time, location, or other listed criteria) + number
T	for trapping season/licenses + number
U	for over the counter licenses
W	for public Ranching for Wildlife licenses or for public Bighorn Sheep Access Program licenses
X	for public special population Ranching for Wildlife licenses + number
Y	for experimental seasons + number
Z	for disease management hunts + number

5. Manner of Take - The eighth character is a letter denoting the manner of take:
A for archery only
F for hawking only
M for muzzle-loading only
R for rifle and associated methods (all legal methods)
6. Preference Point Only Hunt Codes - When applicants wish to apply for a preference point only, the hunt codes are: Deer (DP99999P), Elk (EP99999P), Pronghorn (AP99999P), Mountain Goat (GP99999P), Rocky Mountain Bighorn Sheep (SP99999P), Moose (MP99999P), Wild Turkey (TP99999P) or Bear (BP99999P)

#002 - License Requirements

- A. Except as otherwise provided by these regulations any person who takes or possesses any wildlife shall have in possession the appropriate and valid Colorado resident or non-resident license as provided in §33-4-102, C.R.S. and shall only take wildlife of the species and type as indicated on the license. In addition to the required license the taking of some species may also require a permit.
- B. Except as otherwise provided, any person who hunts or fishes in Colorado shall have in possession the appropriate and valid Colorado resident or nonresident hunting, fishing or furbearer license including a customer identification number.

A customer identification number is not required for the following license categories:

1. Senior Lifetime licenses issued prior to 1990.
 2. Senior Lifetime Low-Income licenses issued prior to 1994.
- C. Except for state or federal waterfowl stamps or licenses that require a carcass tag, all other telephone or internet license sales will be issued a Temporary Authorization Number (TAN). This number allows the license holder to exercise the benefits of that license prior to receiving a physical license in the mail. Any person who purchases a 1 or 5 day license by phone or internet will not receive a physical license in the mail unless the valid dates for the license are more than fourteen days out from the date of purchase.
- D. All annual resident and nonresident licenses authorized in 33-4-102 (1.4), C.R.S., including fishing, senior fishing, small game hunting, furbearer, combination fishing and small game hunting, and the Colorado wildlife habitat stamp, shall be valid and otherwise in effect from April 1 to March 31st of the following year.

- E. Except as otherwise provided in these regulations, any person who hunts or fishes in Colorado shall be physically present in the immediate vicinity of the activity. Internet or other computer-assisted remote hunting or fishing is prohibited.
- F. Any person who hunts big game or turkey in a game management unit, or portions thereof, for which the Wildlife Commission has established limited license quotas must have a limited license valid for that unit. General season, over-the-counter licenses may not be used in a limited license unit unless validated by the Division.
- G. Any person possessing a license or permit restricted to a specific game management unit or portions thereof, may only hunt that unit or area for which his license or permit is issued.
- H. Duplicate small game, fishing, furbearers, senior citizen lifetime licenses and combination small game licenses may be obtained from the Division by submitting an affidavit on forms provided by the Division and payment of a \$5.00 fee. All other license duplicates may be obtained from the Division by submitting an affidavit on forms provided by the Division and payment of a fee of fifty percent of the cost of the original license, not to exceed \$25.00.
- I. All license exchanges will be charged a fee of fifty percent of the cost of the original license, not to exceed \$25.00.
- J. Any person who is authorized to hunt, fish or trap wildlife in Colorado pursuant to a permit issued by the Division shall comply with all of the terms and conditions of that permit.
- K. The Director is hereby authorized to issue the following licenses.
 - 1. Licenses for law enforcement investigative purposes to District Wildlife Managers, U.S. Fish & Wildlife (USFWS) Service Special Agents, or other persons cooperating with them or otherwise participating in a wildlife-related law enforcement activity authorizing them to hunt or fish as an appropriate element of an investigation of violation of Articles 1 through 6 of Title 33 of the Colorado Revised Statutes, regulations issued pursuant thereto, or federal wildlife laws; provided however, that no wildlife shall be taken with such a license if the taking would jeopardize the maintenance of populations at viable self-sustaining levels.

A written report shall be provided by the Director to the Wildlife Commission annually specifying the total number of licenses issued under this authority during the previous calendar year.

L. Turning In Poachers (TIPS) Reward Program

- 1. The Director is authorized to award licenses and preference points in accordance with this regulation to otherwise eligible persons that report the illegal take or possession or willful destruction of big game or turkey in Colorado to the Division.
- 2. Any person who voluntarily provides information that results in a person being charged with the illegal take or possession of big game or turkey may be awarded a preference point for the wildlife species of their choice or an over-the-counter license for the same species reported. As an alternative to the above reward options, and except as provided below, any person who voluntarily provides information that results in a person being charged with willful destruction of big game or turkey or assessment of a § 33-6-109(3.4), C.R.S., penalty may be awarded a limited license for the same species and unit reported.
 - a. In limited license units where less than 10 licenses (total) are allocated annually for all manners of take, only one reward license can be issued in any three year period.

- b. In limited license units where less than 20 licenses (total) are allocated annually for all methods of take, only one reward license may be issued per year.
 - c. In limited license units where the reward license has already been issued the person may:
 1. wait until the next reward license in that unit is available, or
 2. select another limited license unit for which a reward license is available.
 - d. If the violation(s) reported occurred within a game management unit, which is closed to hunting the species reported, the person may select another limited license unit for which a reward license is available.
3. Limited licenses awarded as part of the TIPs Reward Program shall be in addition to the number of licenses generally available through or allocated as part of the Division's limited license draw.
 4. Licenses for use on properties participating in the Division's Ranching for Wildlife program are not available as part of the TIPs Reward Program.
 5. Licenses awarded as part of the TIPs Reward Program do not confer or otherwise guarantee access to any property for the purpose of exercising the benefits of the license. Securing such access is the responsibility of the license holder.
 6. Except as provided in 2(c)(1), all licenses awarded as part of the TIPs Reward Program must be for a season occurring within 18 months of the final judicial disposition of the charges.
 7. Licenses and preference points issued as part of the TIPs Reward Program are nontransferable.
 8. For the purposes of the TIPs Reward Program, "charging" means the issuance of a penalty assessment or summons and complaint and such charging decision is at the sole discretion of the investigating officer or District Attorney.
 9. While conviction is not necessary to support the awarding of a preference point or license, no applications for TIPs rewards will be accepted and no such rewards will be issued until final judicial disposition of the charges.
 10. Only one TIPs reward will be issued per poaching incident, no matter how many animals are illegally taken. Further, if more than one person reports the violation(s) and files an application, the TIPS reward will be awarded to the person the Director finds to have provided the most pertinent information regarding the violation.
 11. Applications for TIPs rewards must be made on forms provided by the Division, must be filed within 90 days of the judicial disposition of the charges and all applicants are subject to the following eligibility requirements:
 - a. To be eligible for a TIPs reward, a person must voluntarily come forward and report the violation, and must be willing to testify, and testify if requested, in any subsequent criminal prosecution. Information obtained through criminal investigation or court process is not considered "voluntary" for the purposes of the TIPs Reward Program.
 - b. A person is eligible for only one TIPs reward per year.

- c. A person is ineligible to receive a TIPs reward if they have received any other reward for reporting the violation(s), including but not limited to a monetary payment under the Operation Game Thief program.
- d. A person must be eligible to apply for, possess or exercise the benefits of any license or preference point conferred through the TIPs Reward Program and must otherwise comply with all other generally applicable hunting requirements and restrictions.
- e. All Division employees, and peace officers that report violation(s) to the Division as part of their law enforcement duties, are ineligible for the TIPs Reward Program.

M. Terrestrial Invasive Species

- 1. The following terrestrial invasive species are hereby declared to be detrimental to Colorado's wildlife and habitat. They may be seized, captured or destroyed by the Division or its authorized agents whenever and wherever found.
 - a. Feral hog
 - b. Eurasian collared-dove
 - c. European starling
 - d. House (English) sparrow
- 2. No license is required for a person to hunt or take terrestrial invasive species. However, commercial hunting or taking of terrestrial invasive species is prohibited. No person shall receive compensation or attempt to receive compensation from the hunting of terrestrial invasive species in Colorado. Terrestrial invasive species may be taken year-round in any number by any method allowed for the take of big or small game. In addition, terrestrial invasive species may be taken at night with the use of artificial light and night vision equipment.
 - a. Except when counted as part of the bag and possession limit for doves in #508 of these regulations, while in the field and during transport all Eurasian collared-doves shall be fully feathered.
- 3. Except as authorized in writing by the Director when such release is determined to be biologically non-detrimental to Colorado's wildlife and habitats, no person shall release terrestrial invasive species or hybrids of terrestrial invasive species in Colorado for the purpose of allowing them to run at large or otherwise facilitate the distribution or abundance of these species in Colorado.

N. Hunter Education

- 1. For the purpose of this regulatory provision, the following terms have the following definitions:
 - a. **"Active Duty"** means a person who is a full time employee of a U.S. military service branch under the Department of Defense and can be deployed at any time.
 - b. **"National Guard"** means the Army National Guard or Air National Guard that is part of an organized militia of any state within the United States of America. National Guard members are not considered active duty military personnel.
 - c. **"Reserve Duty"** means a person who is trained and qualified by a U.S. military Reserve Component to be available for active duty in the armed forces when needed. Reserve members are not considered active duty military personnel.

- d. **“Veteran”** means a person who served in the Active Duty or Reserve Duty military or the National Guard and who was discharged or released from such service under conditions other than dishonorable.
- 2. As authorized and in accordance with §33-6-107(8) and §33-6-107(10) C.R.S, these regulations establish requirements for Colorado’s hunter education certification program. Hunter education classes within this state must include a minimum of 10 hours of instruction, including, but not limited to, the topics of wildlife management, wildlife identification, firearms safety, ethics, and laws and regulations. A portion of the course curriculum must also include hands-on activities where students demonstrate, at a minimum, safe firearms handling and a live fire exercise. Students must also pass a written test to successfully complete the course. Except as provided in regulation #002(L)(3) below, any person born on or after January 1, 1949, must have a valid hunter education certificate prior to hunting, trapping, or purchasing any hunting license in accordance with §33-6-107(8) and §33-6-107(10) C.R.S.
 - 3. Allowable hunter education course delivery options and methods are as follows:
 - a. Traditional class- 10 hours, minimum, in a standard classroom setting that includes hands-on learning activities. Additional time beyond the 10 hour requirement is also necessary to complete the written test and live fire exercise.
 - b. Internet course with conclusion class- The internet portion of the class is credited with 6 hours of study. A 4-6 hour, in-person, conclusion class is required and will cover laws and regulations, wildlife identification, and hands-on firearms activities. Additional time beyond the 4-6 hour requirement is also necessary to complete the written test and live fire exercise.
 - c. A person age 50 and older may complete a one-time test-out of the hunter education certification requirements by passing a timed hunter education test online with a score of 90% or above. This online test can only be taken once.
 - d. U.S. military veterans, active duty, reserve duty and National Guard members may complete a one-time test-out of the hunter education certification requirements by passing a timed hunter education test online with a score of 90% or above. This online test can only be taken once. Military personnel must bring test certificate and military identification to a CPW office to verify military status and obtain a hunter education certificate. To qualify, a veteran must be discharged under conditions other than dishonorable. Acceptable forms of military identification include:
 - i. DD 214;
 - ii. DD Form 2;
 - iii. DD Form 2765;
 - iv. Active, retired, veteran military identification card;
 - v. A current Colorado Drivers License or state issued identification card with the word “veteran” printed on it as specified in 42-2-303(5)(a) C.R.S.;
 - vi. VA medical card.
 - 4. Exceptions to the hunter education certification requirements are as follows:
 - a. A person 10 years of age or older who obtains an apprentice certificate. An apprentice certificate can only be obtained once and is valid for a one year period, identified as April 1-March 31 annually. Apprentice certificate holders must be personally accompanied by, and in voice and visual contact with a mentor while hunting. A mentor may oversee no more than 2 apprentices at a time and must carry proof of hunter education and age while in the field.

#012 – POSSESSION OF AQUATIC WILDLIFE

- A. Except as provided in these regulations or authorized by the Division or under Title 33 or Title 35 C.R.S., it shall be unlawful for any person to possess any live native or nonnative aquatic wildlife in Colorado.
- B. No person shall, at any time, have in possession or under their control any wildlife caught, taken or killed outside of this state which were caught, taken or killed at a time, in a manner, for a purpose, or in any other respect which is prohibited by the laws of the state, territory or country in which the same were caught, taken or killed; or which were shipped out of said state, territory or country in violation of the laws thereof.
- C. Except as provided herein, possession of the following species, their hybrids or viable gametes is prohibited:
 1. Amphibians
 - a. Frog, African clawed.
 - b. Frog, Green.
 - c. Toad, Marine.
 2. Crustaceans
 - a. Crayfish, Rusty.
 - b. Ponto-Caspian echinogammarid amphipod.
 - c. Shrimp, Killer of the genus *Dikerogammarus*.
 - d. Water Fleas, Fish Hook and Spiny: *Cercopagis pengoi* and *Bythotrephes longimanus*.
 3. Fish
 - a. Alewife.
 - b. Bass, Butterfly peacock of the genus *Cichla*, including, but not limited to, *Cichla ocellaris*.
 - c. Bitterling.
 - d. Bowfins: *Amiidae*.
 - e. Burbot (Ling, Freshwater cusk).
 - f. Carp of the following genera: *Catla* (including but not limited to catla); *Catlocarpio* (including but not limited to giant barb); *Carassius*; *Cirrhinus* (including but not limited to silver carp mrigal); *Cyprinus*; *Hypophthalmichthys* (including but not limited to silver carp, bighead carp and largescale silver carp); *Labeo* (including but not limited to rohu); *Mylopharyngodon* (including but not limited to black carp); and *Tor* (including but not limited to mahseers). However, grass carp and common carp, including koi and goldfish may be possessed as otherwise provided for in these regulations.
 - g. Catfish, Walking.
 - h. Eel, Asian Swamp.
 - i. Gars: *Lepisosteidae*.
 - j. Gobies: *Gobiidae*.
 - k. Ide.
 - l. Loaches of the genus *Misgurnus*, including, but not limited to, Oriental weatherfish, Chinese fine-scaled loach, and the Eurasian weatherfish.
 - m. Perch, African: of the genus *Lates*, including, but not limited to, Nile perch.
 - n. Perch, White.
 - o. Pickerel, Chain.
 - p. Piranha: Including members of the genera *Serrasalmus* and *Pygocentrus*.
 - q. Rudd.
 - r. Ruffe, Eurasian.
 - s. Snakeheads or murrels: Members of the genera *Channa* and *Parachanna*.
 - t. Sticklebacks: Members of the genera *Apeltes*, *Aulorhynchus*, *Gasterosteus* and *Pungitius*.
 - u. Tilapia: All species. However, Blue tilapia, Mozambique tilapia, Nile tilapia, and their hybrids may be imported and possessed for fish culture and educational

purposes, provided the fish and their progeny are held in facilities screened or otherwise designed to prevent their escape and are not otherwise released into waters of the state. Screen mesh size shall be no larger than 1/4" diameter. For the purposes of this regulation, "fish culture" means the raising of fish for sale as food or for export, by a licensed aquaculturist, and "educational purposes" means the raising of fish by educational facilities or for public display in public aquaria, zoos, or other similar facilities.

- v. Trahira: Family Erythrinidae
- w. Zander.

4. Mollusks

- a. Apple snails: *Pomacea*.
- b. European valve snail (European stream valvata).
- c. Giant rams-horn snail.
- d. Mussel, Quagga.
- e. Mussel, Zebra.
- f. Mysterysnails of the genera *Cipangopaludina* and *Viviparus*, including but not limited to Japanese mysterysnail, Chinese mysterysnails, Banded mysterysnail, and Olive mysterysnail.
- g. New Zealand mudsnail.

Possession of the above species may be authorized as provided by Chapter 13 of these regulations ("Possession of Wildlife, Scientific Collecting and Special Licenses") or Title 35, Article 80, C.R.S. ("Pet Animal Care and Facilities Act"), or as pets in private aquaria. However, release of any of the above species into waters of the state is prohibited. Any person who takes any of the above fish species from the wild in Colorado may take and possess them in any number year round for personal use, provided that the fish are killed prior to transportation from the point of take.

- D. No person shall import, transport, possess, or release any aquatic nuisance species (ANS) except as authorized by the Division or permit issued under Title 35 C.R.S.
- E. Any species on the prohibited list in #012(C) that escapes the owner's or guardian's control will be deemed to be detrimental to native wildlife and can be removed from the wild by the Division as per these Regulations.

#014 – AQUATIC WILDLIFE HEALTH MANAGEMENT

A. Inspection and Certification for Prohibited and Regulated Fish Diseases

- 1. Annual fish health inspections and certifications are required for all in-state fish production or holding facilities, which sell or stock live fish, and out of state facilities importing live fish into Colorado. A fish health certification will terminate one year from the effective date of certification or upon discovery of a prohibited or regulated disease, whichever occurs first. However, provided the facility requests its annual fish health inspection within 12 months of the effective date of its last certification, its fish health certification shall be valid for fifteen months or whenever its subsequent inspection report is available, whichever occurs first. In the absence of a timely written request for an annual fish health inspection the fish health certification shall terminate 12 months from the effective date of its last certification. A copy of such certification must accompany each fish shipment within or into Colorado.
- 2. All such facilities shall be annually inspected by a qualified fish pathologist for both prohibited and regulated diseases as applicable.
 - a. Prohibited diseases
 - 1. All salmonid facilities must be certified to be free of the following diseases:

Infectious Hematopoietic Necrosis Virus (IHNV)
Viral Hemorrhagic Septicemia Virus (VHSV)
Oncorhynchus masou Virus (OMV)

2. All facilities with non-salmonid fishes must be certified free of Viral Hemorrhagic Septicemia Virus (VHSV).
3. Inspection and Certification for Other Diseases of Concern: susceptible or potentially susceptible species from all importing facilities within the applicable endemic disease areas, including both salmonid and nonsalmonid fish production or holding facilities, must also be annually certified by a qualified fish pathologist to be free of the following diseases:

Ceratomyxa shasta (Ceratomyxosis)
Epizootic Epitheliotropic Disease (EEV)
Infectious Salmon Anemia Virus (ISAV)
Piscirickettsia salmonis
Tetracapsula bryosalmo (Proliferative Kidney Disease – PKD)
Spring Viremia of Carp Virus (SVCV)

- b. Regulated diseases – all salmonid facilities must be certified for the presence or absence of the following diseases:

Myxobolus cerebralis (Whirling Disease – WD)
Renibacterium salmoninarum (Bacterial Kidney Disease - BKD)
Aeromonas salmonicida (Furunculosis)
Infectious Pancreatic Necrosis Virus (IPNV)

3. Testing procedures.

- a. Except for Viral Hemorrhagic Septicemia Virus (VHSV) and as otherwise provided in these regulations, all inspections and testing procedures must be conducted as set forth in the Blue Book: USFWS and AFS-FHS (U.S. Fish and Wildlife Service and American Fisheries Society-Fish Health Section) Current edition. Standard procedures for aquatic animal health inspections. *In* AFS-FHS. FHS Blue Book: Suggested procedures for the detection and identification of certain finfish and shellfish pathogens, 2016 edition. AFS-FHS, Bethesda, Maryland. This document can be viewed and copies obtained at the Division as set forth in the “Incorporated References” section of Chapter 0 of these regulations.
 - b. Testing for Viral Hemorrhagic Septicemia Virus (VHSV) shall be conducted by the protocols and procedures of:
 - 1 The Blue Book: USFWS and AFS-FHS (U.S. Fish and Wildlife Service and American Fisheries Society-Fish Health Section) 2014 edition. Standard procedures for aquatic animal health inspections. *In* AFS-FHS. FHS Blue Book: Suggested procedures for the detection and identification of certain finfish and shellfish pathogens, 2016 edition. AFS-FHS, Bethesda, Maryland, or
 2. The Manual of diagnostics for aquatic animals 2014 edition. of the OIE - World Organisation for Animal Health, 12 rue de Prony 75017 Paris, France.These documents can be viewed and copies obtained at the Division as set forth in the “Incorporated References” section of Chapter 0 of these regulations.

4. Authority to exempt applicants from specific pathogen testing is granted to the Director, upon consultation with, review, and recommendation from the Fish Health Board, when the following criteria are met:

- a. Compliance with testing requirements would result in an unacceptable impact on the sample population.

- b. There is minimal risk of introducing an exotic pathogen into the state.
- c. There is minimal risk of exposing free-flowing waters to any specific pathogen.
- d. Adequate provisions for management and disposition of the fish and adequate disinfection of the water as necessary are made and incorporated as conditions of the importation permit.

Application for such an exemption shall be submitted to the Division at least fourteen (14) working days prior to the proposed importation date. The Director shall have fourteen (14) working days to approve or disapprove the application. The Fish Health Board shall review and submit its recommendation to the Director within seven (7) working days after receipt from the Division.

B. Reportable Diseases: the presence of any prohibited or regulated disease at an in-state or importing facility shall be immediately reported to the Division.

C. Management of Prohibited and Regulated Fish Diseases.

1. Prohibited Disease agents.

- a. No fish or gametes (eggs and sperm) with, or exhibiting clinical signs of, any Prohibited Disease, or any other infectious agents determined by the Director to pose a significant threat to Colorado's aquatic resources, may be imported or placed in waters of this state without written approval of the Director. Written approval may be granted only after the following conditions have been met:
 - 1. The Director has determined that no damage or undesirable effects to existing fish populations and their habitat will occur.
 - 2. The nature of any disease(s) must be positively determined and documented.
- b. If fish are found with Prohibited Diseases or any diseased wildlife, which would have a significant detrimental effect on Colorado's wildlife resource as determined by the Director, are found at any fish production or holding facility they may be destroyed or held in quarantine at the owner's expense, in accordance with 33-5.5-102 C.R.S. Possession, transfer or any other act relative to such wildlife contrary to the Director's determination of disposition is prohibited.
- c. The Director shall determine when destruction of wildlife, a quarantine or disinfection is required at any federal, state, private or commercial fish or wildlife production facility. If the Director determines that either destruction, quarantine or disinfection is required, he shall issue a written order to the owner or operator of the facility setting forth the steps for destruction and/or disinfection. Required disinfection of holding facilities will be completed at the owner's expense. If the owner disagrees with the Division's determination he shall have the right to appeal the decision to the Wildlife Commission provided notice of such appeal is given to the Director within seventy-two (72) hours of receipt of the order.

2. Regulated Disease Agents

- a. *Myxobolus cerebralis* (Whirling Disease – WD)
 - 1. *Myxobolus cerebralis* testing

- aa. At the time of the annual inspection for whirling disease certification, all facilities in Colorado or facilities importing fish into Colorado shall be tested using either of the two methodologies listed below.
 1. Spore Concentration Technique: The facility shall provide at least one lot of live salmonids (minimum lot size of 260 fish) for whirling disease testing. As a screening procedure, fish shall be tested for the presence of *Myxobolus cerebralis* using a spore concentration technique ("SCT"). Minimum sample size of lots in aggregate shall be determined at the assumed prevalence level of 5% with 95% confidence.
 - aaa. Any negative finding will be conclusive for the absence of *Myxobolus cerebralis*.
 - bbb. Any positive finding will be presumptive for the presence of *Myxobolus cerebralis*. All presumptive SCT findings shall be confirmed by PCR. PCR results shall be conclusive as to the presence or absence of *Myxobolus cerebralis*.
 2. Polymerase Chain Reaction (PCR) Technique: As an alternative to SCT, susceptible salmonids held at least 4 months in the water supply may be tested by PCR. A positive finding in such instance shall be considered presumptive for the presence of *Myxobolus cerebralis*. Confirmation shall be determined by a second PCR conducted by a different laboratory.
- bb. Sample size – for the purpose of annual inspections for *Myxobolus cerebralis*, the minimum sample size for determination of prevalence shall be sixty susceptible fish per water supply in a salmonid fish production facility.
- cc. Stocking from facilities which are presumptive for *Myxobolus cerebralis* shall comply with the provisions of release of *Myxobolus cerebralis* positive fish during confirmatory testing. PCR tests for presumptive positives will be the highest priority for testing and every effort will be made to complete the test within 21 days.
- dd. For the purpose of conducting confirmatory testing, should it become necessary, at least 100 fish from each lot tested, with at least 200 total fish from tested lots, shall be held at the facility for up to 3 weeks after the initial inspection date.
- ee. Diagnostic or incidental observations of *Myxobolus cerebralis* by histology (presence of morphologically correct organisms within salmonid skeletal tissues) shall be presumed positive for the organism. Presumptive findings by histology shall be confirmed by PCR.
2. WD Negative Recertification: In order for the *Myxobolus cerebralis* status of a salmonid fish production facility to change from positive to negative, the owner and/or operator of the facility must complete all of the requirements of either aa or bb below:
 - aa. Method 1 - Facility modifications and testing for *Myxobolus cerebralis*:
 1. Render all originating water sources at the facility free of all fish and enclosed so as to prevent outside contamination by *Myxobolus cerebralis*.

2. Construct all rearing spaces and water conveyances of concrete, fiberglass, steel, or other manufactured impermeable materials that are not conducive to colonization by the alternate oligochaete host(s) of *Myxobolus cerebralis*.
3. Completely purge all sediments from rearing spaces and water conveyances at least once every two months.
4. After completion of steps 1 through 3, have the facility tested and found negative for *Myxobolus cerebralis* according to the following procedures and schedule:

aaa. A minimum of three hundred rainbow trout at least four months of age shall be designated as the sentinel lot and must be individually marked by a state fish pathologist. These fish will then be placed in approved rearing spaces selected for optimal exposure, at which time the exposure period shall begin.

bbb. Fish shall be collected and tested for *Myxobolus cerebralis* by a qualified fish pathologist during two inspections. A minimum of sixty fish from the sentinel lot, still bearing the previously placed tags, shall be included in each sample. The inspections shall occur at least ten months and at least fourteen months after the exposure period begins if a Spore Concentration Technique (SCT) is used. The testing shall occur at least 8 months and at least 12 months after the exposure period begins if Polymerase Chain Reaction (PCR) is used as the testing technique. The time frame for such testing by PCR may be shortened further if it is determined by the Director after consultation with the Fish Health Board that an additional reduction of the time frame for testing would present a negligible risk of not detecting the presence of *Myxobolus cerebralis*, after consideration of the following criteria:

1. Water supply(s).
2. Distance between water supply(s) and rearing spaces.
3. Nature of connecting pipes and conveyances.
4. Possibility of fish entering and exiting in water supply lines.
5. Nature and construction of rearing spaces.

bb. Method 2 - Testing for *Myxobolus cerebralis* with partial or no facility modification.

1. A minimum of three hundred rainbow trout at least four months of age shall be designated as a sentinel lot, and must be individually marked by a qualified fish pathologist. These fish will then be placed in approved rearing spaces selected for optimal exposure to *Myxobolus cerebralis*, at which time the exposure period shall begin.
2. Fish shall be collected and tested for *Myxobolus cerebralis* by a qualified fish pathologist during four inspections. A minimum of sixty fish from the sentinel lots, still bearing the previously placed tags, shall be included in each sample. The inspections shall occur at least ten, fourteen, twenty-four, and twenty-eight months if SCT is used, or at least eight, twelve, twenty, and twenty-four months if a PCR is used as

the testing technique after the exposure period begins. A second sentinel lot will be placed in the same rearing spaces after collection of the fourteen month sample for SCT or twelve month sample for PCR. The time frame for testing by PCR may be shortened further if it is determined by the Director that an additional reduction of the time frame for testing would present a negligible risk of not detecting the presence of *Myxobolus cerebralis* after consideration of the following criteria:

aaa. Water supply(s).

bbb. Distance between water supply(s) and rearing spaces.

ccc. Nature of connecting pipes and conveyances.

ddd. Possibility of fish entering and exiting in water supply lines.

eee. Nature and construction of rearing spaces.

fff. Nature and reliability of treatment technology.

ggg. System redundancy and back-up power supply.

3. Sampling in these inspections will be conducted at a minimum assumed prevalence level of five percent at the ninety-five percent level of confidence per lot at least eight months old; and at a minimum assumed prevalence level of two percent at the ninety five percent level of confidence for the facility as a whole.

cc. Upon satisfactory completion of the requirements under either Method I or Method II, the State Fish Pathologist shall provide certification of negative *Myxobolus cerebralis* status.

3. Operation of *Myxobolus cerebralis* Positive Salmonid Fish Production Facility.

aa. No person shall operate a salmonid fish production facility which has been diagnosed positive for *Myxobolus cerebralis* in salmonid habitat unless an exemption allowing such operation has been granted by the Director after consultation with the Fish Health Board.

1. Applications for such exemptions shall be evaluated based on the following factors:

aaa. The ability of the facility to remediate and regain *Myxobolus cerebralis* negative status, and any Whirling Disease Clean-up Plan (WDGP) submitted by the applicant;

bbb. The risk to native cutthroat trout management habitats;

ccc. The risk to any other salmonid habitats;

ddd. The risk to any recreationally valuable salmonid fishery;

eee. Social and economic impacts to private and public entities, and

fff. The Whirling Disease Management Plan (WDMP) submitted by the applicant.

- bb. Applications for exemptions to operate a *Myxobolus cerebralis*_positive facility within salmonid habitat shall be submitted to the Director within 60 days of notification that the facility has tested positive for *Myxobolus cerebralis*. Persons that submit timely applications for exemptions shall be allowed to continue operation, subject to all other applicable regulations, pending the Director's decision. Persons that fail to submit a timely application or have their application for exemption denied shall cease all salmonid fish production operations and shall dispose of the fish located on the facility within 180 days or, if the 60 day notice period runs or the application is denied after April 1st, by October 1st of the following year.
- cc. All applications shall include a Whirling Disease Management Plan (WDMP) and, if the applicant intends to undertake facility remediation, a Whirling Disease Clean-up Plan.
- dd. The WDMP shall include the best management practices (BMP) to be used to minimize the discharge of spores and TAMS into waters of the state should the facility be allowed to continue operation while positive for *Myxobolus cerebralis*, including any temporary operation while the applicant undertakes clean-up of the facility.
 - 1. BMP's for fish production facilities shall, at a minimum, specifically describe or address the following factors:
 - aaa. The *Myxobolus cerebralis*_status of fish brought onto the facility;
 - bbb. The size of fish brought onto the facility;
 - ccc. The size of fish introduced into earthen ponds;
 - ddd. Facility construction and operation;
 - eee. Disinfection procedures;
 - fff. Disposition of mortalities;
 - ggg. Species to be reared;
 - hhh. Treatment of effluent;
 - iii. Exposure of vulnerable-sized fish to temperatures optimum for TAM production;
 - jjj. Monitoring of effluent for spore/TAM levels, and;
 - kkk. Any other site specific or disease considerations.
- ee. Persons granted an exemption to operate a *Myxobolus cerebralis*_positive facility within salmonid habitat shall:
 - 1. Comply at all times with the terms and conditions of any exemption granted by the Director, including, but not limited to, compliance with WDMP and the BMPs approved for the facility;
 - 2. Submit an annual report to the Division by the anniversary date of the exemption. The annual report shall address operation of the facility and compliance with terms and conditions of the exemption. An annual site inspection may be conducted to determine compliance with

the terms and conditions of the exemption.

- ff. Exemptions granted by the Director shall be valid unless the applicant fails to comply with the terms of the exemption, fails to submit an annual report, or new and significant information regarding the risks associated with continued operation of the *Myxobolus cerebralis* positive facility, or the availability of BMPs which would improve management of the infection, supports modification of the WDMP and the exemption or revocation of the exemption.

4. Release of *Myxobolus cerebralis* Positive Fish

- aa. No live salmonid originating from a facility which has been diagnosed positive or presumptive for *Myxobolus cerebralis* may be released into salmonid habitat unless an exemption allowing such stocking has been granted by the Director after consultation with the Fish Health Board.
- bb. Applications for exemptions shall be submitted to the Director at least 60 days prior to any proposed stocking.
- cc. Applications for stocking exemptions shall be evaluated based on the following factors:
 - 1. The risk to native cutthroat trout management habitats, any other salmonid habitats or any recreationally valuable salmonid fishery, including consideration of:
 - aaa. M.c. status of free-ranging fish in the water proposed for stocking;
 - bbb. Proximity to native cutthroat trout waters or planned cutthroat trout recovery areas;
 - ccc. Size and species of salmonids to be stocked;
 - ddd. The prevalence or intensity of *Myxobolus cerebralis* infection in and the total number of salmonids to be stocked;
 - eee. Connection of the water proposed for stocking to other public or private water at any time during the year;
 - fff. The presence of naturally reproducing salmonid species in connected waters;
 - ggg. The prevalence or intensity of *Myxobolus cerebralis* infection, if any, in naturally reproducing salmonid populations present in connected waters;
 - hhh. The presence and *Myxobolus cerebralis* status of fish production or distribution facilities in connected waters;
 - iii. The physical and operational, if an impoundment, characteristics of the water to be stocked;
 - jjj. Any other factor which determined by the Director to be important in determining the risk to fish or fish habitat.
- 2. Social and economic impacts to private and public entities, and;

3. The Whirling Disease Management Plan (WDMP) submitted by the applicant.
- dd. All applications for stocking exemptions shall include a Whirling Disease Management Plan (WDMP). The WDMP shall include the best management practices (BMP's) to be used to minimize the discharge of spores and TAMS to waters of the state due to the stocking of the fish. BMP's for fish stocking shall, at a minimum, specifically describe or address the following factors:
 1. Size of *Myxobolus cerebralis*_positive fish to be stocked;
 2. Species of *Myxobolus cerebralis*_positive fish to be stocked;
 3. Facility construction and operation;
 4. Disinfection procedures;
 5. Disposition of mortalities;
 6. Treatment of effluent;
 7. Exposure of vulnerable-sized fish to temperatures optimum for TAM production;
 8. Monitoring effluent for spore/TAM levels, and;
 9. Any other site specific or disease considerations.
 - ee. Persons granted a stocking exemption shall:
 1. Comply at all times with the terms and conditions of any exemption granted by the Director, including, but not limited to, compliance with WDMP and the BMPs approved for the stocking.
 2. Submit an annual report to the Division on the anniversary date of the exemption. The annual report shall address compliance with terms and conditions of the exemption. An annual site inspection may be conducted to determine compliance with the terms and conditions of the exemption.
 - ff. Exemptions granted by the Director shall be valid unless the applicant fails to comply with the terms of the exemption, fails to submit an annual report, or new and significant information regarding the risks associated with the stocking of *Myxobolus cerebralis*_positive fish, or the availability of BMPs which would improve management of the infection, supports modification of the WDMP and the exemption, or revocation of the exemption.
- b. *Renibacterium salmoninarum* (Bacterial Kidney Disease - BKD)
 1. Bacterial Kidney Disease Management Plans: No later than 60 days of finding and notification that an in-state fish production facility is positive for *Renibacterium salmoninarum*, the owner shall submit a written management plan to the Fish Health Board and to the Director. The plan shall address possible sources of infection, species of fish, types of rearing containers, disinfection, eradication and avoidance of recurrence of the pathogen, and the proposed disposition of positive fish. Within 30 days after submittal, the Fish Health Board shall review the plan and submit it with a recommendation for

approval, rejection or modification to the Director. The Director shall then have 15 days to approve, reject, or modify the plan. Before making a final decision, the Director will consider the recommendation of the Fish Health Board and the effectiveness of the plan in controlling and managing the pathogen in the fish production facility.

2. Re-establishment of Negative Status for BKD: In order for the *Renibacterium salmoninarum* status of a fish production facility or free-ranging fish population to change from positive to negative, the owner and/or operator of the facility must complete all of the requirements of either a or b below:

aa. Method 1 - Testing for *Renibacterium salmoninarum* without depopulation:

After twelve months and the completion of three consecutive negative inspections at least three months apart, a qualified fish pathologist shall provide notification that the facility or population is considered negative for *Renibacterium salmoninarum*.

bb. Method 2 - De-population of lots testing positive and testing for *Renibacterium salmoninarum*:

After de-population of lots testing positive and the completion of two consecutive negative inspections at least three months apart, the qualified fish pathologist shall provide notification that the facility or population is considered negative for *Renibacterium salmoninarum*.

3. No person shall release into any fish production facility or into any waters of this state live salmonid fish or gametes from a free-ranging fish population or fish production facility which is positive for *Renibacterium salmoninarum*, (the causative agent of Bacterial Kidney Disease) except as allowed herein.

aa. Release is limited to waters and fish production facilities approved by the Director. Waters will not be approved if such stocking is determined to be a significant threat to:

1. any other federal, state, or permitted fish production facility; or
2. stocking restricted cutthroat trout waters identified in Appendix C; or
3. any other free-ranging salmonid fish populations determined to be of special importance to Colorado's fishery resources, considering the uniqueness of the resource, use and/or potential for use as a source of brood fish or gametes.

A list of approved waters and fish production facilities and the maps indicating the location of stocking restricted cutthroat trout waters are available from the manager of the Aquatic Resources Section of the Division, 6060 Broadway, Denver, CO 80216.

bb. The owner and/or operator of a fish production facility receiving gametes from a free-ranging fish population or fish production facility which is positive for *Renibacterium salmoninarum* shall have the progeny tested for *Renibacterium salmoninarum* prior to movement of the progeny from the facility.

- c. *Aeromonas salmonicida* (Furunculosis): No live salmonid fish originating from a facility which has been diagnosed positive for *Aeromonas salmonicida* (Furunculosis) may be stocked within stocking restricted cutthroat trout waters

identified in Appendix C.

1. A state, federal or licensed aquaculture facility shall be considered negative upon the completion of a negative inspection at least 60 days after a positive diagnosis of *Aeromonas salmonicida* (Furunculosis).
 2. Eggs originating from a facility which has been diagnosed positive for *Aeromonas salmonicida* (Furunculosis) shall be disinfected both at the point of origin and at their destination, using the method as set forth in #014 Aquatic Wildlife Health Management of these regulations.
- d. Infectious Pancreatic Necrosis Virus (IPNV): Any aquaculture facility found positive for Infectious Pancreatic Necrosis Virus (IPNV) shall be subject to virus eradication efforts approved by the Director at the owner's expense within one calendar year of the positive finding.
1. No person shall import into Colorado or release into any waters of this state live salmonid fish or gametes (eggs or sperm) from a water or facility in which Infectious Pancreatic Necrosis Virus (IPNV) has been identified without a plan for the eradication of the virus and disposition of affected fish approved by the Director. Upon a positive finding of Infectious Pancreatic Necrosis Virus (IPNV) in an aquaculture facility in Colorado, the owner shall have 60 days to submit a written plan to the Fish Health Board for the eradication of the pathogen and disposition of the fish. The Fish Health Board shall have 30 days to review the plan and submit it with a recommendation for approval, rejection or modification to the Director. Before making a final decision, the Director will consider the recommendation of the Fish Health Board and the effectiveness of the process outlined in the plan to eradicate the pathogen from the aquaculture facility. No salmonid fish or gametes (eggs or sperm) from a water or facility in which Infectious Pancreatic Necrosis Virus (IPNV) has been identified shall be released into any water of this state without an approved plan. In addition, no live salmonid fish or gametes (eggs or sperm) originating from an aquaculture facility or free-ranging fish population which has been diagnosed positive for Infectious Pancreatic Necrosis Virus (IPNV) may be stocked if determined by the Director to be a threat to: (A) any other federal, state or permitted aquaculture facilities or (B) stocking restricted cutthroat trout waters identified in Appendix C or (C) free-ranging salmonid populations used or intended for use as gamete (eggs or sperm) sources for state, federal or permitted aquaculture facilities or (D) any other free-ranging salmonid fish populations determined by the Director to be of special importance to Colorado's fishery resources. Criteria for D will include uniqueness of the resource and potential for use as a source of brood fish or gametes.
 2. Aquaculture facilities that have undergone adequate efforts to eradicate IPNV may again be considered negative 90 days after the reintroduction of sentinel fish and upon the completion of two negative inspections on all lots present at least eight weeks apart. For these purposes, sentinel fish shall consist of either rainbow trout or brook trout fry between one day and 42 days old.
 3. Free-ranging fish populations found positive for IPNV may again be considered negative upon the completion of at least three consecutive negative inspections at least four (4) months apart over a period of at least 24 months.

D. Egg Disinfection

1. The operator and employees of any fish production facility must use the following procedures when disinfecting salmonid eggs received from any source:

- a. Eggs shall be disinfected by soaking them in a solution containing one hundred parts per million iodine, in the form of povidone iodine, for a minimum of ten minutes before such eggs are allowed to come in contact with other eggs, fish, incubators, rearing spaces, or water supplies on a fish culture facility.
- b. Hands, gloves, shipping containers and any implements or objects that contact such eggs before disinfection must not come into contact with other eggs, fish, incubators, rearing spaces, or water supplies on a fish culture facility until they have been disinfected using a commercially available disinfectant as directed on the product label.

ARTICLE XI - SPECIAL RESTRICTIONS

#020 -

- A. Most restrictive Federal or State law - In all cases of licensing, taking, possession, importation, exportation, release, marking and sale of any wildlife, irrespective of current status (threatened, endangered, game or nongame), the most restrictive state or federal regulation shall apply by species.
- B. Live Capture – Common snapping turtles may be taken in any number and maintained alive.
- C. Tagging and carcass tag requirements.
 1. A carcass tag is required for all big game and for turkey.
 2. When any person kills a wildlife species for which a carcass tag is required such person must immediately void the carcass tag by signing, dating and detaching it. Such tag must be attached to the carcass immediately prior to and during transportation in any vehicle or while in camp or at a residence or other place of storage. Such tag, when so dated, signed and attached to the species lawfully taken or killed and lawfully in possession, authorizes the possession, use, storage, and transportation of the carcass, or any part thereof.
 3. If the carcass tag and/or license are inadvertently or accidentally detached, lost or destroyed, the licensee must obtain a duplicate carcass tag and/or license before he can lawfully hunt with such license. The duplicate carcass tag may be obtained upon furnishing satisfactory proof as to the inadvertent or accidental nature of detachment, loss, or destruction to the Division.
- D. Waste of Wildlife
 1. Except for furbearers, Terrestrial Invasive Species listed in Commission Regulation #002(K)(1), wildlife listed in Commission Regulation #300(A)(3), or any wildlife taken under the authority of §33-6-107(9), C.R.S., all edible portions of game wildlife taken under the authority of a license shall be properly prepared to provide for human consumption. For the purpose of this restriction edible portions shall not include internal organs.
 2. Any consumption or spoilage of game wildlife by a falconry raptor upon the raptor's capture of the game wildlife shall not be considered waste of wildlife, provided the falconer makes a reasonable and timely attempt to retrieve the game wildlife and prepare some remaining edible portion for human consumption.
- E. Closures

1. Federal fish hatcheries and rearing units except that persons designated by the United States Fish and Wildlife Service may take fish or amphibians within the boundaries of said hatcheries or rearing units.
2. Except as otherwise provided in these regulations all Division hatcheries, rearing units and holding basins shall be closed to the taking of fish and amphibians.
3. State Refuges, Parks and Monuments - Public access to any refuge, park or monument, the jurisdiction over which is by law given to any federal or state agency or municipality, may be limited by order of said agency or municipality to the same extent as if said agency or municipality were a private person.
4. Hunting with rifles, handguns or shotguns firing a single slug, or archery equipment is prohibited within an area fifty (50) feet on each side of the center line of any state highway or municipal or county road as designated by the county. In the case of a divided road or highway this shall include the entire median area and the fifty (50) feet shall be measured from the center line of both roads.
5. Hunting is prohibited on Mt. Evans Summit Lake cirque, and within 1/2 (one-half) mile of either side of the centerline of Mt. Evans Highway (Colo 5) while the road is open to motor vehicle traffic, from its intersection with Colo 103 to the summit of Mt. Evans. When Colo 5 is closed to motor vehicle traffic, this hunting closure is lifted, except that the closure will remain in place year-round for ptarmigan hunting. (Information note: maps are available from the Division, Northeast Region Office, 6060 Broadway, Denver, Colorado 80216.)
6. All lands in the Gore Creek Drainage south of I-70 from Lions Head Ski Lift at Vail to the intersection of I-70 and US 24, and all lands on the north side and within one-half (1/2) mile of I-70 from the main Vail exit (exit 176) west to the intersection of I-70 and US 24 shall be closed to all hunting during the regular rifle deer and elk seasons each year.

F. Director's Authority

1. The Director of the Division may establish and enforce temporary closures of, or restrictions on, lands and waters of the state to hunting, fishing or other wildlife-related recreation, including but not limited to the collection of shed antlers, for a period not to exceed 9 months. Such temporary closures may be established and enforced only where necessary to protect public safety, protect threatened or endangered wildlife species, protect wildlife resources from significant natural or manmade threats, such as the introduction or spread of disease or nuisance species, changing environmental conditions or other similar threats, protect time-sensitive wildlife use of lands or waters, protect against additional and significant environmental damage after an area has sustained a natural or manmade disaster, or to facilitate Division-sponsored wildlife research projects or management activities. Whenever such closure is established, public notice of the closure shall be given, including the posting of the lands and waters affected, indicating the nature and purpose of the closure. Upon posting, it shall be unlawful to hunt, fish or engage in any other designated wildlife-related recreation on such lands or waters or enter the lands or waters for the purpose of hunting, fishing or any other designated wildlife-related recreation.

G. Incorporated References

1. Materials incorporated by reference in these regulations only include the edition of the material specifically identified by date in the incorporation by reference. The incorporation by reference does not include later amendments to, or editions of, the incorporated materials. Information regarding how and where the incorporated materials may be examined, or copies obtained, is available from:

Regulations Manager
Policy and Planning Unit
Colorado Division of Parks and Wildlife
1313 Sherman Street
Denver, Colorado 80203

2. In addition, materials incorporated by reference in these regulations are maintained by, and available for examination at, any state publications depository library.

H. Possession of Edible and Non-edible Portions of Mountain Lions and Bears

The possession of the carcass, hide, skull, claws, or any part of any bear or lion is prohibited unless the animal was taken by a licensed hunter during an established hunting season or unless specifically authorized by the Division.

I. Chronic Wasting Disease Reporting

Chronic Wasting Disease (CWD) is classified as a disease which, whenever detected in the wild or in a commercial park, must be reported to the Colorado Division of Parks and Wildlife Veterinarian, 317 W. Prospect, Ft. Collins 80526, within 24 hours of the receipt of any CWD positive test result. As a condition of issuance of a license or permit, any hunter, commercial park licensee, other license holder or permittee of the Division, or any member of the public who submits a deer or elk head for CWD testing grants consent for the lab to report the test results to the Division. A written copy of the test report shall be provided to the Division at the above address within 10 days of test completion, either by the lab or by the person who submits the sample.

J. Electronic Ignition Muzzle Loaders

It is unlawful for any person, except a person authorized by law or by the division, to possess or have under his control a loaded electronic-ignition muzzle loader in or on any motor vehicle unless the chamber of such firearm is unloaded or unless the battery is disconnected and removed from its compartment.

#022 - At Risk Species

- A.** "At Risk," with respect to [§35-40-100.2(1.5), C.R.S.], means the following species: kit fox.

#023 - Walk-In Access Program

- A.** Public access is prohibited from 1 hour after sunset to 1 hour before sunrise, except that when hunting waterfowl, deer, elk, or pronghorn, public access is prohibited from two (2) hours after sunset to two (2) hours before sunrise.
- B.** Species of take will be restricted as follows:
1. Lands enrolled and posted as Regular, Late Cropland or Extended Season Walk-In Access Properties are open for the take of all small game, furbearers, migratory game birds and Eurasian collared-doves, except Gambel's quail, Gunnison's sage grouse and Greater sage grouse.
 2. Lands enrolled and posted as Big Game Walk-In Access Properties are open for the take of deer, elk, and pronghorn by hunters holding a valid license for the Game Management Unit in which the Walk-In Access parcel lies.
- C.** Public access is allowed:

1. From September 1 through the end of February annually for lands enrolled and posted as Regular Season Walk-In Access properties;
 2. From the opening day of pheasant season through the end of February annually for lands enrolled and posted as Late Season Cropland Walk-In Access properties;
 3. From September 1 through the end of the Mountain sharp-tailed grouse season annually, for all lands enrolled and posted as Grouse Walk-In Access properties;
 4. From the opening day of pheasant season through the end of March annually for lands enrolled and posted as Extended Walk-In Access properties;
 5. From the opening day of pheasant season through the end of February annually, for lands enrolled and posted as Novice Hunter Program Walk-In Access properties;;
 - a. A current year's graduate of the Novice Hunter Program must be present and actively hunting with each group during all hunting activities.
 - b. Up to four additional hunters may accompany and hunt with a graduate of the Novice Hunter Program.
 6. From September 1 through the end of December annually for lands enrolled and posted as Big Game Walk-In Access Properties.
- D.** Access shall be by foot only. Entry by horseback, motorized vehicle or other means is prohibited.
- E.** Access is allowed for hunting only; all other activities are prohibited.
- F.** Access is prohibited as posted when the landowner is actively harvesting crops.

ARTICLE XIII - GAME MANAGEMENT UNIT BOUNDARIES.

#024 - GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS FOR ALL TERRESTRIAL GAME SPECIES, EXCEPT BIGHORN SHEEP AND MOUNTAIN GOAT.

- A.** The following game management unit (GMU) descriptions begin with the north boundary and are described in clockwise rotation, with all roads or designations listed connecting to the next in the progression. The following standard abbreviations are used throughout:

Bureau of Land Management roads: BLM
 Colorado State highways: Colo
 County: Co
 County roads: Co Rd
 Interstate highways: I-
 Road: Rd
 U.S. Forest Service roads: USFS
 U.S. (Federal) highways: US

B. Unit descriptions

- UNIT 1** That portion of Moffat Co bounded on the north, east and south by the Green River; and on the west by the Colorado-Utah state line.
- UNIT 2** That portion of Moffat Co bounded on the north by the Colorado-Wyoming

- state line; on the east by the Little Snake River; on the south by the Yampa River; and on the west by the Green River, Moffat Co Rd 34, Moffat Co Rd 10, Colo 318 and Moffat Co Rd 10N (Irish Canyon Rd).
- UNIT 3 That portion of Moffat Co bounded on the north by the Colorado-Wyoming state line; on the east by Colo 13/789, Moffat Co Rds 108, 3, 158, 5 and 17; on the south by the Yampa River, US 40; and Colo 318; and on the west by the Little Snake River.
- UNIT 4 Those portions of Moffat and Routt counties bounded on the north by the Colorado-Wyoming state line; on the east by Moffat Co Rd 1, Routt Co Rd 82, USFS 150 and Elkhead Creek; on the south by US 40; and on the west by Colo 13/789.
- UNIT 5 Those portions of Moffat and Routt counties bounded on the north by the Colorado-Wyoming state line; on the east by the Continental Divide; on the south by the Little Snake-Elk River divide and USFS 42; and on the west by USFS 150, Routt Co Rd 82 and Moffat Co Rd 1.
- UNIT 6 That portion of Jackson Co bounded on the north by the Colorado-Wyoming state line; on the east by the Jackson-Larimer Co line; on the south by Colo 14; and on the west by Colo 125 from Colo 14 to its junction with the Colorado-Wyoming state line.
- UNIT 7 That portion of Larimer Co bounded on the north by the Colorado-Wyoming state line on the east by Larimer Co Rd 103 (Laramie River Rd); on the south by Colo 14; and on the west by the Larimer-Jackson Co line.
- UNIT 8 That portion of Larimer Co bounded on the north by the Colorado-Wyoming state line; on the east by Larimer Co Rds 59, Larimer Co Rd 80C (Cherokee Park Rd), 179 (Prairie Dirt Rd), 74E (Red Feather Lakes Rd), 68C (Boy Scout Ranch Rd), and 69 (Manhattan Rd); on the south by Colo 14; and on the west by Larimer Co Rd 103 (Laramie River Rd).
- UNIT 9 Those portions of Larimer and Weld Counties bounded on the north by the Colorado- Wyoming state line; on the east by I-25; on the south by Colo 14; and on the west by US 287.
- UNIT 10 Those portions of Moffat and Rio Blanco Counties bounded on the north by the Green and Yampa Rivers; on the east by Twelve-Mile Gulch Road US 40 to Mile Marker 38.3 to Elk Springs Ridge to Drill Hole, Winter Valley Gulch and Coal Creek and Wolf Creek; on the south by the White River; and on the west by the Colorado-Utah State line.
- UNIT 11 Those portions of Moffat and Rio Blanco Counties bounded on the north by Colo 318 and US 40; on the east by the Deception Creek-Strawberry Creek Rd; on the south by the White River; and on the west by Wolf Creek, Coal Creek, Winter Valley Gulch to Drill Hole to Elk Springs Ridge to Mile Marker 38.3 on US 40, US 40 Twelve-Mile Gulch Road, the Yampa River and the Little Snake River.
- UNIT 12 Those portions of Moffat, Routt, Rio Blanco and Garfield counties bounded on the north by Colo 317, Routt Co Rds 29 and 55, Rio Blanco Co Rds 10 and 8; on the east by the Williams Fork-Yampa River divide; on the south by the Williams Fork-White River divide, USFS Rd 250, Rio Blanco Co Rds 48, 15 and 30; and on the west by Colo 13/789.
- UNIT 13 Those portions of Moffat and Routt counties bounded on the north by US 40;

- on the east by Routt Co Rds 179, Trout Creek, and Fish Creek; on the south by Routt Co Rd 29 and Colo 317; and on the west by Colo 13/789.
- UNIT 14 Those portions of Routt and Grand counties bounded on the north by the Little Snake-Elk River divide; on the east by the Continental Divide; on the south by US 40; and on the west by US 40 and Routt Co Rd 129.
- UNIT 15 Those portions of Routt, Grand, and Eagle counties bounded on the north by US 40; on the east by the Muddy Creek-Yampa River divide (Gore Range Divide) and Canyon Creek; on the south by the Colorado River; and on the west by Colo 131.
- UNIT 16 That portion of Jackson Co bounded on the north by Lone Pine Creek, and Jackson Co Rds 16, and 12W; on the east by Colo 14; on the south by US 40; and on the west by the Continental Divide.
- UNIT 17 That portion of Jackson Co bounded on the north and east by Colo 125; on the south by the Continental Divide (Jackson-Grand Co line); and on the west and north by Colo 14.
- UNIT 18 That portion of Grand Co bounded on the north and east by the Continental Divide, on the south by Arapaho Creek, Lake Granby and the Colorado River, and on the west by the Main Fork of Troublesome Creek and Poison Creek.
- UNIT 19 That portion of Larimer Co bounded on the north by Colo 14 (Poudre Canyon Rd); on the east by I-25; on the south by Harmony Rd, Larimer Co Rds 19, 38E, 27, and 44H (Buckhorn Rd), the Elk Creek-Pennock Creek divide, and the Rocky Mountain National Park boundary; and on the west by the Larimer-Jackson Co line.
- UNIT 20 Those portions of Larimer and Boulder Counties bounded on the north by Larimer Co Rds 44H (Buckhorn Rd), 27, 38E, and Larimer Co Rd 19, and Harmony Rd; on the east by I-25; on the south by Colo 52, US 287, Boulder Co Rd 34 (Niwot/Neva Rds), US 36, Boulder Co Rds 94, 81, 106, and 95 (Lefthand Canyon Drive), and 102 (Brainard Lake Rd), and the ridge line from Brainard Lake west to Pawnee Peak; and on the west by the Continental Divide, the Rocky Mountain National Park boundary, and the Pennock Creek-Elk Creek divide.
- UNIT 21 Those portions of Rio Blanco and Garfield Counties bounded on the north by the White River; on the east by Monument Gulch, Colo 64, Monument Gulch Rd, Rio Blanco Co Rd 103, and Rio Blanco Co Rd 26; on the south by the Douglas Creek-Roan Creek divide, the Douglas Creek-Salt Creeks divide, the Evacuation Creek-Salt Creeks divide and the Bitter Creek-West Salt Creek divide; and on the west by the Colorado-Utah State line
- UNIT 22 Those portions of Rio Blanco and Garfield counties bounded on the north by the White River; on the east by Colo 13/789; on the south by the White River-Colorado River divide; and on the west by Rio Blanco Co Rds 26, 103, the Monument Gulch Rd, Colo 64, and Monument Gulch.
- UNIT 23 Those portions of Rio Blanco and Garfield Counties bounded on the north by Rio Blanco Co Rds 30, 15 and 48 and USFS Rd 250; on the east by USFS Rd 250, Rio Blanco Co Rds 8 and 17, and USFS Primary Forest Rd 245 (Buford-Newcastle Rd); on the south by the White River-Colorado River divide; and on the west by Colo 13/789.
- UNIT 24 Those portions of Rio Blanco and Garfield Counties bounded on the north by

- the Williams Fork River-White River divide; on the east by the White River-Yampa River divide and the White River-Colorado River divide; on the south by the South Fork of the White River-Colorado River divide; and on the west by USFS Primary Forest Rd 245 and Rio Blanco Co Rds 17 (Buford-Newcastle Rd), and 8 and USFS Rd 250.
- UNIT 25 Those portions of Garfield and Eagle counties bounded on the north by the Middle Fork of Derby Creek and Derby Creek; on the east by the Colorado River; on the south by Deep Creek; and on the west by the Colorado River-White River divide.
- UNIT 26 Those portions of Eagle, Garfield and Routt counties bounded on the north by the Bear River; on the east by Colo 131; on the south by the Colorado River; and on the west by Derby Creek, the Middle Fork of Derby Creek and USFS Trail 1802.
- UNIT 27 Those portions of Grand, Routt and Jackson counties bounded on the north and east by US 40; on the south by Colo 9 and the Colorado River; and on the west by Canyon Creek and the Muddy Creek-Yampa River divide (Gore Range Divide).
- UNIT 28 That portion of Grand Co bounded on the north by the Colorado River, Lake Granby and Arapaho Creek; on the east by the Continental Divide; on the south by the Continental Divide and the Williams Fork River-Straight Creek divide; and on the west by the Williams Fork River-Blue River Divide and Barger Gulch.
- UNIT 29 Those portions of Boulder, Jefferson and Gilpin counties bounded on the north by the ridge line from Pawnee Peak to Brainard Lake, Boulder Co Rd 102 (the Brainard Lake Rd), Boulder Co Rds 94, 81, 106, and 95 (Lefthand Canyon Drive), US 36, Boulder Co Rd 34 (Neva/Niwot Rds), and Colo 52 (Mineral Rd); on the east by I-25; on the south by Colo 128, Colo 93, Colo 72, Colo 119, and USFS Rd 149 (the Rollins Pass Rd); and on the west by the Continental Divide.
- UNIT 30 Those portions of Garfield and Mesa counties bounded on the north by the West Salt Creek-Bitter Creek divide, Evacuation Creek-Salt Creeks divide and the Douglas Creek-Salt Creek divide; on the east by the East Salt Creek-Roan Creek divide, the Big Salt Wash-Roan Creek divide, the Little Salt Wash-Roan Creek divide and the Bookcliffs; on the south by the Colorado River; and on the west by the Colorado-Utah State line.
- UNIT 31 Those portions of Mesa, Garfield and Rio Blanco counties bounded on the north by the Colorado River-White River divide; on the east by the Roan Creek-Parachute Creek divide and Kelly Gulch; on the south by the Colorado River; and on the west by the Bookcliffs, the Little Salt Wash-Roan Creek divide, the Big Salt Wash-Roan Creek divide, and the East Salt Creek-Roan Creek divide.
- UNIT 32 That portion of Garfield Co bounded on the north by the Parachute Creek-Piceance Creek divide; on the east by Colo 13/789; on the south by the Colorado River; and on the west by Kelly Gulch and the Roan Creek-Parachute Creek divide.
- UNIT 33 Those portions of Garfield and Rio Blanco counties bounded on the north by the White River-Colorado River divide; on the east by Canyon Creek; on the south by the Colorado River; and on the west by Colo 13/789.
- UNIT 34 Those portions of Garfield and Eagle counties bounded on the north by Deep

Creek; on the east and south by the Colorado River; and on the west by Canyon Creek.

- UNIT 35 That portion of Eagle Co bounded on the north by the Colorado River; on the east by Colo 131; on the south by the Eagle River; and on the west by the Colorado River.
- UNIT 36 That portion of Eagle Co bounded on the north by Elk Creek to Piney Ridge, following Piney Ridge to the Eagle's Nest Wilderness boundary and the Gore Range divide (Elliott Ridge); on the east by the Gore Range divide; on the south from the Gore Range divide to Dowd Junction by I-70 and from Dowd Junction to Wolcott by the Eagle River, and on the west by Colo 131 and the Colorado River from State Bridge to Elk Creek.
- UNIT 37 Those portions of Summit and Grand counties bounded on the north by the Colorado River; on the east by Barger Gulch, the Williams Fork River-Blue River divide, the Williams Fork River-Straight Creek divide and the Continental Divide; on the south by the Continental Divide; and on the west by the Eagle River-Tenmile Creek divide, I-70, the Blue River, Cataract Creek, and the Gore Range Divide.
- UNIT 38 Those portions of Gilpin, Boulder, Clear Creek and Jefferson counties bounded on the north by USFS Rd 149 (the Rollins Pass Rd), Colo 119, Colo 72 , Colo 93, and Colo 128; on the east by I-25; on the south by I-70 and US 40; and on the west by the Continental Divide.
- UNIT 39 Those portions of Jefferson, Clear Creek and Park counties bounded on the north by US 40 and I-70; on the east by Colo 74 and Jefferson Co Rd 73; on the south by US 285, the North Turkey Creek-Elk Creek divide, and the Pike-Arapahoe National Forest boundary; and on the west by the Continental Divide.
- UNIT 40 That portion of Mesa Co bounded on the north by the Colorado River; on the east by US 50; on the south by Colo 141 and the Dolores River; and on the west by the Colorado-Utah state line.
- UNIT 41 Those portions of Mesa and Delta counties bounded on the north by the Colorado River and Colo 65; on the east by Colo 65, the Lands End Rd; the Flowing Park Rd, and the Mesa-Delta Co line; and on the west by US 50.
- UNIT 42 Those portions of Mesa and Garfield counties bounded on the north by the Colorado River; on the east by South Canyon Creek , the divide between the Roaring Fork-Crystal River and the Baldy Creek-Divide Creek drainages and the common point of the Mesa-Pitkin-Gunnison Co lines; on the south by the Divide Creek-Muddy Creek divide the Divide Creek-Plateau Creek divide and the Plateau Creek-Colorado River divide; and on the west by the Colorado River.
- UNIT 43 Those portions of Garfield, Pitkin, Eagle and Gunnison counties bounded on the north by the Colorado River; on the east by the Roaring Fork River and Castle Creek; on the south by the divide between the Roaring Fork-Crystal River drainages and the East River-Muddy Creek drainages and McClure Pass; and on the west by the Muddy Creek-Crystal River divide, the divide between the Roaring Fork-Crystal River drainages and the Divide Creek-Baldy Creek drainages, and South Canyon Creek.
- UNIT 44 That portion of Eagle Co bounded on the north by the Colorado River and the Eagle River; on the east by East Lake Creek; on the south by the Frying Pan

River, Eagle River divide; and on the west by USFS Rd 514 (the Red Table Mountain Rd) , Eagle Co Rd 10A (the Cottonwood Pass Rd), and Cottonwood Creek.

- UNIT 45 Those portions of Eagle and Pitkin counties bounded on the north by the Eagle River from East Lake Creek to Dowd Junction, and I-70 from Dowd Junction to the Eagle River-Tenmile Creek divide; on the east by the Eagle River-Tenmile Creek divide; on the south by the Continental Divide; and on the west by the divide between the Chance Creek-North Fork Frying Pan-Cunningham Creek drainages and the Cross Creek-Homestake Creek drainages, and East Lake Creek.
- UNIT 46 Those portions of Clear Creek, Park and Jefferson counties bounded on the north by the Pike-Arapahoe National Forest boundary and the North Turkey Creek-Elk Creek divide; on the east and south by US 285; and on the west by the North Fork of the South Platte River and the Continental Divide.
- UNIT 47 Those portions of Eagle and Pitkin counties bounded on the north by the Frying Pan River and Ivanhoe Creek; on the east by the Continental Divide; on the south by Colo 82; and on the west by the Roaring Fork River.
- UNIT 48 Those portions of Lake and Chaffee counties bounded on the north by the Continental Divide; on the east by Tennessee Creek and the Arkansas River; on the south by Clear Creek and the South Fork of Clear Creek; and on the west by the Continental Divide.
- UNIT 49 Those portions of Lake, Park and Chaffee counties bounded on the north by the Continental Divide; on the east by Colo 9 and US 285; on the south by US 24; and on the west by the Arkansas River and Tennessee Creek.
- UNIT 50 That portion of Park Co bounded on the north by US 285; on the east by Park Co Rd 77; on the south by US 24; and on the west by US 285.
- UNIT 51 That portion of Douglas Co bounded on the north by Colo 470; on the east by I-25; on the south by the Douglas-Teller Co line; and on the west by the South Platte River.
- UNIT 52 That portion of Delta Co bounded on the north by the Delta-Mesa Co line; on the east by the Grand Mesa-Gunnison National Forest boundary, the Overland Ditch, West Reservoir No. 1, and Jay Creek; on the south by the North Fork of the Gunnison River and Colo 92; and on the west by Colo 65.
- UNIT 53 Those portions of Delta and Gunnison counties bounded on the north by the North Fork of the Gunnison River, Gunnison Co Rd 12 (Kebler Pass Rd) Kebler Pass and Ohio Pass; on the east and south by the Gunnison River - North Fork of the Gunnison River divide and Curecanti Pass, the Smith Fork - Curecanti Creek divide, the Smith fork - Dyer Creek divide, and the Delta-Montrose Co line; and on the west by Colo 92.
- UNIT 54 That portion of Gunnison Co bounded on the north by the Gunnison River-North Fork of the Gunnison River divide and Gunnison Co Rd 12 (Kebler Pass Rd); on the east by Colo 135; on the south by US 50, Blue Mesa Reservoir, and the Gunnison River; and on the west by Curecanti Creek.
- UNIT 55 That portion of Gunnison Co bounded on the north by the Gunnison-Pitkin Co line; on the east by the Continental Divide; on the south by the Taylor River-Tomichi Creek divide and Cumberland Pass, USFS Rd 765 (North Quartz Creek Rd), Quartz Creek Rd, and US 50; and on the west by Colo 135,

- Gunnison Co Rd 12 (Kebler Pass Rd) and Kebler Pass, and the Ruby Range Summit.
- UNIT 56 That portion of Chaffee Co bounded on the north by Chalk Creek and the Tincup Pass Rd; on the east by the Arkansas River and Colo 291; on the south by US 50; and on the west by the Continental Divide.
- UNIT 57 Those portions of Chaffee, Park and Fremont counties bounded on the north by US 24; on the east by Kaufman Ridge and Badger Creek; on the south by US 50 and Colo 291; and on the west by the Arkansas River.
- UNIT 58 Those portions of Fremont and Park counties bounded on the north by US 24; on the east by Park Co Rd 59 and Colo 9; on the south by US 50; and on the west by Kaufman Ridge and Badger Creek.
- UNIT 59 Those portions of Pueblo, Fremont, El Paso and Teller counties bounded on the north by US 24; on the east by I-25; on the south by US 50; and on the west by Colo 67 and the Phantom Canyon Road; EXCEPT those portions of Pueblo, Fremont and El Paso counties with in the boundaries of the Fort Carson Military Reservation.
- UNIT 60 Those portions of Mesa and Montrose counties bounded on the north and east by the Dolores River; on the south by Colo 90; and on the west by the Colorado-Utah State line.
- UNIT 61 Those portions of Mesa, Montrose, Ouray and San Miguel counties bounded on the north by Colo 141; on the east by USFS Rds 402 (the Divide Rd) and the Dave Wood Rd; on the south by Colo 62; and on the west by the San Miguel River and the Dolores River.
- UNIT 62 Those portions of Delta, Mesa, Montrose and Ouray counties bounded on the north by Colo 141; on the east by Colo 50 and 550; on the south by Colo 62; and on the west by the Dave Wood Rd. and USFS Rd 402 (the Divide Rd).
- UNIT 63 Those portions of Delta, Gunnison and Montrose counties bounded on the north by Colo 92; on the east by Colo 92, the Delta-Montrose Co line, the Smith Fork - Dyer Creek divide, the Smith Fork - Curecanti Creek divide, Curecanti Pass, and Curecanti Creek; and on the south and west by the Gunnison River.
- UNIT 64 Those portions of Delta and Montrose counties bounded on the north and east by Colo 92, the Gunnison River and Morrow Point Reservoir; on the east by Big Blue Creek; and on the south and west by US 50.
- UNIT 65 Those portions of Gunnison, Hinsdale, Montrose and Ouray counties bounded on the north by US 50; on the east by the Big Blue Creek-Cimarron Creek divide; on the south by the Ouray-San Juan Co line; and on the west by the Ouray-San Miguel Co line; Colo 62 and Colo 550.
- UNIT 66 Those portions of Gunnison, Hinsdale and Saguache counties bounded on the north by Morrow Point Reservoir, the Gunnison River and Blue Mesa Reservoir; on the east by Colo 149, Cebolla Creek, Spring Creek, Cathedral Creek and Groundhog Park, and the Spring Creek-Cochetop Creek Divide; on the south by the Continental Divide; and on the west by the Hinsdale-San Juan Co line, the Hinsdale-Ouray Co line, the Cimarron River-Henson Creek divide, the Big Blue Creek-Little Cimarron River divide, US 50, and Big Blue Creek.
- UNIT 67 Those portions of Gunnison, Hinsdale and Saguache counties bounded on the north by US 50; on the east by Colo 114 and North Pass; on the east and south

by the Continental Divide; and on the west by the Cochetopa Creek-Spring Creek divide and Groundhog Park, Cathedral Creek, Spring Creek, Cebolla Creek, and Colo 149.

- UNIT 68 That portion of Saguache Co bounded on the north by Colo 114; on the east by US 285; on the south by Saguache Co Rds G and 41G, USFS Rds 675 and 676, USFS Trails 796 and 787 and the Saguache-Mineral Co line; and on the west by the Continental Divide.
- UNIT 69 Those portions of Custer and Fremont counties bounded on the north by US 50; on the east by Colo 67; on the south by Colo 96; and on the west by Colo 69, Grape Creek and the Arkansas River.
- UNIT 70 Those portions of Dolores, Montrose and San Miguel counties bounded on the north by Colo 90, the Dolores River, the San Miguel River, and Colo 62; on the east by the Ouray-San Miguel Co line and the San Miguel-San Juan Co line; on the south by the San Miguel-Dolores Co line, Disappointment Creek, the Dolores River, and Summit Canyon Creek; and on the west by the Colorado-Utah state line.
- UNIT 71 Those portions of Dolores and Montezuma counties bounded on the north by Disappointment Creek and the Dolores-San Miguel Co line; on the east by the Dolores-San Juan Co line, the Montezuma-La Plata Co line, and Bear Creek; on the south by Colo 145; and on the west by USFS Rd 526 (the Dolores-Norwood Rd).
- UNIT 72 Those portions of Dolores and Montezuma counties bounded on the north and east by US 491; on the south by the Colorado-New Mexico state line; and on the west by the Colorado-Utah state line.
- UNIT 73 That portion of Montezuma Co bounded on the north by Colo 184, Colo 145 and Bear Creek; on the east by the Montezuma-La Plata Co line; on the south by the Colorado-New Mexico state line; and on the west by US 491.
- UNIT 74 Those portions of La Plata and San Juan counties bounded on the north by the Ouray-San Juan Co line; on the east by the San Juan-Hinsdale Co line and the Animas River; on the south by US 160; and on the west by the Montezuma-La Plata Co line, the Dolores-San Juan Co line, the San Miguel-San Juan Co line, and the Ouray-San Juan Co line.
- UNIT 75 Those portions of La Plata and San Juan counties bounded on the north and east by the Hinsdale-San Juan Co line, the Continental Divide, the Los Pinos River-Florida River divide, La Plata Co Rd. 240 (Pine River-Florida River Rd.), the Bayfield-Vallecito Rd, and the Los Pinos River; on the south by the Colorado-New Mexico state line; and on the west by the Animas River.
- UNIT 76 Those portions of Hinsdale, Mineral, Rio Grande, Saguache and San Juan counties bounded on the north by the Continental Divide, the Saguache-Mineral Co line and USFS Trail 787; on the east by the all-terrain vehicle trail also known as the La Garita Driveway, USFS Rds 600-3A and 600, Colo 149 and US 160; and on the south and west by the Continental Divide.
- UNIT 77 Those portions of Archuleta, Hinsdale, La Plata and Mineral counties bounded on the north by the Continental Divide and the Piedra River-San Juan River divide; on the east by the Piedra River-San Juan River divide, Four Mile Creek, and the San Juan River; on the south by US 160; and on the west by the Los Pinos River-Piedra River divide.

- UNIT 78 Those portions of Archuleta, Conejos, Mineral and Rio Grande counties bounded on the north and east by the Continental Divide; on the south by the Colorado-New Mexico state line; and on the west by the San Juan River, Four Mile Creek, and the Piedra River-San Juan River divide.
- UNIT 79 Those portions of Mineral, Rio Grande and Saguache counties bounded on the north by USFS Trails 787 and 796, USFS Rds 676 and 675, and Saguache Co Rds 41G and G; on the east by US 285; on the south by US 160; and on the west by Colo 149, USFS Rds 600 and 600-3A and the terrain vehicle trail also known as the La Garita Driveway.
- UNIT 80 Those portions of Alamosa, Conejos, Mineral and Rio Grande counties bounded on the north by US 160; on the east by the Rio Grande River; on the south by La Jara Creek, the Alamosa River, USFS Rds 250 and 380 and Elwood Pass; and on the west by the Continental Divide.
- UNIT 81 Those portions of Alamosa, Archuleta, Conejos and Rio Grande counties bounded on the north by USFS Rds 380 and 250, the Alamosa River, and La Jara Creek; on the east by the Rio Grande River; on the south by the Colorado-New Mexico state line; and on the west by the Continental Divide.
- UNIT 82 Those portions of Alamosa and Saguache counties bounded on the north by Poncha Pass, on the north and east by the Rio Grande River-Arkansas River divide; on the south by the Alamosa-Costilla Co line and US 160; and on the west by Colo 17 and US 285.
- UNIT 83 Those portions of Alamosa, Costilla and Huerfano counties bounded on the north by US 160 and the Alamosa-Costilla Co line; on the east by the Costilla-Huerfano Co line and the Sangre de Cristo-Culebra Range; on the south by the Colorado-New Mexico state line; and on the west by the Rio Grande River.
- UNIT 84 Those portions of Custer, Fremont, Huerfano and Pueblo counties bounded on the north by US 50; on the east by I-25 and Colo 1; on the south by Colo 69; and on the west by Colo 96 and Colo 67.
- UNIT 85 Those portions of Huerfano and Las Animas counties bounded on the north by Colo 69; on the east by I-25; on the south by Colo 12, the North Fork of the Purgatoire River, and the West Fork of the Purgatoire River; and on the west by the Sangre de Cristo Divide, Huerfano Co Rds 570, 572 (Pass Creek Rd), and 555 (Muddy Creek Rd).
- UNIT 86 Those portions of Fremont, Custer and Chaffee counties bounded on the north by US 50; on the east by Colo 69; on the south by the Huerfano-Custer Co line; and on the west by the Sangre de Cristo Divide and US 285.
- UNIT 87 Those portions of Larimer and Weld counties bounded on the north by the Colorado-Wyoming state line; on the east by Weld Co Rd 390 (Keota-Grover Rd) and Weld Co Rd 105 (between Keota and Colo 14); on the south by Colo 14; and on the west by I-25.
- UNIT 88 That portion of Weld Co bounded on the north by the Colorado-Wyoming state line and the Colorado-Nebraska state line; on the east by Colo 71; on the south by Colo 14; and on the west by Weld Co Rd 390 (Keota-Grover Rd) and Weld Co Rd 105 (between Keota and Colo 14).
- UNIT 89 Those portions of Weld and Logan counties bounded on the north by the Colorado-Nebraska state line; on the east by Colo 113 and US 138; on the

south by Colo 14; and on the west by Colo 71.

- UNIT 90 Those portions of Logan and Sedgwick counties bounded on the north by the Colorado-Nebraska state line; on the east and south by US 138; and on the west by Colo 113 .
- UNIT 91 That portion of Logan Co bounded on the north by US 138; on the east by the Red Lion Rd (Logan Co Rd 93); on the south by I-76 and US 6; and on the west by US 138.
- UNIT 92 Those portions of Logan and Sedgwick counties bounded on the north by US 138 and the Colorado-Nebraska state line; on the east and south by I-76 and on the west by Red Lion Rd (Logan Co Rd).
- UNIT 93 Those portions of Logan, Sedgwick and Phillips counties bounded on the north by I-76; on the north and east by the Colorado-Nebraska state line; on the south by US 6; and on the west by I-76.
- UNIT 94 Those portions of Larimer, Adams, and Weld counties bounded on the north by Colo 14, on the east by US 85 and US 34; Weld Co Rd 49 (the Hudson-Keenesburg cutoff), and I-76; on the south by Colo 7; and on the west by I-25.
- UNIT 95 Those portions of Weld, Logan, Morgan and Washington counties bounded on the north by Colo 14; on the east and south by US 6, Logan Co Rds 6 and 17.7, Washington Co Rd 58, Morgan Co Rd W.7, 2nd St in Snyder, Colo 71, Morgan Co Rds W.5, 28, W, 13.5, and W.5, and Colo 144; and on the west by Morgan Co Rd 2, Morgan Co Rd KK/Weld Co Rd 74 (County Line Road), and Weld Co Rd 105 .
- UNIT 96 Those portions of Morgan, Washington and Logan counties bounded on the north by Colo 144 to Morgan Co Rds W.5, 13.5, W, 28, and W.5, Colo 71, Morgan Co Rd W.7 (Morgan Co Rd W.7 becomes Washington Co Rd 58 at the Co line), Washington Co Rd 58 (Washington Co Rd 58 becomes Logan Co Rd 17.7 at the Co line) Logan Co Rds 17.7 and 6, and US 6; on the east and south by US 6 and I-76; and on the west by Colo 144.
- UNIT 97 Those portions of Logan, Washington and Morgan counties bounded on the north and east by Colo 61; on the south by US 34; and on the west by I-76.
- UNIT 98 Those portions of Logan, Phillips, Yuma, and Washington counties bounded on the north by Colo 6; on the east by the Colorado-Nebraska state line; on the south by US 34; and on the west by Colo 61.
- UNIT 99 Those portions of Weld, Morgan, and Adams counties bounded on the north by I-76; on the east by Colo 71; on the south by US 36; on the west by Colo 79 and 144th Avenue; on the south and west by Adams Co Rd 25N, 152nd Avenue, and I-76; and on the west by I-76.
- UNIT 100 Those portions of Washington and Morgan counties bounded on the north by US 34; on the east by Colo 61; on the south by US 36; and on the west by Colo 71.
- UNIT 101 Those portions of Washington and Yuma counties bounded on the north by US 34; on the east by US 385, Yuma Co Rd 26, Colo 59 , Yuma Co Rds 16, C, 9 (Yuma Co Rd 9 becomes Washington Co Rd 9 at the Co line), Washington Co Rds 9, YY, and 7; on the south by US 36; and on the west by Colo 61.
- UNIT 102 Those portions of Washington and Yuma counties bounded on the north by US

- 34; on the east by the Colorado-Nebraska and Colorado-Kansas state lines; on the south by US 36; and on the west by Washington Co Rds 7, YY, and 9 (Washington Co Rd 9 becomes Yuma Co Rd 9 at the Co line), Yuma Co Rds 9, C, and 16, Colo 59, Yuma Co Rd 26, and US 385.
- UNIT 103 That portion of Yuma Co bounded on the north by US 36, on the east by the Colorado-Kansas state line, on the south by the Kit Carson-Yuma Co line; and on the west by US 385.
- UNIT 104 Those portions of Denver, Adams, Arapahoe, Douglas and Elbert counties bounded on the north by Colo 7, I-76, 152nd Avenue, Adams Co Rd 25N, and 144th Avenue; on the east by Colo 79, Colo 36 (Arapahoe Co Rd 137), Kiowa-Bennett Mile Rd, Elbert Co Rds 53, 166, and 45-49, Colo 86, and Elbert Co Rd 25-41; on the south by the Elbert Co-Douglas Co-El Paso Co line; and on the west by I-25.
- UNIT 105 Those portions of Adams, Arapahoe and Elbert counties bounded on the north by US 36; on the east by I-70; on the south by US 24 and the Elbert-El Paso Co line; and on the west by Arapahoe Co Rd 137 (the Kiowa-Bennett Mile Rd) Elbert Co Rds 53, 166, and 45-49, Colo 86, and Elbert Co Rd 25-41.
- UNIT 106 Those portions of Arapahoe, Elbert, Washington and Lincoln counties bounded on the north by US 36; on the east by Colo 71; on the south and west by I-70.
- UNIT 107 Those portions of Washington, Lincoln and Kit Carson counties bounded on the north by US 36; on the east by Colo 59; on the south by I-70; and on the west by Colo 71.
- UNIT 109 Those portions of Washington, Yuma and Kit Carson counties bounded on the north by US 36; on the east by US 385, the Yuma-Kit Carson Co line, and the Colorado-Kansas state line; on the south by I-70; and on the west by Colo 59.
- UNIT 110 That portion of El Paso Co bounded on the north by the Douglas-Elbert-El Paso Co line; on the east by US 24 and El Paso Co Rd 523 (the Calhan Hwy); on the south by Colo 94; and on the west by I-25.
- UNIT 111 Those portions of Elbert, Lincoln and El Paso counties bounded on the north by US 24; on the east by Colo 71; on the south by Colo 94; and on the west by US 24 and El Paso Co Rd 523 (the Calhan Hwy).
- UNIT 112 That portion of Lincoln Co bounded on the north by US 40; on the east by Co Primary 109; on the south by Colo 94; and on the west by Colo 71.
- UNIT 113 Those portions of Lincoln and Cheyenne counties bounded on the north by US 40; on the east by Cheyenne Co Rd 8; on the south by Colo 94; and on the west by Co Primary 109.
- UNIT 114 Those portions of Lincoln, Kit Carson and Cheyenne counties bounded on the north by I-70; on the east by the Flagler-Wildhorse Rd (Co Rds 5, G, 6, A [Kit Carson Co Line], GG, [Cheyenne Co Line], 9); and on the south and west by US 40.
- UNIT 115 Those portions of Kit Carson and Cheyenne counties bounded on the north by I-70; on the east by Colo 59; on the south by US 40; and the west by the Flagler-Wildhorse Rd (Co Rds 5, G, 6, A, [Kit Carson Co Line], GG, [Cheyenne Co Line], 9).
- UNIT 116 Those portion of Kit Carson and Cheyenne counties bounded on the north by I-

- 70; on the east by US 385; on the south by US 40; and on the west by Colo 59.
- UNIT 117 Those portions of Kit Carson and Cheyenne counties bounded on the north by I-70; on the east by the Colorado-Kansas State line; on the south by US 40; and on the west by US 385.
- UNIT 118 That portion of El Paso Co bounded on the north by Colo 94; on the east by the Yoder Rd, Shear Rd, and Boone Rd; on the south by Hanover Rd, Finch Rd, and Myers Rd; and on the west by I-25.
- UNIT 119 Those portions of El Paso and Lincoln counties bounded on the north by Colo 94; on the east by Colo 71; on the south by the Crowley-Lincoln and the El Paso-Pueblo Co line; and on the west by the Yoder Rd, Shear Rd, and Boone Rd.
- UNIT 120 Those portions of Lincoln, Crowley and Kiowa counties bounded on the north by Colo 94 on the east by Co Primary Rds 109, 1, 2, and Co Secondary Rd 35; on the south by Colo 96; and on the west by Colo 71.
- UNIT 121 Those portion of Cheyenne, Lincoln and Kiowa counties bounded on the north by Colo 94 and US 40; on the east by US 287; on the south by Colo 96; and on the west by Co Primary Rds 109, 1, 2, and Co Secondary Rd 35.
- UNIT 122 Those portions of Cheyenne and Kiowa counties bounded on the north by US 40; on the east by the Colorado-Kansas state line; on the south by Colorado 96; and on the west by US 287.
- UNIT 123 Those portions of El Paso and Pueblo counties bounded on the north by the Hanover Rd, Finch Rd, and Myers Rd; on the east by the Yoder Rd, Shear Rd, and Boone Rd; on the south by the Arkansas River; and on the west by I-25.
- UNIT 124 Those portions of Crowley and Pueblo counties bounded on the north by the Lincoln-Crowley and El Paso-Pueblo Co lines; on the east by Colo 71; on the south by the Arkansas River; and on the west by the Yoder-Boone Rd.
- UNIT 125 Those portions of Crowley, Kiowa, Bent and Otero counties bounded on the north by Colo 96; on the east by Kiowa Co Rd 19 and Bent Co Rd 14 to Bent Co Rd HH, south on Bent Co Rd 15 to the Arkansas River; on the south by the Arkansas River; and on the west by Colo 71.
- UNIT 126 Those portions of Kiowa, Bent and Prowers counties bounded on the north by Colo 96; on the east by US 287; on the south by the Arkansas River; and on the west by Kiowa Co Rd 19 and Bent Co Rd 14 to Bent Co Rd HH, south on Bent Co Rd 15 to the Arkansas River.
- UNIT 127 Those portions of Kiowa and Prowers counties bounded on the north by Colo 96; on the east by the Colorado-Kansas state line; on the south by the Arkansas River; and on the west by US 287.
- UNIT 128 Those portions of Pueblo, Huerfano, Las Animas and Otero counties bounded on the north by the Arkansas River; on the east by Colo 167; on the south by Colo 10; and on the west by I-25.
- UNIT 129 That portion of Otero Co bounded on the north and east by the Arkansas River; on the south by Colo 10; and on the west by Colo 167.
- UNIT 130 Those portions of Otero and Bent counties bounded on the north by the Arkansas River; on the east by Colo 101, the Pritchett-Las Animas Improved

- Rd, and US 50; on the south by the Bent-Las Animas and Bent-Baca Co lines; and on the west by Colo 109.
- UNIT 131 Those portions of Routt and Rio Blanco counties bounded on the north by US 40; on the east by Colo 131; on the south by Routt Co Rds 15, 132, 25, 132A, and 29; and on the west by Fish Creek, Trout Creek and Routt Co Rd 179.
- UNIT 132 That portion of Prowers Co bounded on the north by the Arkansas River; on the east by the Colorado-Kansas state line; on the south by Prowers Co Rds D and F; and on the west by US 287.
- UNIT 133 Those portions of Huerfano, Pueblo and Las Animas counties bounded on the north by Colo 10; on the east by the Colorado Interstate Gas Pipeline Rd; on the south by the Apishapa River; and on the west by I-25.
- UNIT 134 That portion of Las Animas Co bounded on the north by the Apishapa River; on the east by the Colorado Interstate Gas Pipeline Rd; on the south by US 350; and on the west by I-25.
- UNIT 135 That portions of Las Animas, Pueblo and Otero counties bounded on the north by Colo 10 and the Arkansas River; on the east by Colo 109 (north of the Purgatoire River) and the Purgatoire River (south of Colo 109); on the south by the Las Animas-Otero Co line, the north boundary of the United States Army Pinon Canyon Maneuver Site, and US 350; and on the west by the Colorado Interstate Gas Pipeline Rd.
- UNIT 136 That portion of Las Animas, Bent, and Otero Co bounded on the north by the intersection of Colo 109 and the Purgatoire River on the east by Colo 109; on the south by US 160; and on the west by Chacuaco Creek and the Purgatoire River.
- UNIT 137 Those portions of Las Animas and Baca counties bounded on the north by the Bent-Las Animas and Bent-Baca Co lines; on the east by the Pritchett-Las Animas improved Rd and US 160; on the south by US 160; and on the west by Colo 109.
- UNIT 138 That portion of Baca Co bounded on the north by Baca-Bent and Baca-Prowers Co lines; on the east by US 287; on the south by US 160; and on the west by the Pritchett-Las Animas improved Rd.
- UNIT 139 That portion of Baca Co bounded on the north by Prowers Co Rds F and D; on the east by the Colorado-Kansas state line; on the south by Baca Co Rd M; on the west by US 287.
- UNIT 140 That portion of Las Animas Co bounded on the north by US 160; on the east by Colo 389; on the south by the New Mexico-Colorado state line; on the west by I-25.
- UNIT 141 That portion of Las Animas Co bounded on the north by the west and south boundaries of the United States Army Pinon Canyon Maneuver Site and the Colorado Interstate Gas Pipeline Rd; on the east by the Purgatoire River and San Francisco Creek; on the south by US 160; and on the west by US 350.
- UNIT 142 That portion of Las Animas Co within the property boundary of the United States Army Pinon Canyon Maneuver Site.
- UNIT 143 That portion of Las Animas Co bounded on the north by US 160; on the east by the Baca-Las Animas Co line; on the south by the Colorado-Oklahoma,

Colorado-New Mexico State lines; and on the west by Colo 389.

- UNIT 144 Those portions of Baca Co bounded on the north by US 160; on the east by US 287; on the south by the Colorado-Oklahoma state line; and on the west by Baca-Las Animas Co line.
- UNIT 145 That portion of Baca Co bounded on the north by Baca Co Rd M; on the east by the Colorado-Kansas state line; on the south by the Colorado-Oklahoma State line; and on the west by US 287.
- UNIT 146 Those portions of Bent and Prowers counties bounded on the north by the Arkansas River; on the east by US 287; on the south by the Prowers-Baca and Bent-Baca Co lines; and on the west by Colo 101 and the Pritchett-Las Animas improved Rd and US 50.
- UNIT 147 Those portions of Las Animas Co bounded on the north by the Las Animas Otero Co line; on the east by the Purgatoire River and Chacuaco Creek; on the south by US 160; and on the west by San Francisco Creek, the Purgatoire River, the Colorado Interstate Gas Pipeline Rd, and the east boundary of the United States Army Pinon Canyon Maneuver Site.
- UNIT 161 That portion of Jackson Co bounded on the north by the Colorado-Wyoming state line; on the east by Colo 125; on the south by Colo 14, Jackson Co Rds 12W, and 16, Lone Pine Creek and the Continental Divide; and on the west by the Continental Divide.
- UNIT 171 That portion of Jackson Co bounded on the north and east by Colo 14, and the Jackson-Larimer Co line ; on the south by the Jackson-Grand Co line; and on the west by Colo 125.
- UNIT 181 That portion of Grand Co bounded on the north by the Continental Divide; on the east by Poison Creek and the Main Fork of Troublesome Creek; on the south by the Colorado River; and on the west by Colorado Colo 9 and US 40.
- UNIT 191 That portion of Larimer Co bounded on the north by the Colorado-Wyoming state line; on the east by US 287; on the south by Colo 14; and on the west by Larimer Co Rds 69, 68C, 74E, 67 (Red Feathers), 179, 80C (Cherokee Park Rd), and 59.
- UNIT 201 That portion of Moffat Co bounded on the north by the Colorado-Wyoming State line; on the east by Moffat Co Rd 10N (Irish Canyon Rd), Colo 318 and Moffat Co Rd 10; on the south by Moffat Co Rd 34 and the Green River; and on the west by the Colorado-Utah State line.
- UNIT 211 Those portions of Moffat and Rio Blanco counties bounded on the north by US 40 and the Yampa River; on the east by Colo 13/789; on the south by the White River; and on the west by the Strawberry Creek-Deception Creek Rd.
- UNIT 214 That portion of Routt Co bounded on the north by the Little Snake-Elk River Divide; on the east by Routt Co Rd 129; on the south by US 40; and on the west by Wolf Creek, Wolf Mountain, along the Elk River-Elkhead Creek divide.
- UNIT 231 Those portions of Routt, Rio Blanco and Garfield counties bounded on the north by Routt Co Rds 29, 132A, 25, 132 and 15; on the east by Colo 131; on the south by the Bear River; and on the west by the Williams Fork-Yampa River divide, Dunkley Pass, Rio Blanco Co Rds 8 and 19 and Routt Co Rd 55.
- UNIT 301 That portion of Moffat Co bounded on the north by Moffat Co Rds 5, 158, 3 and

108; on the east by Colorado Colo 13/789; on the south by the Yampa River; and on the west by Moffat Co Rd 17.

- UNIT 361 Those portions of Eagle and Grand counties bounded on the north by the Colorado River from Elk Creek to Inspiration Point; on the east by the Gore Range divide; on the south and west by Piney Ridge to Elk Creek, following Piney Ridge to the Eagle's Nest Wilderness boundary and the Gore Range divide (Elliott Ridge).
- UNIT 371 That portion of Summit Co bounded on the north by Cataract Creek; on the east by Green Mountain Reservoir and the Blue River; on the south by I-70; and on the west by the Gore Range Divide.
- UNIT 391 That portion of Jefferson County bounded on the north by I-70; on the east by I-25; on the south by Colo 470, Jefferson Co Rds 124 (Deer Ck Canyon) and 122 (South Turkey Creek), and US 285; and on the west by Jefferson Co Rd 73 and Colo 74.
- UNIT 411 Those portions of Mesa and Delta counties bounded on the north by the Delta-Mesa Co line, the Flowing Park Rd, and Lands End Rd; on the east by Colo 65 and Colo 92; and on the south by US 50.
- UNIT 421 Those portions of Mesa and Garfield counties bounded on the north by the Colorado River-Plateau Creek Divide; on the east by the Divide Creek-Buzzard Creek Divide; on the south by the Mesa-Delta Co line; and on the west by Colo 65.
- UNIT 441 Those portions of Moffat and Routt counties bounded on the north by USFS Rd 42; on the east by the Elkhead Creek-Elk River divide and Wolf Creek; on the south by US 40; and on the west by Elkhead Creek.
- UNIT 444 Those portions of Eagle, Garfield and Pitkin counties bounded on the north by the Colorado River, Cottonwood Creek, Eagle Co Rd 10A (Cottonwood Pass Rd), USFS 514 (Red Table Mountain Rd), and the Frying Pan-Eagle River divide; on the east by the divide between the Lime Creek and North Fork of the Frying Pan River and its tributaries and the Cross Creek-Homestake Creek drainages; on the south by Ivanhoe Creek and the Frying Pan River; and on the west by the Roaring Fork River.
- UNIT 461 Those portions of Jefferson and Park Co bounded on the north by Jefferson Co Rd 122 (South Turkey Creek Canyon), Jefferson Co Rd 124 (Deer Creek Canyon), Colo 7, and Colo 470; on the east by the South Platte River; on the south by the North Fork of the South Platte River; and on the west by US 285.
- UNIT 471 That portion of Pitkin Co bounded on the north by the Roaring Fork and Colo 82; on the east by the Continental Divide; on the south by the Roaring Fork River-Taylor River divide; and on the west by Castle Creek.
- UNIT 481 That portion of Chaffee Co bounded on the north by the South Fork of Clear Creek and Clear Creek; on the east by the Arkansas River; on the south by Chalk Creek and the Tincup Pass Rd from St. Elmo; and on the west by the Continental Divide.
- UNIT 500 That portion of Park Co bounded on the north by the Continental Divide; on the east by the North Fork of the South Platte River; on the south by US 285; and on the west by Colo 9.
- UNIT 501 Those portions of Park and Jefferson counties bounded on the north by US

285 and the north Fork of the South Platte River, on the east by the South Platte River, on the south by US 24; and on the west by Park Co Rd 77.

- UNIT 511 Those portions of Teller, El Paso and Park counties bounded on the north by the Douglas Co Line; on the east by I-25; on the south by US 24; and on the west by the South Platte River, **except** those lands within the boundaries of the United States Air Force Academy.
- UNIT 512 Those portions of El Paso Co bounded on the north by the north boundary of the United States Air Force Academy; on the east by I-25; and on the south and west by the south and west boundaries of the United States Air Force Academy.
- UNIT 521 Those Portions of Gunnison and Saguache counties bounded on the north by the Delta-Mesa Co line and the Gunnison -Mesa Co line; on the east by the Gunnison-Pitkin Co line, the White River-Gunnison National Forest boundary, and the Ruby Range Summit; on the south by Gunnison Co Rd 12 (Kebler Pass Rd), and the North Fork of the Gunnison River, and on the west by Jay Creek, West Reservoir No. 1, the Overland Ditch, and the Grand Mesa-Gunnison National Forest Boundary.
- UNIT 551 Those portions of Gunnison and Saguache counties bounded on the north by US 50, Quartz Creek Rd, North Quartz Creek Rd, and the divide between the Taylor River and Tomichi Creek; on the east by the Continental Divide; and on the south and west by Colo 114.
- UNIT 561 Those portions of Chaffee and Saguache counties bounded on the north by US 50; on the east by US 285; on the south by the divide between the Arkansas River Drainage and the Rio Grande River Drainage; and on the west by the Continental Divide.
- UNIT 581 Those portions of Park, Teller and Fremont counties bounded on the north by US 24; on the east by Colo 67 and the Phantom Canyon Road; on the south by US 50; and on the west by Colo 9 and Park Co Rd 59.
- UNIT 591 Those portions of Pueblo, Fremont and El Paso counties within the boundaries of the Fort Carson Military Reservation.
- UNIT 681 That portion of Saguache Co bounded on the north by the Continental Divide and the Arkansas River Divide between North Pass and Poncha Pass; on the east by US 285; on the south by US 285 and Colo 114; and on the west by Colo 114.
- UNIT 682 That portion of Saguache Co bounded on the north by US 285; on the east by Colo 17; on the south by Saguache Co Rd G; and on the west by US 285.
- UNIT 691 Those portions of Custer and Fremont counties bounded on the north by US 50; on the east and south by Grape Creek and the Arkansas River; and on the west by Colo 69.
- UNIT 711 Those portions of Dolores, Montezuma and San Miguel counties bounded on the north by Summit Canyon Creek, the Dolores River, and Disappointment Creek; on the east by USFS Rd 526 (the Dolores-Norwood Rd); on the east and south by Colo 145; on the south by Colo 184; and on the west by US 491 and the Colorado-Utah state line.
- UNIT 741 That portion of La Plata Co bounded on the north by US 160; on the east by the Animas River; on the south by the Colorado-New Mexico state line; and on

the west by the Montezuma-La Plata Co line.

- UNIT 751 Those portions of Archuleta, Hinsdale, La Plata and San Juan counties bounded on the north by the Continental Divide; on the east by the divide between the Los Pinos River and the Piedra River; on the south by the Colorado-New Mexico state line; and on the west by the Los Pinos River, Co Rd 501 (Bayfield-Vallecito Rd), Co Rd 240 (Pine River-Florida River Rd), and the Los Pinos River-Florida River divide.
- UNIT 771 That portion of Archuleta Co bounded on the north by US 160; on the east by the San Juan River; on the south by the Colorado-New Mexico state line; and on the west by the Los Pinos River-Piedra River Divide.
- UNIT 791 Those portions of Alamosa, Rio Grande and Saguache counties bounded on the north by Co Rd G; on the east by Colo 17; on the south by US 160; and on the west by US 285.
- UNIT 851 Those portions of Costilla and Las Animas counties bounded on the north by the West Fork of the Purgatoire River, the North Fork of the Purgatoire River, and Colo 12; on the east by I-25; on the south by the Colorado-New Mexico state line; and on the west by the Sangre de Cristo Divide.
- UNIT 861 That part of Huerfano Co bounded on the north by the Custer-Huerfano Co line; on the east by Colo 69, Huerfano Co Rds 555 (Muddy Creek Rd), 570, and 572 (Pass Creek Rd); and on the south and west by the Sangre de Cristo Divide.
- UNIT 951 Those portions of Weld and Morgan counties bounded on the north by Colo 14; on the east by Weld Co Rd 105, Morgan Co Rd KK/Weld Co Rd 74 (County Line Road), Morgan Co Rd 2, and Colo 144; on the south by I-76; and the west by Weld Co Rd 49, US 34, and US 85.

#025 - BIGHORN SHEEP UNIT BOUNDARY DESCRIPTIONS

- UNIT S01 **Poudre River** - That portion of Larimer Co bounded on the north by Larimer Co Rd 80C and Deadman-Red Feather Rd; on the east by Larimer Co Rd 68C (Boy Scout Ranch Road) and Elkhorn Creek; on the south by Colo 14; and on the west by the Laramie River Rd.
- UNIT S02 **Gore-Eagles Nest** - Those portions of Eagle and Summit counties bounded on the north by Elk Creek to Piney Ridge, Eagles Nest Wilderness boundary, Elliott Ridge/Arapaho/White River National Forest boundary, the North Fork of Elliott Creek, Hoagland Reservoir and Elliott Creek; on the east by the Blue River, on the south by I-70 and on the west by Colo 131 and the Colorado River from State Bridge to Elk Creek.
- UNIT S03 **Mount Evans** - Those portions of Clear Creek, Jefferson and Park counties bounded on the north by I-70; on the east by Colo 74; on the south by Bear Creek, Beartrack Creek, Tumbling Creek, a line from the head of Tumbling Creek to the junction of USFS Trails 603 and 602; USFS Trail 603, and the boundary between the Pike and Arapaho National Forests; and on the west by the Continental Divide.
- UNIT S04 **Grant** - Those portions of Clear Creek, Park and Jefferson counties bounded on the north by the north boundary of the Pike National Forest, USFS Trail 603, a line from the junctions of USFS Trails 603 and 602 to the head of Tumbling Creek, Tumbling Creek, Beartrack Creek, and Bear Creek; on the east by Co Rd 73; on the east and south by US 285; on the south by the North Fork of the

South Platte River; and on the west by the Continental Divide.

- UNIT S05 **Beaver Creek** - Those portions of El Paso, Fremont and Teller counties bounded on the north by the Gold Camp Rd and Rock Creek; on the east by Colo 115; on the south by US 50; and on the west by Freemont Co. Rd 67 and Teller Co. Rd 86 (Phantom Canyon Road), Teller Co. Rd 861 (Skaguay Road) and 81 (Lazy S Ranch Road)..
- UNIT S06 **Pikes Peak** - Those portions of Teller and El Paso counties bounded on the north by US 24; on the east by I-25 and Colo 115; on the south by the Gold Camp Rd and Rock Creek; and on the west by Colo 67.
- UNIT S07 **Arkansas River** - That portion of Fremont Co bounded on the north by Fremont Co Rd 2; on the east by Colo 9; on the south by US 50; and on the west Fremont Co Rd 12.
- UNIT S08 **Huerfano** - Those portions of Huerfano and Alamosa counties bounded on the north by Sixmile Lane, USFS Trail 883, USFS 583 (Mosca Pass) and Huerfano Co Rds 583, 581, 580 and 550; on the east by Huerfano Co Rds 570 and 572 (Pass Creek Rd); on the south by the Huerfano-Costilla and Costilla-Alamosa Co lines and US 160; and on the west by Colo 17.
- UNIT S09 **Sangre de Cristo** - Those portions of Alamosa, Saguache, Custer and Huerfano counties bounded on the north by Saguache Co Rd LL 57, USFS Rd 970 (Hayden Pass Rd), and the Fremont-Saguache and Fremont-Custer Co lines; on the east by Colo 69; on the south by Huerfano Co Rds 550, 580, 581 and 583, USFS Rd 583 (Mosca Pass), USFS Trail 883, and Sixmile Lane; and on the west by Colo 17 and US 285.
- UNIT S10 **Trickle Mountain** - Those portions of Saguache, Chaffee and Gunnison counties bounded on the north by US 50 and the Marshall Pass Rd (USFS Rd 243); on the east by US 285; on the south by Colo 114; and on the west by USFS Rd 803 (Meyer's G. and Gismo Creek Rd), Razor Creek and Saguache Co Rd 14-PP and Gunnison Co Rd 45 (Doyleville Cut-off Rd).
- UNIT S11 **Collegiate North** - Those portions of Lake, Chaffee, Pitkin and Gunnison counties bounded on the north by Colo 82; on the east by US 24; on the south by Chaffee Co Rd 306 and Cottonwood Pass Rd (USFS Rd 209); and on the west by the Taylor River, the North Fork Taylor River, USFS Trail 761 and USFS Rd 123.
- UNIT S12 **Buffalo Peaks** - Those portions of Lake, Chaffee and Park counties bounded on the north by the Continental Divide; on the east by Colo 9 and US 285; on the south by US 285; and on the west by US 24.
- UNIT S13 **Snowmass East** - That portion of Pitkin Co bounded on the north and east by the Roaring Fork River, USFS Rd 123 and Co Rd 15A (Richmond Hill Rd); on the south by 761.1D (Taylor River Head Rd), USFS Trail 400 (Brush Creek Trail), USFS Rd 738.2B (East Brush Creek Rd), and USFS/Gunnison Co Rd 738 (Brush Creek Rd); and on the west by Colo 135, Gunnison Co Rd 317 (Gothic Rd), Crystal River-Gunnison River divide, Roaring Fork River-Crystal River divide and Capitol Creek.
- UNIT S14 **Clinetop Mesa** - That portion of Garfield Co bounded on the north by the White River-Colorado River divide; on the east by Canyon Creek; on the south by I-70; and on the west by Colo 13, Rifle Creek, West Rifle Creek and Mullen Gulch.

- UNIT S15 **Sheep Mountain** - Those portions of Hinsdale, Mineral and Rio Grande counties bounded on the north by the Rio Grande River; on the east by Colo 149, US 160 and the Continental Divide; on the south by USFS 667, the Mineral-Archuleta and the Hinsdale-Archuleta Co lines; and on the west by the Piedra River, Middle Fork of the Piedra River, Middle Trout Creek, West Trout Creek, and Trout Creek.
- UNIT S16 **Cimarrona Peak** - Those portions of Hinsdale and Mineral counties bounded on the north by the Rio Grande River; on the east by Trout Creek, West Trout Creek, and Middle Fork of Trout Creek, the Middle Fork of the Piedra River and the Piedra River; on the south by the Hinsdale/Archuleta county line; and on the west by Weminuche Creek, USFS Trail 539, the Los Pinos River, and North Fork Pinos River and the Rio Grande Reservoir/Squaw Creek Divide.
- UNIT S17 **Collegiate South** - Those portions of Chaffee and Gunnison counties bounded on the north by Chaffee Co Rd 306 (Cottonwood Creek Rd) and Cottonwood Pass Rd (USFS Rd 209); on the east by US 24 and 285; on the south by US 50; and on the west by the Gunnison-Chaffee Co line, Middle Willow Creek, Willow Creek, and the Taylor River.
- UNIT S18 **Rawah** - Those portions of Larimer and Jackson counties bounded on the north by the Wyoming state line; on the east by Larimer Co Rd 103 (Laramie River Rd); on the south by Colo 14; and on the west by Colo 125 and Colo127.
- UNIT S19 **Never Summer Range** - Those portions of Larimer, Jackson and Grand counties bounded on the north by Colo 14; on the east by Larimer Co Rd 63E (Pingree Park Rd), Larimer County RD 44H (Buckhorn Rd), the divide between Pennock Creek and Elk Creek, USFS Trails 928 (Signal Mountain Trail), and 980 (Stormy Peaks Trail); on the south by the Rocky Mountain National Park boundary, USFS Rds 120.4 (North Supply Jeep Rd), and 120 (Kawuneechee Rd), the North Supply Trail, USFS Trail 118 (Blue Ridge Trail), the Lost Lake Trail, USFS Rd 107 (Lost Lake Rd); and on the west by Colo 125 and Jackson Co Rd 27 (Rand-Gould Rd).
- UNIT S20 **Marshall Pass** - Those portions of Gunnison, Chaffee and Saguache counties bounded on the north by US 50; on the east by US 285; and on the south by Marshall Pass Rd; and on the west by US 50.
- UNIT S21 **Cow Creek, Wetterhorn Peak** - Those portions of Ouray, Gunnison, San Miguel and Hinsdale counties bounded on the north by Colo 62, US 550, the Ouray-Montrose Co line and Ouray-Gunnison Co line to the Uncompahgre National Forest line, and the Uncompahgre NF line to Big Blue Creek; on the east and south by Big Blue Creek to Uncompahgre Peak, the Uncompahgre-Animas River divide, the Ouray-Hinsdale Co line, Engineer Mountain, the Uncompahgre-Lake Fork-Animas River divide, the San Miguel-San Juan and San Miguel-Dolores Co lines, and Lizard Head Pass; and on the west by Colo 145 and US 62.
- UNIT S22 **San Luis Peak** - Those portions of Hinsdale, Mineral and Saguache counties bounded on the north by USFS Rd 788, Hinsdale Co Rds 5, 15, and 45, Saguache Co Rd KK-14 and NN-14; on the east by the Continental Divide, USFS Rd 787, and the La Garita Wilderness Boundary; on the south by USFS Trail 787 (La Garita Stock Driveway), USFS Rd 504, and Colo 149; and on the west by USFS Rd 507, USFS Trails 803, 787 and 473, and Colo 149.
- UNIT S23 **Kenosha**- Those portions of Park and Jefferson counties bounded on the north by US 285; on the north and east by Park Co Rd 68, USFS Rds 543 and 560; on the south by USFS Rd 545, USFS Trail 609, Park Co Rd 56 and USFS Rd

56 (Lost Park Rd); and on the west by US 285.

- UNIT S24 **Battlement Mesa** - Those portions of Garfield and Mesa counties bounded on the north by the Colorado River and I-70; on the east and south by the Garfield Co Rds 331 and 342, Mesa Co Rd 330E, Colo 330 and Colo 65; and on the west by the Colorado River.
- UNIT S25 **Snowmass West** - Those portions of Pitkin, Gunnison and Eagle counties bounded on the north by the Roaring Fork River; on the east by Capitol Creek and the Roaring Fork River-Crystal River divide; on the south by the Crystal River-Gunnison River divide; and on the west by the Crystal River-Gunnison River divide and Colo 133.
- UNIT S26 **Taylor River** - That portion of Gunnison Co bounded on the north by USFS/Gunnison Co Rd 738 (Brush Creek Rd), USFS Rd 738.2B (East Brush Creek Rd), USFS Trail 400 (Brush Creek Trail), 761.1D (Taylor River Head Rd); on the east by USFS Rd 761 (Taylor Pass Rd), North Fork of Taylor River, Taylor River, Willow Creek, Middle Willow Creek, and Cumberland Pass Rd; on the south by the New Mexico Principal Meridian/6th Principal Meridian divide, the western Fossil Ridge Wilderness boundary and Lost Canyon Rd; and on the west by Colo 135.
- UNIT S27 **Tarryall** - Those portions of Park and Jefferson counties bounded on the north by Park Co Rd 56, USFS Rd 56 (Lost Park Rd), USFS Trail 609, and USFS Rd 560; on the east by USFS Rd 211 (Matukat Rd.), Park Co Rd 77, US 24; on the south by the South Platte River, Park Co Rds 59, 592, and 23, USFS 234 and Park Co Rd 77; and on the west by US 285.
- UNIT S28 **Vallecito** - Those portions of Hinsdale, La Plata and San Juan counties bounded on the north by the Continental Divide; on the east by the North Fork Los Pinos River, Los Pinos River, USFS Trail 539 from Divide Lakes, and Weminuche Creek; on the south by the Hinsdale-Archuleta County line, East Creek and the Los Pinos River; and on the west by Vallecito Reservoir (east shoreline)and Vallecito Creek.
- UNIT S29 **Alamosa Canyon** - Those portions of Conejos, Mineral and Rio Grande counties bounded on the north by US 160; on the east by Colo 15; on the south by USFS Rds 255, 240, and 259, USFS Trail 706, USFS Rds 260, 250 and 380; and on the west by the Continental Divide.
- UNIT S30 **Conejos River** - Those portions of Conejos, Archuleta, Mineral and Rio Grande counties bounded on the north by USFS Rds 380, 250, and 260, USFS Trail 706, USFS Rds 259, 240 and 255, and Colo 15; on the east by US 285; on the south by the Colorado-New Mexico state line and the USFS Rio Grande National Forest boundary; and on the west by the Continental Divide.
- UNIT S31 **Blanca River** - Those portions of Archuleta, Conejos and Rio Grande counties bounded on the north by the Mineral-Archuleta County line and USFS Rd 667; on the east by the Continental Divide; on the south by the Colorado-New Mexico state line; and on the west by US 84 and US 160.
- UNIT S32 **Georgetown** - Those portions of Clear Creek, Jefferson, Gilpin, and Boulder counties bounded on the north and east by USFS 149 (Rollins Pass Rd), Gilpin Co Rd 16 (Tolland Rd), Colo 119, and Colo 72; on the south by I-70; and on the west by the Continental Divide.
- UNIT S33 **Lake Fork/Pole Mountain** - Those portions of Hinsdale and San Juan counties bounded on the north by the Gunnison-Hinsdale County line; on the east by

- Colo 149; on the south by North Clear Creek, USFS Trail 821 from North Clear Creek to Lost Trail Creek, and Lost Trail Creek; on the south by the Rio Grande River, Stoney Gulch, Cunningham Creek and Colo 110; and on the west by US 550, the Ouray-San Juan County line, the Uncompahgre-Upper Gunnison River Divide and Big Blue Creek.
- UNIT S34 **Rampart Range** - Those portions of El Paso and Teller counties bounded on the north by USFS Rds 393, 300 and 320; on the east by I-25; and on the south and west by US 24 to Woodland Park.
- UNIT S35 **Greenhorns** - Those portions of Pueblo, Huerfano and Custer counties bounded on the north by Colo 96; on the east by I-25; on the south by the Huerfano River; and on the south and west by Colo 69.
- UNIT S36 **Bellows Creek** - Those portions of Mineral, Rio Grande and Saguache counties bounded on the north by USFS Trail 787; on the east by the Mineral/Saguache county line and an all-terrain vehicle trail also known as the La Garita Stock Driveway, USFS Rd 630 and Rio Grande Co Rds 15 and 18; on the south by US 160 and the Rio Grande River; and on the west by Colo 149 and USFS Rd 504.
- UNIT S37 **St Vrain** - Those portions of Boulder, Grand and Larimer counties bounded on the north and east by the Rocky Mountain National Park boundary and US 36; on the south by Boulder Co Rds 94, 81, 106, and 95 (Lefthand Canyon Dr), Colo 72 (Peak to Peak Highway), Boulder Co Rd 102 (Brainard Lake Rd), USFS Trail 907 (Pawnee Pass Trail) and USFS Trail 1 (Cascade Creek Trail); and on the west by USFS Rd 125, USFS Trail 102 (Knight Ridge Trail), and the Rocky Mountain National Park boundary.
- UNIT S38 **Apishapa** - Those portions of Huerfano, Pueblo, Otero and Las Animas counties bounded on the north by Colo 10, and US 50; on the east and south by US 350; and on the west by I-25.
- UNIT S39 **Mount Silverheels** - Those portions of Park and Summit counties bounded on the north by the Swan River Rd (Summit Co Rd 6), USFS Rd 6, the Continental Divide and the North Fork of the South Platte River; on the east by US 285, Park Co Rds 77 and 23 (Turner Gulch Rd or USFS Rd 234); on the south by US 24; and on the west by US 285 and Colo 9.
- UNIT S40 **Lone Pine** - That portion of Larimer Co bounded on the north by Larimer Co Rds 80C and 59 (Cherokee Park Rd), the Wyoming state line; on the east by Larimer Co Rd 37, South Branch Boxelder Creek, Boxelder Creek, Larimer Co Rd 19; on the south by Larimer Co Rd 80, and US 287; and on the south and west by Larimer Co Rds 74E and 162 (Red Feather Lakes-Deadman Rd).
- UNIT S41 **Peru Creek** - That portion of Summit Co bounded on the north by I-70; on east by the Continental Divide; on the south by the Swan River Rd (Summit Co Rd 6) and USFS Rd 6; and on the west by Colo 9 and US 6.
- UNIT S42 **Waterton Canyon** - Those portions of Jefferson, Douglas, and Park counties bounded on the north by US 285; on the east by Colo 470, US 85, Colo 67, and USFS Rd 300 (Rampart Range Rd); on the south by USFS Trail 649, Colo 67, Jefferson Co Rd 126 (South Deckers Rd) and USFS Rd 211; and on the west by USFS Rds 560 and 543, and Park Co Rd 68.
- UNIT S43 **Hayman** - Those portions of Park, Teller, Douglas, and Jefferson counties bounded on the north by USFS Rd 211 and Jefferson Co Rd 126 (South Deckers Rd); on the east by Colo 67 and Trout Creek; on the south by US 24;

and on the west by the Park Co Rd 77 and USFS Rd 211 (Matakat Rd).

- UNIT S44 **Basalt** - Those portions of Garfield, Eagle and Pitkin counties bounded on the north by USFS Trail 514 (Red Tables Divide Rd) and USFS Trail 1870; on the east by the Crooked Creek Pass Rd (USFS Rd 400); on the south by the Fryingpan River and the Roaring Fork River; and on the west by Garfield Co Rd 100, and the Cottonwood Pass Rd.
- UNIT S45 **Cross Mountain** - That portion of Moffat Co bounded on the north and east by Colo 318; on the east and south by US 40; and on the west by the Lilly Park Rd and the Little Snake River.
- UNIT S46 **Dome Rock** - That portion of Teller Co bounded on the north by US 24; on the east and south by Colo 67; and on the west by Teller Co Rd 1.
- UNIT S47 **Browns Canyon** - Those portions of Chaffee, Fremont and Park counties bounded on the north by US 24; on the east by Kaufman Ridge, Badger Creek, and Fremont Co Rds 2 and 12; and on the south by the Arkansas River and South Arkansas River; and on the west by US 285 and 24.
- UNIT S48 **Carrizo Canyon** - Those portions of Baca and Las Animas counties bounded on the north by US 160; on the east by Baca Co Rd 13 (Pritchett Grade Rd); on the south by the Colorado-New Mexico state line; and on the west by Colo 389.
- UNIT S49 **Grape Creek\Copper Ridge** – Those portions of Custer and Fremont counties bounded on the north by the Arkansas River, the Fremont Co Rd 12 Bridge, and US 50; on the east by Colo 67; on the south by Colo 96; and on the west by Colo 69, Fremont-Custer and Fremont-Saguache Co lines, USFS Rd 6 (Hayden Pass Rd), and Fremont Co Rd 6.
- UNIT S50 **Mount Mestas** - Those portions of Huerfano and Costilla counties bounded on the north by Huerfano Co Rd 550, Colo 69 and the Huerfano River; on the east by I-25; on the south by US 160; and on the west by the Pass Creek Rd.
- UNIT S51 **Spanish Peaks** - Those portions of Huerfano, Costilla and Las Animas counties bounded on the north by US 160; on the east by I-25; on the south by the Colorado-New Mexico state line; and on the west by the Huerfano-Costilla Co line and farther south by the Southern Sangre de Cristo Divide (Culebra mountain range).
- UNIT S52 **Rock Creek** - Those portions of Gunnison, Saguache and Hinsdale counties bounded on the north by BLM Rds 3035, 3036 (Cebolla Creek Rd) 3047 (Huntsman Gulch Rd) and 3043; on the east by USFS Rd 806; on the south by USFS Rd 788 (Los Pinos Pass Rd) , Saguache Co Rd KK-14, Hinsdale Co Rds 45, 15 and 5; and on the south and west by the Powder Horn Primitive Area boundary, USFS Trail 462, the East Fork of Powderhorn Creek, and Powderhorn Creek.
- UNIT S53 **Bristol Head** - Those portions of Mineral and Hinsdale counties bounded on the north by North Clear Creek, Colo 149, and USFS Trails 473 and 787; on the east by USFS Trail 803 and USFS Rd 507; on the south by Colo 149, and the Rio Grande River; and on the west by Lost Trail Creek.
- UNIT S54 **Dillon Mesa** - That portion of Gunnison Co bounded on the north by Gunnison Co Rd 12; on the east by Colo 135; on the south by US 50, the Gunnison River, Blue Mesa Reservoir, and Colo 92; and on the west by Curecanti Creek, Curecanti Pass, and Coal Creek.

- UNIT S55 **Natural Arch-Carnero Creek** - Those portions of Rio Grande and Saguache counties bounded on the north by Colo 114; on the east by US 285; on the south by Colo 112 and US 160; and on the west by Rio Grande Co Rds 18 and 15, USFS Rd 630, and USFS Trail 787, the all terrain vehicle trail also known as the La Garita Driveway, La Garita Wilderness Area boundary, USFS Rd 787 and the Continental Divide.
- UNIT S56 **Black Ridge** - That portion of Mesa Co bounded on the north by the Colorado River and US 50; on the east by US 50; on the east and south by Colo 141 and the Dolores River; and on the west by the Colorado-Utah state line.
- UNIT S57 **Big Thompson** - Those portions of Larimer and Boulder counties bounded on the north by Larimer Co Rd 44H (Buckhorn Rd), Stove Prairie Rd (Larimer Co Rd 27), Larimer Co Rds 52E (Rist Canyon Rd) and 54G; on the east by US 287; on the south by Colo 66 and US 36; and on the west by the Rocky Mountain National Park boundary, USFS Trails 980 (Stormy Peaks Trail), and 928 (Signal Mountain Trail) and the divide between Pennock Creek and Elk Creek.
- UNIT S58 **Lower Poudre** - That portion of Larimer Co bounded on the north by Larimer Co Rd 74E (the Red Feather Lakes Rd) on the east by US 287 and Larimer Co Rd 54G; on the south by Larimer Co Rd 52E (Rist Canyon Rd), Stove Prairie Rd (Larimer Co Rd 27), and Larimer Co Rd 44H (Buckhorn Rd); and on the west by Larimer Co Rd 63E (Pingree Park Rd), Colo 14, Elkhorn Creek, and Larimer Co Rd 68 (Boy Scout Ranch Rd).
- UNIT S59 **Derby Creek** - Those portions of Rio Blanco, Routt, Eagle and Garfield counties bounded on the north by USFS Trails 1103, 1116 and 1117, USFS Rds 959 and 16, Routt Co Rds 132 and 15; on the east by Colorado Colo 131; on the south by the Eagle River, the Colorado River and Deep Creek; and on the west by the Colorado River-White River divide, and the White River-Yampa River divide.
- UNIT S60 **Shelf Rd** - Those portions of Teller, Fremont and Park counties bounded on the north by Park Co Rds 59 and 102 and Teller Co Rds 112, 11, and 1; on the east by Colo 67, Teller Co Rd 86 and Fremont Co Rd 67; on the south by US 50; and on the west by Colo 9.
- UNIT S61 **Purgatory Canyon** - Those portions of Otero, Bent and Las Animas counties bounded on the north by US 50; on the east by Colo 109; on the south by US 160; and on the west by US 350.
- UNIT S62 **Dominguez Creek** - Those portions of Delta, Mesa, Montrose and Ouray counties bounded on the north by Colo 141; on the east by Colo 50; on the south by Colo 90; and on the west by USFS Rd 402 (Divide Rd).
- UNIT S63 **Middle Dolores River** - Those portions of Montrose and San Miguel counties bounded on the north by Colo 90; on the east by Monogram Mesa Rd (Montrose Co Rd DD 19 and San Miguel Co Rds 18Y, U29 and 25R); on the south by Colo 141, and the Big Gypsum Valley Rd (San Miguel Co Rd 20R, Dolores River and McIntyre Canyon); and on the west by the Colorado-Utah state line.
- UNIT S64 **Upper Dolores River** - Those portions of San Miguel, Dolores and Montezuma counties bounded on the north by McIntyre Canyon, Dolores River, San Miguel Co Rd 20.R (Big Gypsum Valley Rd), Colo 141 and Disappointment Valley Rd (San Miguel Co Rd 19.Q and Dolores Co Rd D.00); on the east by USFS Rd 526 (Norwood-Dolores Rd) and Colo 145; on the south by Colo 184 and US

491; and on the west by the Colorado-Utah state line.

- UNIT S65: **Costilla** - That portion of Costilla Co bounded on the north by the Alamosa-Costilla and Huerfano-Costilla Co lines; on the east by the Huerfano-Costilla Co line and farther south by the southern Sangre de Cristo Divide (Culebra Mountain Range); on the south by the Colorado-New Mexico state line; and on the west by Colo 159 and US 160.
- UNIT S66 **Mount Elbert** - That portion of Lake and Pitkin counties bounded on the north by the North Fork Fryingpan River, and Mormon Creek and the Continental Divide; on the east by US 24; on the south by Colo 82; and on the west by Lost Man Creek, over ridge from Lost Man Creek to South Fork Fryingpan River, South Fork Fryingpan River, and Fryingpan River.
- UNIT S67 **Flattops** - Those portions of Rio Blanco and Garfield counties bounded on the north by the Williams Fork River-White River divide; on the east by the White River-Yampa River divide and the White River-Colorado River divide; on the south by the South Fork of the White River-Colorado River divide; and on the west by USFS Rd 245, Rio Blanco Co Rds 17 (Buford-Newcastle Rd) and 8, and USFS Rd 250.
- UNIT S68 **Northern Sangre de Cristos** - Those portions of Chaffee, Fremont and Saguache counties bounded on the north by the South Arkansas River and the Arkansas River; on the east by Fremont Co Rd 6 and USFS Rd 6 (Hayden Pass Rd); on the south by the Fremont-Custer and Fremont-Saguache Co lines, USFS Rd 970 (Hayden Pass Rd), and Saguache Co Rd LL 57; and on the west by US 285.
- UNIT S69 **Cochetopa** – Those portions of Gunnison and Saguache counties bounded on the north by the Gunnison River and US 50, on the east by Gunnison Co Rd 45 and Saguache Co Rd 14-PP (Doyleville Cut-off Road), Razor Creek and USFS Rd 803 (Gismo Creek and Meyer's Gulch Rd), Colo 114 and the Continental Divide; on the south by Saguache Co Rds NN-14 and KK-14; and on the west by USFS Rd 806 and South Beaver Creek.
- UNIT S70 **Fossil Ridge** – That portion of Gunnison Co bounded on the north by the New Mexico Principal Meridian/6th Principal Meridian divide; on the east by USFS Rd 765, Gunnison Co Rd 76, USFS Rd 763 (Waunita Pass Rd) and Gunnison Co Rd 887 (Waunita Hot Springs Rd); on the south by US 50; and on the west by Gunnison Co Rd 76, BLM Rd 3103 (North Parlin Flats), USFS Rd 583 and the western Fossil Ridge Wilderness boundary.
- UNIT S71 **West Needles** - Those portions of San Juan and La Plata counties bounded on the north by the San Miguel-Ouray Co line, US 550, Colo 110, Cunningham Gulch, and the Continental Divide; on the east by Vallecito Creek and the Los Piños River; on the south by US 160; and on the west by the Montezuma-La Plata and Montezuma- Dolores Co lines.
- UNIT S72 **Greenland** - That portion of Douglas Co bounded on the north by Wolfensberger Rd, Wilcox Street, and Colo 86; on the east by Colo 83; on the south by Palmer Divide Rd; and on the west by Colo 105.
- UNIT S73 **Mount Zirkel** - Those portions of Jackson and Routt counties bounded on the north by the Mount Zirkel Wilderness boundary, USFS Trail 1125, USFS Rd 660, and Big Creek Rd (USFS Rd 600); on the east by Jackson Co Rds 6W, 7, 12W, 18, and 5; on the south by Jackson Co Rd 24, and the Buffalo Pass Rd (USFS Rd 60); and on the west by the boundary of the Mount Zirkel Wilderness Area.

- UNIT S74 **Glenwood Canyon** - Those portions of Garfield and Eagle counties bounded on the north by the South Fork White River-Colorado River Divide and Deep Creek; on the east and south by the Colorado River; and on the west by Canyon Creek.
- UNIT S75 **Main Canyon** - Those portions of Mesa, Garfield and Rio Blanco counties bounded on the north by the Colorado River-White River divide; on the east by the Roan Creek-Parachute Creek divide and Kelly Gulch; on the south by the Colorado River; and on the west by the Bookcliffs, the Little Salt Wash-Roan Creek divide, the Big Salt Wash-Roan Creek divide, and the East Salt Creek-Roan Creek divide.
- UNIT S76 **Holy Cross** - Those portions of Eagle and Pitkin counties bounded on the west and north by the Holy Cross Wilderness area, West Grouse Creek, and USFS Trail 2129 and USFS Rd 733; on the east by US 24; on the south by the Continental Divide; and on the west by the Fryingpan River-Eagle River divide.
- UNIT S77 **Gore Canyon** - Those portions of Grand, Eagle, Summit and Routt counties bounded on the north by Colo 134; on the east by US 40, Colo 9 and the Blue River; on the south by Elliott Creek, Hoagland Reservoir, the North Fork of Elliott Creek, Elliott Ridge/Arapaho/White River NF boundary, Eagles Nest Wilderness boundary, Piney Ridge, Elk Creek, and the Colorado River to State Bridge; and on the west by Colo 131.
- UNIT S78 **Ten Mile** - Those portions of Summit and Eagle counties bounded on the north by Resolution Creek Road (USFS Rd 702), Resolution Creek, Ptarmigan Pass, Wilder Gulch and I-70; on the east by Colo 9; on the south by the Continental Divide; and on the west by US 24.
- UNIT S79 **Pueblo West** - That portion of Pueblo and Fremont counties bounded on the north by US 50; on the east by Colo 45; on the south by Colo 96; and on the west by Colo 67.
- UNIT S80 **Black Canyon** - Those portions of Delta, Gunnison, and Montrose counties bounded by the Gunnison Gorge National Conservation Area, Black Canyon of the Gunnison National Park, and Curecanti National Recreation Area south and west of Colo 92.
- UNIT S81 **Lower Lake Fork, Gunnison River** - That portion of Gunnison Co bounded on the north by US 50 and Blue Mesa Reservoir; on the east by Colo 149; on the south by Colo 149; and on the southwest and west by Gunnison Co Rd 25.
- UNIT S82 **Cold Springs** - That portion of Moffat Co bounded on the north by the Colorado-Wyoming state line; on the east by Moffat Co Rd 10N (Irish Canyon Rd), Colo 318 and Moffat Co Rd 10; on the south by Moffat Co Rd 34 and the Green River; and on the west by the Colorado-Utah state line.
- UNIT S83 **Rocky Mountain National Park** - Those portions of Larimer, Boulder and Grand counties within the boundaries of Rocky Mountain National Park, except for Twin Sisters Mountain.
- UNIT S84 **Mesa Verde** - That portion of Montezuma and La Plata counties bounded on the north by US 160; on the east by Colo 140; on the south by the Colorado-New Mexico state line; and on the west by US 491.
- UNIT S85 **Dinosaur Monument** - That portion of Moffat Co bounded on the north by the Dinosaur National Monument boundary, the Green River and Moffat Co Rd 34;

on the east and south by Dinosaur National Monument (containing the Green River); and on the west by the Colorado-Utah state line.

#026 - MOUNTAIN GOAT UNIT BOUNDARY DESCRIPTIONS

- UNIT G1 **Mt. Shavano** - Those portions of Chaffee, Gunnison and Saguache counties bounded on the north by USFS 839, USFS 1451 (Alpine Tunnel), USFS 295, Pomeroy Gulch, Grizzly Mountain, and Brown's Creek; on the east by US 285; on the south by US 50; and on the west by Gunnison Co Rd 76 (Quartz Creek Road) and USFS 765 (North Quartz Creek Road).
- UNIT G2 **Mount Princeton** - Those portions of Chaffee and Gunnison counties bounded on the north by Cottonwood Pass Rd (USFS 209, USFS 306 and Chaffee Co Rd 306); on the east by US 24 and US 285; on the south by Colo 162, USFS 211 and USFS 267; and on the west by USFS 765 and USFS 742.
- UNIT G3 **Mount Harvard** - Those portions of Chaffee and Gunnison counties bounded on the north by Texas Creek, North Texas Creek, the Continental Divide, and Pine Creek; on the east by US 24; on the south by Cottonwood Pass Rd (Chaffee Co Rd 306, USFS 306, and USFS 209); and on the west by USFS 742.
- UNIT G4 **Mount Evans** - Those portions of Clear Creek, Jefferson and Park counties bounded on the north by I-70; on the east by west of Colo 74 and Jefferson Co Rd 73; on the south and southwest by US 285; and on the west by the Guanella Pass Rd (USFS 118 and USFS 381).
- UNIT G5 **West Needles** - Those portions of La Plata, San Juan, Hinsdale and Archuleta counties bounded on the north by the San Juan-Ouray Co line and the Continental Divide; on the east by the Los Pinos River-Piedra River divide, East Creek, and the Los Pinos River; on the south by US 160 and on the west by US 550.
- UNIT G6 **Gore Range** - Those portions of Grand, Eagle and Summit counties bounded on the north by the Colorado River; on the east by Colo 9; on the south by I-70; and on the west by Colo 131.
- UNIT G7 **Gray's Peak** - Those portions of Summit and Clear Creek counties bounded on the north by US 6/I-70;; on the east by the Guanella Pass Rd (USFS 381); on the south by the Pike-Arapahoe National Forest boundary, the Continental Divide, the Argentine Pass trail, USFS Rds 260 and 5; and on the west by US 6
- UNIT G8 **Fossil Ridge** - That portion of Gunnison Co bounded on the north by USFS Rd 742 (Taylor River Rd); on the east by USFS 765 (Cumberland Pass Rd and North Quartz Creek Rd); on the south by Quartz Creek Rd (Gunnison Co Rd 76) and US 50; and on the west by Colo 135.
- UNIT G10 **Tenmile** - Those portions of Summit, Park and Lake Counties bounded on the north by I-70; on the east by Colo 9 and Boreas Pass Rd (USFS 404 and Summit CR 10); on the south by the Continental Divide, Colo 9, Scott Gulch, the Middle Fork of the South Platte River, and Platte Gulch to the Lake-Park county line; and on the west by the Lake-Park county line, Continental Divide, Colo 91 and I-70.
- UNIT G11 **The Raggeds** - Those portions of Gunnison and Pitkin Counties bounded on the north by County Road 3 (Marble Rd), USFS 314 (Crystal River Rd) and USFS 317 (Schofield Pass Rd); on the east by USFS 317 (Gothic Rd) and

Gunnison Co Rd 317 (Crested Butte Rd); on the south by Gunnison Co Rd 12 (Kebler Pass Rd); and on the west by Colo Hwy 133.

- UNIT G12 **Maroon Bells** - Those portions of Garfield, Eagle, Gunnison and Pitkin counties bounded on the north by Colo 82; on the east by Castle Creek; on the south by the Gunnison-Pitkin Co line, the Colorado River headwaters-Gunnison River divide, USFS Rd 317 (Schofield Pass Rd), and USFS Rd 314 (Crystal River Rd); and on the west by Colo 133.
- UNIT G13 **Quail Mountain** - Those portions of Lake, Chaffee, Gunnison and Pitkin counties bounded on the north by Colo 82; on the east by US 24; on the south by Pine Creek, North Texas Creek, Texas Creek, USFS 742, USFS 761 (Taylor Pass Rd), the Gunnison-Pitkin Co line, and on the west by Castle Creek.
- UNIT G14 **Antero** - Those portions of Chaffee and Gunnison counties bounded on the north by USFS 267, USFS 211 and Colo 162; on the east by US 285; on the south by Brown's Creek, Grizzly Mountain, Pomeroy Gulch, USFS 295, USFS 1451, and USFS 839; and on the west by USFS 765.
- UNIT G15 **Jones Pass** - Those portions of Summit, Grand, and Clear Creek counties bounded on the north by USFS Rds 132 (Ute Pass Rd), 138, 139 (Crooked Creek Rd) and Grand Co Rd 50; on the east by US 40 and I-70/US 6; on the south by US 6/I-70 and US 6 over Loveland Pass; and on the west by US 6 and Colo 9.
- UNIT G16 **Mt. Guyot** - Those portions of Summit, Clear Creek, and Park counties bounded on the north by US 6, USFS 5, USFS 260, the Argentine Pass trail, the Continental Divide and the Pike-Arapahoe National Forest boundary; on the east by the Guanella Pass Rd; on the south by US 285; and on the west by the Boreas Pass Rd (USFS 404 and Summit Co Rd 10), Colo 9, and US 6.
- UNIT G17 **Independence Pass** - Those portions of Lake, Pitkin and Eagle Counties bounded on the north by the Eagle River-Fryingpan River watershed divide and the Continental Divide; on the east by US 24; on the south by Colo 82; and on the west by Warren Creek, USFS 131, the Hunter-Fryingpan Wilderness Area boundary, Deadman Creek, and USFS 105, 501, 506, 507 and 400.
- UNIT G18 **Holy Cross** - That portion of Eagle and Pitkin Counties bounded on the north by the Holy Cross Wilderness boundary; on the east by the Holy Cross Wilderness boundary and the Continental Divide; on the south by the Continental Divide; and on the west by the Eagle River-Fryingpan River watershed divide and the Holy Cross Wilderness boundary.

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Tracking number: 2016-00616

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (406 Series, Wildlife)

on 01/11/2017

2 CCR 406-0

CHAPTER W-0 - GENERAL PROVISIONS

The above-referenced rules were submitted to this office on 01/19/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 11:47:16

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-2

Rule title

2 CCR 406-2 CHAPTER W-2 - BIG GAME 1 - eff 03/02/2017

Effective date

03/02/2017

FINAL REGULATIONS - CHAPTER W-2 - BIG GAME

ARTICLE I - GENERAL PROVISIONS

#200 - DEFINITIONS

See also §33-1-102 C.R.S. and Chapter 0 of these regulations for other applicable definitions.

- A. "Antlered" means any deer, elk, or moose with an antler or antlers of at least five (5) inches in length as measured on the outside curve of the antler from the skull to the tip.
- B. "Antlerless" means any deer, elk, or moose; including fawn deer and calf elk or moose; without antlers or with antlers of less than five (5) inches in length.
- C. "Antler Point" means a projection of the antler at least one (1) inch long and which is longer than the width of its base.
- D. "Bait" means any salt, mineral, grain, or other feed. Salt or mineral blocks used for normal agricultural practices are not considered bait.
- E. Bighorn Sheep:
 - 1. "One-half (1/2) curl ram" means: A male sheep with a horn or horns that have one (1) or both tips grown at least through one-half (1/2) or 180 degrees of a circle to be measured by first establishing a reference line which bisects the eye and the base of the ear; and which has horn tips which have grown at least as far as the projection of this reference line.
 - 2. "Three-quarter (3/4) curl ram" means: A male sheep with a horn or horns that have one or both tips grown at least through three-quarters (3/4) or 270 degrees of a circle to be measured by first establishing a reference line which bisects the eye and the base of the ear; then by establishing a line which intersects the reference line at the base of the ear, and is perpendicular thereto; and which has horn tips which have grown at least as far as the downward projection of the perpendicular line.
 - 3. "Ewe" means: any female sheep having a horn or horns of at least five (5) inches in length as measured on the outside curve of the horn from the skull to the tip.
- F. "Brow tine" means a projection of the antler at least five (5) inches long located on the lower half of the antler.
- G. "Buck" means any pronghorn with a black cheek patch and a horn or horns of at least five (5) inches in length as measured on the outside curve of the horn from the skull to the tip, excluding any prong or point occurring between base (skull) and tip.
- H. "Doe" means any pronghorn; including fawn pronghorn; without horns, or with a horn or horns of less than five (5) inches in length.
- I. "Game Management Objectives" means specific data analysis unit (DAU) objectives relative to long- term population and/or sex ratio objectives.
- J. "Intermingled Lands" means lands where: 1) private land deeded to one landowner completely surrounds public land, or 2) public land is intermingled with private lands owned by a landowner

where a quantified access component exists, the landowner possesses some ability to affect game management on the adjacent public land, and the issuance of licenses valid on both private and public lands would help to achieve game management objectives.

- K. "Habitat Evaluation Committee (HEC)" means local advisory committees established in units where the Wildlife Landowner Conservation pilot program is implemented.
- L. Definitions related to Landowner Preference Program.
1. **"Agricultural Land"** means lands classified for the purposes of taxation as agricultural.
 2. **"Broker"** means for a third party to transfer a voucher for compensation or any other consideration, or otherwise arrange for such transfer, on behalf of the landowner, or land manager or on behalf of any individual.
 3. **"Land manager"** means an individual designated in writing by the landowner who is 1) a ranch manager, property manager, business partner, employee, or relative of the landowner who has control of the property or 2) a licensed outfitter or other individual who has entered into a written agreement with the landowner for control of the hunting operations on the property, and who has a working knowledge of the property, including but not limited to, boundaries and access points.
 4. **"Landowner"**- means a person that owns private agricultural land in Colorado, as shown by a recorded deed.
 5. **"Transfer"**- means to buy, sell, assign, trade, exchange, acquire or otherwise arrange to buy, sell, assign, trade, exchange, acquire or dispose of a voucher.
 6. **"Immediate family"**- means the landowner's spouse, parents, grandparent, children, grandchildren, and sibling including in-law and step relations.
 7. **"Voucher"**- means a document issued by the division, authorizing the landowner or any individual to whom the document is lawfully transferred to purchase a hunting license for the unit, species, sex and season printed on the document.
 8. **"Landowner Preference Program"** – means the license preference program for owners of private agricultural land established by § 33-4-103, C.R.S., and any implementing regulations adopted pursuant thereto.

#201 - LICENSE FEES

A. Big Game License Fees

1. Nonresident Big Game Licenses

In accordance with the provisions of §33-4-102, C.R.S., nonresident big game fees for the year 2017 shall be as follows:

Nonresident License Type	2016 License Fee	2017 Statutory Maximum License Fee*	2017 License Fee**
Pronghorn	\$375	\$386.24	\$385
Deer	\$375	\$386.24	\$385
Elk	\$625	\$643.73	\$640
Bear	\$625	\$643.73	\$640
Mountain lion	\$625	\$643.73	\$640

Moose	\$2,080	\$2,145.78	\$2,145
Mountain goat	\$2,080	\$2,145.78	\$2,145
Rocky Mountain bighorn sheep	\$2,080	\$2,145.78	\$2,145
Desert bighorn sheep	\$1,385	\$1,430.52	\$1,430
*Based on cumulative Consumer Price Index increase since 2000.			
**Adjusted after application of Consumer Price Index by rounding down to the nearest \$5.00 increment, in whole numbers.			

- a. All licenses sold through March 2017 shall be sold at 2016 license fees.

2. Nonresident License Fee Reduction:

In accordance with the provisions of §33-4-102, C.R.S., the following nonresident big game license fees shall be reduced to the fee specified herein, from the level set forth in §33-4-102, C.R.S.:

Nonresident License Type	2016 License Fee	2017 License Fee
Nonresident Bear	\$350.00	\$350.00
Nonresident Mountain Lion	\$350.00	\$350.00
Nonresident Antlerless Elk	\$465.00*	\$480.00*
*Nonresident Antlerless Elk license fee is set at 75% of Elk Nonresident License Fee rounded down to the nearest \$5.00 increment, in whole numbers.		

B. Combination Big Game/Annual Fishing Licenses for Nonresidents

- Big game licenses issued to non-residents shall be issued as combination Big Game/Annual Fishing licenses, and for each such combination license purchased each year by a nonresident \$10 of the above license fee shall be allocated to the fishing portion of such combination license.

#202 - HUNTING HOURS

- A. Big game may be taken from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

#203 - MANNER OF TAKE

See also #000 in Chapter 0 of these regulations for other applicable manner of take definitions.

- A. The following are legal methods of take for all species and seasons listed in this chapter, except as otherwise noted. Any method of take not listed herein shall be prohibited, except as otherwise provided by statute or these regulations:
- Rifles using center-fire cartridges of .24 caliber or larger, having expanding bullets of at least seventy (70) grains in weight, except for elk and moose where the minimum bullet weight is eighty-five (85) grains, and with a rated impact energy one hundred (100) yards from the muzzle of at least one thousand (1000) foot pounds as determined by the manufacturer's rating, and except for mountain lion where any center-fire rifle using bullets of at least 45 grains and producing at least 400 foot pounds of energy at the

muzzle may be used. Provided further that any semiautomatic rifle used shall not hold more than six (6) rounds in the magazine and chamber combined. A fully automatic rifle is prohibited.

2. Muzzle-loading rifles and smoothbore muskets, provided the minimum caliber shall be forty (.40) for all big game except elk and moose. The minimum caliber for elk and moose shall be fifty (.50). All muzzle-loading rifles and smoothbore muskets from forty (.40) caliber through fifty (.50) caliber must use a bullet of at least 170 grains in weight. All muzzle-loading rifles and smoothbore muskets greater than fifty (.50) caliber must use bullets of at least 210 grains in weight.
 - a. During the muzzle-loading firearms seasons for deer, elk, pronghorn, bear, and moose only lawful muzzle-loaders and smoothbore muskets may be used by muzzle-loading license holders.
 - b. During the muzzle-loading firearm seasons for deer, elk, pronghorn, bear, and moose the following additional restrictions apply:
 1. Propellant/Powders: The use of pelletized powder systems and smokeless powder are prohibited.
 2. Projectiles: Sabots are prohibited. For the purposes of this regulation cloth patches are not sabots.
 3. Loading: Firearms must load from the muzzle. Firearms which can be loaded from the breech are prohibited.
 4. Sights: Any muzzle-loading rifle or smoothbore musket with any sighting device other than open or "iron" sights is prohibited.
 5. Electronic or battery-powered devices cannot be incorporated into or attached to the muzzle-loading firearm.
3. Handheld bows, including compound bows, using arrows equipped with a broadhead with an outside diameter or width of at least 7/8ths of an inch with no less than two steel cutting edges. Each cutting edge must be in the same plane throughout the length of the cutting surface.
 - a. During the archery seasons for deer, elk, pronghorn, bear, sheep, goat, and moose, only lawful hand-held bows may be used by archery license holders.
 - b. Bows must have a minimum draw weight of 35 pounds. The let-off percentage shall not exceed 80%.
 - c. No portion of the bow's riser (handle) or any track, trough, channel, arrow rest or other device, excluding the cable(s) and bowstring, that attaches to the bow's riser can contact, support and/or guide the arrow from a point rearward of the bow's brace height.
 - d. Bows can propel only a single arrow at a time and no mechanism for automatically loading arrows is allowed.
 - e. Equipment using scopes, electronic or battery-powered devices cannot be incorporated into or attached to the bow or arrow, with the exception of lighted

nocks on arrows and recording devices on bows that cast no light towards the target and do not aid in range finding, sighting, or shooting the bow.

- f. Hydraulic or pneumatic technology cannot be used to derive or store energy to propel the arrow. Explosive arrows are prohibited.
- 4. Shotguns, no smaller than twenty (20) gauge and firing a single slug.
- 5. Crossbows, provided the minimum draw weight is at least one hundred twenty-five (125) pounds and has a minimum draw length of fourteen (14) inches as measured from the front of the bow to the nocking point of the draw string and contain a positive mechanical safety device. In addition, the bolt must be at least sixteen (16) inches in length equipped with a broadhead with an outside diameter or width of at least 7/8th of an inch with no less than two steel cutting edges and each cutting edge must be in the same plane throughout the length of the cutting surface.
 - a. Crossbows are not legal during the archery seasons for deer, elk, pronghorn, bear, sheep, goat, and moose.
- 6. Handguns, provided they have a minimum barrel length of four (4) inches and comply with the following criteria:
 - a. Except for mountain lion, use a .24 caliber or larger diameter expanding bullet with a rated impact energy of at least 550 ft. pounds at 50 yards as determined by the manufacturer.
 - b. For mountain lion only, use a centerfire handgun using bullets of at least 45 grains and producing at least 400 foot pounds of energy at the muzzle, as determined by the manufacturer.

#204 - VACANT

#205 - ANNUAL BAG LIMITS AND MAXIMUM NUMBERS OF LICENSES PER PERSON

- A. Deer, elk, pronghorn, black bear, mountain lion, moose, rocky mountain bighorn sheep, and mountain goat

The annual bag and possession limit for deer, elk, pronghorn, black bear, mountain lion, rocky mountain bighorn sheep, and mountain goat shall be the total number of animals taken on all licenses which can be legally obtained by the hunter for each species during that license year, as established in the following lists. Big game taken during a hunting season established as a portion of the preceding license year's hunting seasons shall be counted as part of the preceding year's bag limit. When a license allows hunting in more than one Game Management Unit, the unit listed in the hunt code on the license shall determine the maximum number of annual licenses a license holder may obtain for that species.

Notwithstanding the ("List A," "List B," "List C") license categories set forth in this regulation, any license that is administratively converted to a private-land-only license as part of the Landowner Preference Program will retain the ("List A," "List B," "List C") status of its original hunt code.

- 1. Deer
 - a. One License - Any hunter may obtain one deer license.
 - b. Two Licenses - A hunter may obtain two deer licenses if at least one of them is:

1. a private land only antlered license for GMUs 29, 38, 51, 391 and 461.
 2. a private land only antlerless license,
 3. an over-the-counter either-sex whitetail only license,
 4. an either-sex whitetail only license, except Ranching for Wildlife license, for GMUs 59, 69, 84, 581,
 5. an antlerless whitetail only license, except Ranching for Wildlife license, or
 6. an antlerless license, except for Ranching for Wildlife license, for GMUs 15, 18, 20, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 41, 42, 43, 44, 45, 47, 181, 361, 371, 421, 444, 471.
 7. a license issued for hunt code DE089S2R or DE093S2R.
- c. Any Number of Licenses - A hunter may also obtain any number of the following deer licenses:
1. an auction license,
 2. a raffle license,
 3. a game damage license,
 4. a special population management license (except that a hunter may not purchase more than one extra antlerless Ranching for Wildlife license as provided in #271(A)(2)) , a special allocation Ranching for Wildlife license for donation to youths or hunters with mobility impairments,
 5. a disease management license,
 6. a replacement license for an animal found CWD positive,
 7. a rewards program license (except that a hunter may not be issued more than one Turn In Poachers (TIPS) license per year, as provided in #002(J)).
 8. a Youth Outreach license, as provided in #206(B)(4)(d).
 9. a license issued for hunt code DF029P5R, DF056L1R, DF085P5R, DF089S2R, DF091S3R, DF092S3R, DF093S2R, DF096S3R, DF096S5R, DF101S2R, DF104L3R, or DF481L1R.

2. Elk

- a. One License - Any hunter may obtain one elk license.
- b. Two Licenses - A hunter may obtain two elk licenses if at least one of them is
 1. a private land only antlerless license,
 2. an over the counter antlerless archery license,

3. an antlerless license, except for Ranching for Wildlife license, issued for GMUs 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 40, 41, 42, 43, 44, 45, 47, 50, 52, 54, 82, 83, 85, 86, 131, 133, 134, 140, 141, 142, 161, 171, 181, 201, 211, 214, 231, 301, 361, 371, 411, 421, 441, 444, 471, 500, 501, 521, 682, 691, 791, 851, or 861,
 4. a license issued for hunt code EE082P5R, EM682P5R, or EM682P6R.
- c. Any Number of Licenses - A hunter may also obtain any number of the following elk licenses:
1. antlerless private land only license for GMUs 391 or 461 ,
 2. any over the counter either-sex license, except archery license, issued for GMUs 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 129, 130, 132, 135, 136, 137, 138, 139, 143, 144, 145, 146, 147, or 951,
 3. a license issued for hunt code EF003E1R, EF020L3R, or EF128L1R,
 4. an auction license,
 5. a raffle license,
 6. a game damage license,
 7. a special population management license (except that a hunter may not purchase more than one extra antlerless Ranching for Wildlife license as provided in #271(A)(2)) , a special allocation Ranching for Wildlife license for donation to youths or hunters with mobility impairments,
 8. a disease management license,
 9. a replacement license for an animal found CWD positive,
 10. a rewards program license (except that a hunter may not be issued more than one Turn In Poachers (TIPS) license per year, as provided in #002(J).
 11. a Youth Outreach license, as provided in #206(B)(4)(d).

3. Pronghorn

- a. One license - Any hunter may obtain one pronghorn license.
- b. Two licenses - A hunter may obtain two pronghorn licenses if at least one of them is:
 1. a private land only license,
 2. a doe license, except for Ranching for Wildlife license, issued for GMUs 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121,

122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146 or 147,

c. Any Number of Licenses - A hunter may also obtain any number of the following pronghorn licenses:

1. an auction license,
2. a raffle license,
3. a game damage license, if available,
4. a special population management license, a special allocation Ranching for Wildlife license for donation to youths or hunters with mobility impairments,
5. a disease management license, if available,
6. a rewards program license (except that a hunter may not be issued more than one Turn In Poachers (TIPS) license per year, as provided in #002(J).
7. a Youth Outreach license, as provided in #206(B)(4)(d).

4. Bear

- a. One license - Any hunter may obtain one bear license.
- b. Two licenses - A hunter may obtain two bear licenses if at least one of them is a private land only license or a bear license in GMUs 21, 22, 30, 31, 32, 35, 36, 41, 42, 43, 44, 45, 47, 52, 53, 63, 361, 411, 421, 444, 471 or 521.
- c. Any Number of Licenses - A hunter may also obtain any number of the following bear licenses:
 1. a game damage license, if available,
 2. a disease management license, if available,
 3. a rewards program license (except that a hunter may not be issued more than one Turn In Poachers (TIPS) license per year, as provided in #002(J),
 4. a special population management license, a special allocation Ranching for Wildlife license for donation to youths or hunters with mobility impairments.
 5. a license issued for hunt code BE087U5R,

5. Moose

- a. One License - Any hunter may obtain one moose license. The lifetime bag limit for antlered moose is one, except when taken on an auction or raffle license. Any person who harvests an antlered moose shall be ineligible to draw either an antlered or either-sex license.

- b. Any Number of Licenses - A hunter may also obtain any number of the following moose licenses:
 - 1. an auction license,
 - 2. a raffle license,
 - 3. a game damage license, if available,
 - 4. a special population management license, a special allocation Ranching for Wildlife license for donation to youths or hunters with mobility impairments,
 - 5. a disease management license, if available,
 - 6. a replacement license for an animal found CWD positive,
 - 7. a rewards program license (except that a hunter may not be issued more than one Turn In Poachers (TIPS) license per year, as provided in #002(J)).

6. Mountain Lion

- a. One License - Any hunter may obtain one mountain lion license.
- b. Any Number of Licenses - A hunter may also obtain any number of the following mountain lion licenses:
 - 1. a game damage license, if available,
 - 2. a disease management license, if available,
 - 3. a rewards program license (except that a hunter may not be issued more than one Turn In Poachers (TIPS) license per year, as provided in #002(J)).

7. Bighorn Sheep

- a. One License - Any hunter may obtain one rocky mountain bighorn sheep license or one desert bighorn sheep license. The lifetime bag limit for desert bighorn sheep is one. Provided further that application restrictions in regulation #206 apply.
- b. Any Number of Licenses - A hunter may obtain any number of the following bighorn sheep licenses:
 - 1. an auction or raffle license for rocky mountain bighorn sheep,
 - 2. a special bighorn sheep management license, a special allocation Ranching for Wildlife license for donation to youths or hunters with mobility impairments,
 - 3. a disease management license, if available,

4. a rewards program license (except that a hunter may not be issued more than one Turn In Poachers (TIPS) license per year, as provided in #002(J).
8. Mountain Goat
- a. One License - Any hunter may obtain one mountain goat license. Provided further that application restrictions in regulation #206 apply.
 - b. Any Number of Licenses - A hunter may obtain any number of the following mountain goat licenses:
 1. an auction or raffle license for mountain goat,
 2. a special mountain goat management license, if available,
 3. a disease management license, if available,
 4. a rewards program license (except that a hunter may not be issued more than one Turn In Poachers (TIPS) license per year, as provided in #002(J).
- B. Exceptions to Bag Limit Calculation The following big game animals shall not be counted against an annual bag and possession limit for that species:
1. Accidental Hunter Take: Any big game animal accidentally taken by a hunter, provided that prior to any further hunting the individual self-reports the incident to the Division as soon as practicable and the Division verifies the claim of accidental kill. For the purposes of this regulation an "accidental kill" means any unintentional taking of wildlife not resulting from carelessness or negligence on the part of the hunter.
 - a. Determination of whether the taking involves carelessness or negligence shall be based on a consideration of the totality of circumstance surrounding the taking including but not necessarily limited to, number of shots fired, number of animals present, number of animals killed or wounded, type of firearm or ammunition used, angle and distance of shot, species of animal, topography, ground cover, and light or weather conditions.
 2. Accidental Vehicle Kills: Any big game animal accidentally killed by a motor vehicle or train shall not be counted against an annual bag limit for that species.
 3. Damage Kills: Any big game animal causing damage and taken under the authority of §33-3-106 C.R.S.
 4. Southern Ute Tribal Lands: Any big game animal taken on a Southern Ute Tribal Lands permit.

#206 - APPLICATIONS AND DRAWINGS FOR LIMITED LICENSES

- A. Exceeding of Quota: The Division shall only exceed the number of licenses authorized by the Commission:
1. If there is proof of Division error in the application for or issuance of a limited license, provided that the director or his designee determines there will be no detrimental impact to the subject wildlife population.

2. To issue licenses to hunters with mobility impairments or United States Armed Services Wounded Warrior hunters, who qualify for such licenses in accordance with regulation #206(B)(4)(e) or #206(B)(4)(f), provided there is no detrimental impact to the established herd population and sex ratio objectives. For each of these two programs:
 - no more than 100 limited antlerless deer, 100 limited doe pronghorn, and 200 limited antlerless elk licenses may be issued each year.
 - no more than 100 total antlered or either-sex licenses for deer or elk and buck pronghorn licenses in the aggregate may be issued each year.Provided further, that limited license numbers for wildlife ranching properties cannot exceed the levels established by the Division and the landowner on the Ranching for Wildlife Seasons Form.

B. Application and Drawing Provisions and Restrictions:

1. General Provisions and Restrictions

- a. Number of Applications: No person may submit more than one application per year for the regular drawing process for a limited license for any big game species, nor more than one application per year for a leftover limited license for any species.
- b. Additional Choice Applications: Any additional choice on any application must be for the same species as the first choice.
- c. Valid Applications: Only complete and correct application forms will be accepted. Any forms involved in a violation of (a) or (b) above will be considered to be incorrect. Any incorrect application by one member of a group will invalidate the entire application.
- d. Group Applications: Group applications are accepted for the regular drawing for all species except moose and desert bighorn sheep, with no limit on the number of applicants per group except as follows:

Bighorn Sheep	2 applicant maximum
Mountain Goat	2 applicant maximum

Provided further that residents and nonresidents may not apply for the sheep or mountain goat on same group application.
- e. Ranching for Wildlife: Non-residents are not eligible to apply for public Ranching for Wildlife licenses for any big game species.
- f. Bighorn Sheep Access Program: Non-residents are not eligible to apply for public Bighorn Sheep Access Program licenses.

2. Restrictions by Species

- a. Bighorn Sheep: Any person who harvests a Rocky Mountain bighorn sheep ram, one-half ($\frac{1}{2}$) curl or larger, except one taken on a Division auction or raffle license or a license issued in accordance with regulation #271 or #272, shall not be eligible to apply for, or participate in the drawing for a Rocky Mountain bighorn sheep ram license for the five years following the year in which the harvest occurred. During this five year period a person may apply for a ewe license, but

if unsuccessful will not receive preference points or chances. Any person who harvests a desert bighorn sheep, shall never again be eligible to apply for or participate in a desert bighorn sheep license drawing.

- b. Mountain Goat: Any person who harvests a mountain goat, except one taken on an auction or raffle license, a special goat management license, or a license issued in accordance with regulation #271 or #272, shall not be eligible to apply for or participate in the drawing for a mountain goat license for the five years following the year in which the harvest occurred.
- c. Moose: Any person who harvests an antlered moose, except one taken on an auction or raffle license, or a license issued in accordance with regulation #271 or #272 shall never again be eligible to apply for or participate in an antlered or either-sex moose license drawing.

3. Application Submittal

- a. Applications for limited licenses will be accepted only on application forms provided by the Division.
- b. Each application form, along with a single accompanying payment in the form of a check or money order, must be submitted in a separate envelope addressed according to the species for which application is enclosed. Payment shall include the license fee, a \$3.00 non-refundable application fee, a \$.75 public education fund fee and a \$.25 fee designated for search and rescue operations.
- c. Applications for the regular drawing must be mailed to the following addresses by species, and postmarked no later than midnight on the first Tuesday in April, annually:

Deer	PO Box 173313, Denver, CO 80217
Elk	PO Box 173314, Denver, CO 80217
Pronghorn	PO Box 173315, Denver, CO 80217
Bighorn Sheep	PO Box 173757, Denver, CO 80217
Mountain Goat	PO Box 173758, Denver, CO 80217
Black Bear	PO Box 173761, Denver, CO 80217
Moose	PO Box 173782, Denver, CO 80217

4. Preference Systems

Note: see also §33-4-103, C.R.S.

- a. Landowner Preference: General Provisions
 - 1. Preference for hunting licenses under the Landowner Preference Program shall only be given to eligible landowners who apply using the Landowner registration form(s) provided by the division. Only complete and correct registration forms will be accepted. Except for the carryover registration provided in § 33-4-103(2)(c), C.R.S., registration in the

Landowner Preference Program is valid for 5 years. All landowners shall re-register their properties every 5 years (or on or before July 1, 2016 for carryover registrations) to continue participation, if desired, in the Landowner Preference Program.

2. As a condition of registration and participation in the Landowner Preference Program, landowners shall provide and maintain accurate ownership information with the division for all lands registered in the Program. During the statutory period of carryover registration provided in §33-4-103(2)(c), C.R.S., and any five-year registration period, landowners shall notify the division of any changes to required registration information in writing within 30 days.
3. Landowner preference is species specific and available only in units that are totally limited for all rifle licenses for deer, elk or pronghorn and vouchers will be allocated to eligible landowners by unit, species, sex and season. In units where vouchers remain after the initial allocation, eligible landowners may apply for the unused vouchers and shall pay \$25 for each reallocated female (antlerless/doe) and \$40 for each either-sex or male (antlered/buck) voucher. Unsuccessful applicants will receive a refund check.
4. Vouchers not otherwise allocated to landowners as part of the Landowner Preference Program shall be made available as licenses to the general public in the remaining limited licenses draws or sales.
5. All landowners and hunters participating in the Landowner Preference Program shall file reports using the forms provided by the division. Reports must be complete and correct, and submitted to the Division by within 30 days after the close of the season.
6. Landowners and their registered properties may be audited for compliance with eligibility requirements of the Landowner Preference Program during any carryover or 5-year registration period. Notice of any noncompliance will be provided in writing to the landowner and the landowner shall have 30 days to resolve the noncompliance or withdraw the property from the Landowner Preference Program.

b. Landowner Preference: Voucher Requirements and Restrictions

1. Vouchers shall only be transferred by the landowner or the landowner's land manager, if any, directly to an individual to be used by that individual for the purchase of a license. Landowners may only designate one land manager for all lands registered in the Landowner Preference Program in any one unit.
2. The transfer of any voucher must include permission to access and hunt all lands in the unit registered in the Landowner Preference Program for the entire season for which the voucher was awarded. Such access shall be allowed without discrimination between hunters accessing the property, and without restriction other than manner of access restrictions (foot, horseback, vehicular) that are reasonably necessary to prevent damage to property.
3. The transfer of a voucher by any person other than the landowner or the landowner's land manager to any person other than an individual for

purchase of a license is prohibited. Violation of this prohibition shall void the voucher and any license purchased with it.

4. No person shall broker a voucher on behalf of any landowner or person, or use or possess any brokered voucher. Violation of this prohibition shall void the voucher and any license purchased with it.

c. Landowner Preference: Disqualification

1. Landowners, or the landowner's land manager, who fail to comply with any requirements of the Landowner Preference Program, may be disqualified from participation in the Program from one to five years. Disqualification of a joint or co-owner of property registered with the Landowner Preference Program shall disqualify all other joint or co-owners of the registered properties from participation in the Program.
2. Disqualification of a landowner from the Landowner Preference Program shall invalidate all preference points associated with property registered by the landowner in the Program.
3. Any landowner, or the landowner's land manager, that has been disqualified from the Landowner Preference Program shall not register properties, apply for vouchers or acquire or use any vouchers during the term of disqualification. Landowners that have been disqualified from participation in the Landowner Preference Program shall be required to re-register at the end of their period of disqualification and prior to further participation, if desired, in the Program.
4. Any other person that fails to comply with any requirements of the Landowner Preference Program may also be disqualified from participation in the Landowner Preference Program from one to five years. Any person disqualified shall not participate in the Landowner Preference Program in any manner, including, but not limited to, as a landowner, as a landowner's land manager, enrolling properties in any name, submitting applications for vouchers, receiving vouchers, transferring vouchers, redeeming vouchers or using licenses obtained with vouchers.
5. Any person convicted of a violation of the Landowner Preference Program will be given notice in writing of their possible disqualification from the Landowner Preference Program and the opportunity to appear and show cause why they should not be disqualified from participation in the Program. Any such disqualification hearing shall be held in the Denver office of the division, or at another location acceptable to the division. Notice of any resulting disqualification shall be sent to the person by certified mail, return receipt requested.

- d. Youth Preference - a minimum of 15 percent of the number of the limited doe pronghorn licenses, limited either-sex and antlerless deer licenses and limited antlerless elk licenses established for each GMU shall be made available for purchase by qualified youth applicants. Licenses shall be available through application and computer selection from the Division headquarters, 6060 Broadway, Denver, CO 80216. Licenses not allocated to youth shall be made available to the general public in the remaining drawings.

1. Any eligible hunter, ages 12-17 is entitled to youth hunt preference for all seasons and methods of take for the license types listed in the preceding paragraph, except that public Ranching for Wildlife and Air Force Academy licenses shall not be included in this preference. The applicant must submit an individual application for the desired, eligible license on forms provided by the Division. Group applications will not be accepted for youth preference. Where more than one (1) hunt code choice is shown on the application, all hunt codes must be youth preference-eligible hunt codes.
 2. Youth preference will be set at 50% for all antlerless deer licenses in GMUs 55, 66, 67, and 551.
- e. Youth Outreach Hunting Licenses – The Director may make additional youth outreach program deer, elk and pronghorn licenses available to qualified organizations sponsoring youth hunting activities.
1. Youth Outreach licenses will be available for private land only. There will be no more than 300 elk licenses (50 antlered or either-sex, 250 antlerless), no more than 200 deer licenses (50 antlered or either-sex, 150 antlerless) and no more than 200 pronghorn licenses (30 buck or either-sex, 170 doe) issued annually under this subsection.
 2. Licenses in game management units with at least one hunt code requiring 6 or more resident preference points to draw, excluding Ranching for Wildlife properties, will not be authorized for use under this subsection.
 3. Licenses are issued on a first come, first served basis to qualified organizations. No more than 10 licenses may be issued per event to any single requesting organization.
 4. Requested dates for hunting events must occur between August 15 and January 31 each year.
 5. Organizations who wish to request a Youth Outreach license must submit the request in writing to Colorado Parks and Wildlife, State Hunter Outreach Coordinator, 6060 Broadway, Denver, Colorado 80216 no later than 60 days prior to the planned hunting event.
 6. Licenses are limited to youth hunters 12 to 17 years of age.
- f. Hunting Licenses for Hunters with Mobility Impairments - The Director may make certain deer, elk, and pronghorn licenses available to qualified hunters with mobility impairments.
1. Applicants for hunting licenses for hunters with mobility impairments must have a mobility impairment resulting from permanent medical conditions, which makes it physically impossible for them to hunt without the assistance of an attendant. Evidence of an impossibility to participate in the hunt without the assistance of an attendant may include, but is not limited to, prescribed use of a wheel chair; shoulder or arm crutches; walker; two canes; or other prescribed medical devices or equipment.

2. Applications for antlerless deer and elk and doe pronghorn licenses for hunters with mobility impairments shall be made on the form available from, and submitted with the applicable license fee to, the Division, Limited License Office, 6060 Broadway, Denver, Colorado, 80216. Applications for antlered deer and elk and pronghorn buck licenses for hunters with mobility impairments shall be made on the form available from, and submitted with the applicable license fee to, the applicable Division regional service center. Hunters may apply from the Monday after the May Commission meeting through the last day of the rifle seasons.
3. Applications for hunting licenses for hunters with mobility impairments shall contain a statement from a licensed medical doctor or a certified physical, occupational, or recreational therapist describing the applicant's mobility impairment and the permanent medical condition which makes it impossible for the applicant to hunt without the assistance of an attendant. Additional documentation may be required if necessary to establish the applicant's eligibility for a hunting license for hunters with mobility impairments. For the 2001 seasons and thereafter, once certified by the Division as mobility-impaired according to these regulations, applicants will not be required to submit the medical statement.
4. Antlerless deer and elk and doe pronghorn licenses will be available in all game management units with a total allocation of more than 100 antlerless deer or 100 antlerless elk or 50 doe pronghorn during the rifle seasons described in #250, #257, and #262 of these regulations. For any one game management unit no more than 10 licenses or 2 percent of the total number of limited antlerless deer or elk or doe pronghorn licenses for the game management unit, whichever number is greater, shall be issued as hunting licenses for hunters with mobility impairments for the species in question.
5. Antlered or either-sex licenses for deer or elk and buck pronghorn licenses will be private land only licenses and will be available for hunt codes requiring four or fewer resident preference points to draw in the previous year in all game management units with a total allocation of more than 100 antlered or either-sex deer, 100 antlered or either-sex elk, or 50 buck pronghorn during the rifle seasons described in #250, #257 and #262 of these regulations. For any one game management unit no more than 5 licenses or 2 percent of the total number of limited antlered, either-sex or buck licenses for the game management unit, whichever is greater, shall be issued as hunting licenses for hunters with mobility impairments for the species in question.
6. Antlered or either-sex licenses for deer or elk and buck pronghorn licenses will be approved by the applicable Regional Manager on a case-by-case basis for hunters who qualify as mobility-impaired in instances where an organization assisting hunters with mobility impairments has coordinated a hunting opportunity specifically for this program and where all other avenues of obtaining a license have been exhausted.
7. Hunting licenses for hunters with mobility impairments will be valid only for the season dates and any units included in the authorized hunt code. Licenses for hunters with mobility impairments may not be issued for

Ranching for Wildlife properties unless otherwise provided in the ranch contract.

- g. Wounded Warrior Hunting Licenses - The Director may make certain deer, elk, and pronghorn licenses available to qualified participants in any United States Armed Services Wounded Warrior programs.
1. Applicants must be members of the United States Armed Forces, who are residents of, or stationed in, Colorado returning from post-September 11, 2001 overseas contingency operations who have been so severely injured during combat, including combat-related support activities, that they will require years of intense, ongoing care or assistance. Additionally, applicants must be members of a United States Armed Services Wounded Warrior program, as defined in 33-4-102(1.9) C.R.S., and must be assigned to a military medical treatment facility at the time of application for this program.
 2. Applications shall contain a statement from a licensed medical doctor certifying the applicant's eligibility under the criteria in 1 above. Additional documentation may be required if necessary to establish the applicant's eligibility under this program.
 3. Applications for antlerless deer and elk and doe pronghorn licenses shall be made on the form available from the Division, Limited License Office, 6060 Broadway, Denver, Colorado. Applications for antlered deer and elk and pronghorn buck licenses shall be made on the form available from the applicable Division regional service center. Hunters may apply from the Monday after the May Commission meeting through the last day of the rifle seasons. Licenses issued under this program shall be issued as free licenses.
 4. Antlerless deer and elk and doe pronghorn licenses will be available in all game management units with a total allocation of more than 100 antlerless deer or 100 antlerless elk or 50 doe pronghorn during the rifle seasons described in 250, 257, and 262 of these regulations. Licenses issued for military installations will be exempted from these minimum license requirements. Wounded Warrior licenses issued for military installation property will be approved by the applicable Regional Manager. For any one game management unit no more than 10 licenses or 2 percent of the total number of limited antlerless deer or elk or doe pronghorn licenses for the game management unit, whichever number is greater, shall be issued as Wounded Warrior hunting licenses for the species in question.
 5. Antlered or either-sex licenses for deer or elk and buck pronghorn licenses will be private land only licenses and will be available for hunt codes requiring four or fewer resident preference points to draw in the previous year in all game management units with a total allocation of more than 100 antlered or either-sex deer, 100 antlered or either-sex elk, or 50 buck pronghorn during the rifle seasons described in #250, #257 and #262 of these regulations. Licenses issued for military installations will be exempted from these preference point and minimum license requirements. Wounded Warrior licenses issued for military installation property will be approved by the applicable Regional Manager. For any one game management unit no more than 5 licenses or 2 percent of the total number of limited antlered, either-sex or buck licenses for the game

management unit, whichever is greater, shall be issued as Wounded Warrior hunting licenses for the species in question.

6. Antlered or either-sex licenses for deer or elk and buck pronghorn licenses will be approved by the applicable Regional Manager on a case-by-case basis for hunters who qualify under this program in instances where an organization assisting Wounded Warrior hunters has coordinated a hunting opportunity specifically for this program and where all other avenues of obtaining a license have been exhausted.
 7. Wounded Warrior hunting licenses will be valid only for the season dates and any units included in the authorized hunt code. Wounded Warrior hunting licenses may not be issued for Ranching for Wildlife properties unless otherwise provided in the ranch contract.
- h. Dream Hunt Hunting Licenses – The Director may make available additional deer, elk, pronghorn, mountain lion and black bear licenses to individuals qualified under this subsection.
1. Applicants for Dream Hunt licenses must be between the ages of 12 and 21, and must have a terminal illness or a life-threatening disease or injury.
 2. A request for a Dream Hunt license must be made, in writing, by a sponsoring organization, documenting the individual's life-threatening or terminal condition, desired, hunt experience, desired location, time frame and logistical considerations. Requests should be sent to the Division of Parks and Wildlife, Hunter Outreach Coordinator, 6060 Broadway, Denver, Colorado 80216.
 3. Requested dates for hunting events must occur between August 15 and January 31 each year, with preferred dates occurring during an existing season for the requested species. However, alternate dates may be approved by the Director on a case-by-case basis as an applicant's condition requires.
 4. Written landowner permission must be obtained prior to issuance of a license under this subsection if the individual will be hunting on private land.
 5. Except on private land, licenses in game management units with at least one hunt code requiring 10 or more resident preference points to draw, excluding Ranching for Wildlife properties, will not be authorized for use under this subsection.
- i. Preference Points and Chances
1. Preference will be given for qualifying applications for first choice hunt codes only and shall be subject to the following provisions:
 - aa. Deer, Elk, Pronghorn, and Bear: one preference point will be awarded to each person who qualifies for and fails to draw a limited license for deer, elk, pronghorn, or bear as a first choice in the regular drawing or who applies using a first choice hunt code established for the purpose of accumulating a preference point only.

Preference points will be used in future drawings for the same species and will accumulate until the applicant obtains a first choice license. When an applicant obtains a first choice license, all accumulated preference points for that species become void. If an applicant both fails to apply for a species and has not purchased a license for that same species during any given 10-year period, all accumulated preference points for that species become void. If an applicant accepts a first choice license that has been returned and reissued manually, all accumulated preference points for that species become void. No preference points are required for purchasing a returned license placed on the leftover list. In those hunt codes requiring 10 or more resident preference points to draw, up to 20 percent of available licenses for deer, elk, pronghorn and bear shall be issued through a random drawing. The number of preference points required to draw shall be determined by a three-year average for the 2007, 2008, and 2009 limited license draws. A minimum of five individual preference points is required for an applicant to participate in the random drawing. Group applications shall not be eligible to participate in the random drawing.

- bb. In addition to the \$3 application fee, an unsuccessful applicant (except youth as defined by 33-4-117 C.R.S., lifetime license holders, and Colorado resident military personnel on active duty outside Colorado), or one who applies using a first choice hunt code established for the purpose of accumulating a preference point only, for deer, elk, pronghorn or bear will be assessed a \$40 fee (\$30 for resident deer and pronghorn) to receive a preference point unless they have purchased one of the following: an annual license (fishing (including free senior annual), small game or resident combination small game/fishing license, furbearer) for the year previous to which they are seeking a preference point; any big game license for the previous year or a current draw license for the species for which they are seeking a preference point. The fee, per species, shall entitle the hunter to preference points for any unsuccessful deer, elk, pronghorn or bear application in that year.
- cc. Rocky Mountain Bighorn Sheep, Mountain Goat, and Moose: One preference point will be awarded to each person who qualifies for and fails to draw a first choice license, until three preference points have been accumulated. Each time an applicant with three (3) points qualifies for and fails to draw a first choice license for rocky mountain bighorn sheep, mountain goat or moose the applicant will be awarded one (1) weighted preference point to be used in future drawings for that species. Applicants with at least three (3) preference points or any number of weighted preference points will be given weighted preference during the license drawings for each applicable species. Weighted preference is calculated by converting the applicant's original application number into a new random application number, then dividing that random application number by the number of weighted preference points the applicant currently has for that species plus one. The resulting number is the applicant's final and only application number. Final application numbers are sorted from lowest number to highest number, with licenses awarded to applicants starting on the top of the list (lowest number), working down the list until no licenses for that species remain. When an applicant obtains a first choice license, all accumulated preference

points for that species become void. If an applicant both fails to apply for a species and has not purchased a license for that same species during any given 10-year period, all accumulated preference points for that species become void. If an applicant accepts a first choice license that has been returned and reissued, all accumulated preference points for that species become void.

dd. Applications receiving preference points will be given priority over all applications with fewer points. Group applications will receive preference at the level of the group member with the fewest accumulated preference points, and, where applicable, the fewest accumulated chances, except that group applications will not be successful, regardless of preference point level or number of chances, when there are fewer licenses remaining in the hunt code quota than the number of applicants in the group.

ee. In lieu of applying through the regular limited license draw, any active duty member of the United States Armed Forces who is stationed at any military facility in Colorado and actively deployed outside the United States, or any active duty member of the United States Armed Forces who is a Colorado resident and is deployed outside the United States, shall, upon their return to the United States, be eligible to apply for preference points for any limited license draw that occurred during their absence. Applications for preference points shall be made on forms provided by the Division and filed within six months upon the member's return to the United States.

5. Drawing Processes

- a. Applications using landowner preference and youth preference shall be drawn, in that order, prior to drawing general public applications for the same species.
- b. Except as otherwise provided, applicants who applied properly for deer, elk, or pronghorn in the regular drawing and are unsuccessful will be given an option to: Apply for a leftover drawing. Request a refund. Donate that refund to the Division's nongame or Operation Game Thief fund. No such donation may be split between the two funds. Request an unlimited antlered elk license.
- c. Unsuccessful applicants for bear, bighorn sheep, mountain goat, or moose will receive a refund check.
- d. Unsuccessful applicants will be notified of their accumulated preference points and chances on their refund check stub, on their leftover drawing letter, or on their carcass tag, whichever is applicable.
- e. Nonresident hunter drawing limitations (first choice applications only)
 1. Nonresidents hunters shall receive no more than 10% of available moose, bighorn sheep and mountain goat licenses for all hunt codes. In the event there are an insufficient number of nonresident applications for the allocated number of moose, bighorn sheep or mountain goat licenses in any hunt code, the excess nonresident licenses will be issued to residents through the regular drawing process. These drawing limitations do not apply to the issuance of Bighorn Sheep Access Program (BSAP) licenses.

2. Unless there is an insufficient number of resident applications, nonresident hunters shall receive no more than 35% of available deer and elk licenses for hunt codes requiring fewer than six preference points for resident hunters to draw in the regular drawing, and no more than 20% of available deer and elk licenses for hunt codes requiring six or more preference points for resident hunters to draw in the regular drawing as calculated using a three-year average for the 2007, 2008, and 2009 limited license draws. These drawing limitations do not apply to the issuance of Private Land Only and Ranching for Wildlife licenses.
6. Leftover Licenses, Drawing Provisions and Restrictions
- a. Elk, deer, pronghorn and bear licenses which are not issued through the regular drawing will be issued as "leftover" licenses, (through one "leftover" drawing process if the number of "leftover" licenses is sufficient to justify the administrative cost).
 - b. Only persons who apply for a limited license and who are unsuccessful are eligible for the leftover license drawing. Applicants for the leftover drawing may only apply for the same species that they applied for in the initial drawing.
 - c. Any eligible hunter, ages 12 – 17 shall receive preference for leftover deer and elk licenses.
 - d. Any active duty member of the United States Armed Forces stationed at any military facility in Colorado and actively deployed outside the United States, or any active duty member of the United States Armed Forces who is a Colorado resident and is deployed outside the United States, shall be allowed a preference for the purchase of leftover licenses prior to their sale to the general public.
 - e. Group applications are not accepted for leftover licenses.
 - f. Applicants must respond on the forms provided to the individuals by the Division following the regular drawing.
 - g. Applications must be postmarked no later than the first Tuesday in July, annually.
 - h. Applications not postmarked by the first Tuesday in July, annually, will receive a refund.
 - i. Leftover Ranching for Wildlife licenses will not be available through the standard over-the-counter leftover process. For information regarding the availability of these licenses on a first-come, first-served basis, please refer to the big game drawing brochure or call the Division at (303) 297-1192.

#207 - SEASON PARTICIPATION

- A. A person may hunt in only one hunting season per license year for each big game species regardless of the method of hunting used, except in accordance with regulations #207B, #207C, and #242A.6 or in #205, when the purchase of more than one license per species is authorized or when the animal taken is not counted against an annual bag limit.
- B. Except on Ranching for Wildlife properties and in GMUs 61, 62 and 512, youths ages 12-17 may participate in any open regularly scheduled antlerless rifle elk or antlerless rifle deer hunt starting after the last day of the season listed on their original license, in the same DAU and for the same

species listed on their original license, provided they possess an unfilled limited antlerless or either-sex elk or antlerless deer license originally valid in that same DAU from a season which has already been completed, comply with applicable regulations for the specific open regularly scheduled antlerless rifle hunt in which they participate, and are accompanied by a mentor if under 16 years of age. A mentor must be at least 18 years of age and comply with hunter education requirements. The mentor may not hunt except in units and in seasons for which they possess a valid license. Youths with an unfilled either-sex elk license who wish to hunt in any subsequent antlerless rifle season within the same DAU may do so provided that they must bring their license to the Division and have it converted to an antlerless license for the appropriate species prior to hunting. In GMUs 61 and 62, youth hunters may participate in the extended youth seasons as provided and restricted herein, except youth are further restricted to hunting in the same GMU where their original license was valid.

- C. Youths ages 12-17 may participate in any December pronghorn season in the following GMUs: 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 145, 146 or 147, provided they possess an unfilled pronghorn doe or either-sex license from a season which has already been completed for any other unit and comply with applicable regulations for the specific hunt in which they participate. Youths with unfilled either-sex pronghorn licenses who wish to hunt in the late youth pronghorn doe hunt may do so provided that they bring their license to the Division and have it converted to a doe pronghorn license prior to hunting.
- D. Any license marked or stamped for a season and unit, or portions thereof, is valid only as marked on the license.
- E. A person may only purchase an over the counter with caps bear license for the concurrent rifle bear season (hunt codes listed in #239.B) if they also possess a deer or elk license for an overlapping game management unit listed on that bear license. A person may hunt bear with an over the counter with caps rifle bear license during any regular rifle deer or elk season west of I-25 or in unit 140, only if they also possess a deer or elk license (filled or unfilled) valid any day of the regular rifle deer or elk seasons. The person may hunt bear in any unit(s) for which their bear license is valid. If the deer or elk license is a Private Land Only license, use of the bear license is restricted to private land as well. The restrictions of this subsection shall not apply to hunt codes BE083P1R, BE084P5R, BE048P5R, BE058P5R, and BE059P5R.
- F. Any person may take coyotes with an unfilled big game license in the same unit and season and by the same manner of take.

#208 - LICENSE RESTRICTIONS

- A. Cutoff of License Sales
 - 1. Archery Season - The sale of bear licenses at license agents for the archery deer and elk season shall be terminated at midnight preceding the opening day of the archery bear season.
 - 2. Muzzle-loading Season - The sale of bear, elk, and deer licenses at license agents for the muzzle-loading season shall be terminated at midnight preceding the opening day of the season.
 - 3. First Regular Rifle Elk and Over the Counter with Caps Either-Sex Concurrent Rifle Bear Seasons - The sale of concurrent rifle bear licenses and first season elk licenses at license agents shall be terminated at midnight proceeding the opening day of the first regular rifle elk season.

4. Second Regular Rifle Deer and Elk Season - The sale of rifle deer and elk licenses at license agents for the second regular rifle season shall be terminated at midnight preceding the opening day of the season.
5. Third Regular Rifle Deer and Elk Season - The sale of rifle deer and elk licenses at license agents for the third regular rifle season shall be terminated at midnight preceding the opening day of the season.
6. Fourth Regular Rifle Deer and Elk Season - The sale of rifle deer and elk licenses at license agents for the fourth regular rifle season shall be terminated at midnight preceding the opening day of the season.
7. Plains Bear Season – The sale of rifle bear licenses at license agents for the plains deer and elk season shall be terminated at midnight preceding the opening day of the season.
8. Other Licenses – The sale of leftover licenses (except as provide in subsection 9, below), and late season licenses at license agents shall be terminated at midnight preceding the opening day of the applicable seasons.
9. After the start of each season, licenses will be sold to the licensee, in person, only at Division service centers, except that license agents are authorized to sell 14-day or longer Private Land Only, archery, disease management, special hunts, season choice, and plains either-sex elk after the start of the season. In addition, license agents may also accept landowner vouchers for licenses after the start of the season.
10. If prior to the opening day of a season the Total Licensing System (TLS) becomes inoperable for an extended period of time, the Director shall have the authority to authorize agents to sell licenses after the start of the respective season, notwithstanding any other provision in these regulations.

#209 - SPECIAL RESTRICTIONS

A. Private Land Only Seasons

1. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
2. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

B. Special restrictions for the James John State Wildlife Area.

1. Hunting access during the regular rifle deer and elk seasons is restricted to big game hunters only and to no more than twelve (12) permitted hunters per day. Access permits will be issued from the Division's Pueblo Office through a hand drawing. Permit applications may be obtained from the Division of Parks and Wildlife, 600 Reservoir Road, Pueblo, Colorado 81005 (telephone (719) 561-5300). Group applications will be accepted. No more than two (2) applicants per group. Application deadline is July 1 annually. Successful applicants will be notified by mail. The date, time and location of the drawing will be included on the application.

a. Permits will be issued for the following time periods:

1st Season - Separate Limited Elk - Entire Season

2nd Season - Combined Deer and Elk - Entire Season

3rd Season - Combined Deer and Elk - Entire Season

4th Season - Combined Limited Deer and Elk - Entire Season

- b. For the 2nd and 3rd combined rifle seasons, a minimum of five (5) out of the twelve (12) permits will be issued to hunters with a valid GMU 140 deer license.

C. Off - Highway Vehicle (OHV) Weapon Restrictions during Big Game Seasons

- 1. All firearms, except pistols and revolvers, carried on an OHV during deer, elk, pronghorn or bear season must be fully unloaded (both the chamber and the magazine) and fully enclosed in a hard or soft case (no scabbards or cases with open ends or sides). All bows carried on an OHV during any deer, elk, pronghorn or bear season must be fully enclosed in a hard or soft case (no scabbards or cases with open ends or sides). This regulation shall not apply to any person; any member of such person's family, or an employee or agent of the person, carrying a firearm on an OHV for the purpose of taking depredating wildlife on property owned or leased by the person, pursuant to §§33-3-106 or 35-40-100.2, C.R.S.

D. Closures

The following lands are closed, as described:

- 1. All publicly-owned lands in GMUs 25, 26, 35, 36, 43, 44, 47, 54, 55, 66, 67, 444, 471, and 551 shall be closed to the collection of shed antlers from January 1 through March 14 annually, and shall further be closed to the collection of shed antlers between legal sunset and 10:00 AM from March 15 through May 15 annually, provided further that the Director or his designee may establish additional closures as necessary under the criteria set forth in WCR #020.E.6.

E. Fluorescent Orange or Pink Garments

- 1. Except for archers hunting during a limited bear season, archers with an auction or raffle deer, elk, pronghorn or moose license hunting outside of a regular rifle season, private hunters hunting with a archery equipment under the Ranching for Wildlife program, and archers hunting with an archery bear, deer, elk, pronghorn, or moose license, all persons hunting bear, deer, elk, pronghorn or moose shall be required to wear daylight fluorescent orange or fluorescent pink garments which comply with the requirements of §33-6-121, C.R.S.

F. Chronic Wasting Disease (CWD) Testing Requirements

- 1. Mandatory CWD Sample Submissions

The Director of the Division may establish and enforce mandatory CWD submission areas for species known to contract CWD. Such submission areas may be established and enforced where necessary to meet sampling requirements, and mandatory submittal shall end when the Division achieves sampling goals, as stipulated by Division staff prior to enacting any such mandatory submission requirement. At such time that mandatory submission areas are established public notice shall be given, including posting of mandatory submission requirements in applicable Division offices and license agents, and when possible inclusion of such requirements in Division publications. Upon establishment of mandatory CWD submission requirements, it shall be unlawful to fail to

submit CWD samples for the designated species harvested in designated mandatory submission areas.

G. Baiting of Big Game

1. It shall be unlawful to hunt big game over bait, regardless if the person hunting over such bait personally placed the bait or not.

#210 - RANCHING FOR WILDLIFE – DEER, ELK, PRONGHORN, BLACK BEAR, MOOSE, AND BIGHORN SHEEP

A. Implementation Authority

1. The Director is authorized to implement the Ranching for Wildlife program, including the authority to determine ranch enrollment status, enter into cooperative agreements with ranches, establish and modify public and private season dates on each ranch, and establish and modify license allocations to each ranch including the subsequent distribution of licenses to the public and private share annually, and may establish additional Ranching for Wildlife operating guidelines subject to the following provisions.

B. Ranch Entry and Maintenance

1. Ranches must have a minimum of 10,000 acres of privately owned land in one contiguous unit. Ranches that meet this 10,000-acre minimum requirement may include privately owned non-contiguous parcels in the program if the Director determines that their inclusion will contribute to meeting the performance standards for the ranch.
2. Ranches must develop a Ranching for Wildlife Management Plan that includes goals, objectives, and strategies for achieving such goals and objectives for wildlife habitat management, species management, and public hunting management. The Management Plan shall identify the Tier category in which the ranch seeks to be placed and what specific actions the ranch will take to achieve the appropriate Tier placement criteria. The Management Plan must be approved by the Division prior to execution of a Cooperative Agreement for Ranching for Wildlife.
3. Ranches may not charge public hunters an access fee for hunting.
4. Except as agreed to in writing by the Division when necessary to meet the ranch performance standards or as mutually agreed and contained in the Management Plan, ranches must provide for equality of access in terms of geographical area and mode of transportation for both public and private hunters. No closure or restriction of land or roads shall apply to public hunters that do not also apply to private hunters.
5. Public hunts must be established at a time when the species to be hunted are present and available for harvest. No public seasons shall be established during times when normal winter conditions would prevent access to most of the ranch, nor when normal migration patterns of the species to be hunted result in the species having migrated off the ranch.
6. Ranches that establish coinciding or overlapping public and private hunts may not exclude public hunters from any portion of the ranch due to the presence of private hunters.

7. The Ranch and the Division will mutually agree to ranch rules regarding access to and hunting on the ranch by public hunters. The ranch rules will be provided to hunters prior to seasons on the ranch in accordance with other provisions contained in this regulation.
8. Enrolled ranches shall not be eligible for game damage payments or materials for those species hunted in the program when damage occurs within the boundaries of the enrolled portions of the ranch.
9. The Division may, at its sole discretion, require ranches with public bighorn sheep hunting seasons to provide scouting access to those hunters and their companions prior to such seasons. Provisions for this scouting access shall be contained in the Management Plan.

C. Cooperative Agreements, Enrollment, Denial of Enrollment, Termination of Enrollment

1. The Division is authorized to enter into Cooperative Agreements with ranches.
2. Ranches may appeal enrollment decisions to the Commission.
3. Cooperative Agreements shall incorporate approved Ranching For Wildlife Management Plans as part of the Cooperative Agreement.
4. The Division shall periodically evaluate ranches for enrollment, contract performance, and Tier placement, and shall establish minimum performance standards for ranches enrolled in the program, including wildlife habitat management and improvement, public recreation opportunity and experience, and any factors intended to contribute to meeting Data Analysis Unit (DAU) management objectives. Such performance standards shall be incorporated into the Cooperative Agreement with the ranch.

D. Season Structures, Manner of Take, License Restrictions

1. Public and private seasons opening and closing date parameters
 - a. Deer, elk, pronghorn, moose, and bighorn sheep seasons may not begin before the first day of the statewide archery season for that species, nor extend beyond January 31.
 - b. Black bear season may not begin before September 2, nor extend beyond October 31.
2. Private season length
 - a. Deer, elk, or pronghorn private seasons are restricted to a maximum of ninety (90) days.
 - b. Moose or bighorn sheep private seasons are restricted to a maximum of 30 days.
3. Public season length
 - a. Deer and elk public season length
 1. Antlered or either sex public hunting seasons shall be a minimum of ten (10) days in length for every licensed public hunter, either as a minimum of ten (10) consecutive days in length or divided into two (2) or more five (5) day periods.

2. Ranches must offer a total of at least ten (10) days of antlerless public hunting. The season may run a minimum of ten (10) consecutive days; or may be split into two (2) or more five (5) day periods in which a hunter's license is valid in each period; or may be split into two (2) or more five (5) day seasons in which a hunter's license is valid in one but not any other five (5) day season. Ranches electing to split seasons and limit hunter participation to a single five (5) day season must assure that total public hunter harvest and licenses available are as much or more than would be achieved in the other two antlerless season alternatives.
 3. All public seasons or periods will include one full weekend, but seasons need not open on weekend days.
- b. Pronghorn public season length
 1. Buck or doe hunting seasons shall be a minimum of five (5) days in length. All public seasons shall include one full weekend, but seasons need not open on weekend days.
 - c. Black Bear public season length
 1. Shall be a minimum of fifteen (15) days in length.
 - d. Moose public season length
 1. Antlered or antlerless public hunting seasons shall be a minimum of ten (10) days in length. Antlered seasons shall include a minimum of five (5) consecutive days without overlapping any antlerless moose hunting season on the ranch.
 - e. Bighorn sheep public season length
 1. Public hunting seasons for rams shall be a minimum of thirty (30) days in length and shall include a minimum of fifteen (15) consecutive days of hunting without overlapping any ewe hunting season on the ranch.
 2. Public hunting seasons for ewes shall be a minimum of fifteen (15) days in length.
 - f. Additional primitive weapon seasons may be established provided that the season is structured so there is a minimum of 5 days of opportunity in which the method of take is restricted to archery or muzzleloading rifles.
 1. These seasons shall be in addition to the previously mentioned minimum season lengths. Hunters drawing licenses for these seasons shall be allowed to hunt in the season with the restricted method of take and also in at least 10 additional days of opportunity with rifle method of take for moose, or antlered or either sex deer, elk, or black bear licenses; at least 5 additional days of opportunity with rifle method of take for pronghorn, or antlerless deer or elk licenses; at least 30 additional days of opportunity with rifle method of take for ram bighorn sheep licenses; and at least 15 additional days of opportunity with rifle method of take for ewe bighorn sheep. Additional primitive weapon seasons will include one full weekend.

4. Manner of Take

- a. Rifle hunting shall be the designated manner of take. Provided further that additional public hunting seasons beyond the previously mentioned minimum levels may be established with more restricted manner of take. Any such seasons and licenses allocated to those seasons are additional public hunting opportunity and shall not reduce licenses that would otherwise be allocated for the rifle seasons.

5. License Restrictions

- a. Ranching for Wildlife licenses are the only licenses valid for hunting of species under contract on the ranch, except as follows:
 - 1. Auction and raffle licenses may be used when there is not a public season for the same species in progress on the ranch.
 - 2. Antlerless deer or elk licenses may be used on a ranch when authorized in writing by the Division, subject to the following provisions:
 - aa. There is an established season in which such licenses would be valid in the Game Management Unit (GMU) in which the ranch is located.
 - bb. Such licenses shall not be used concurrently with any Ranching for Wildlife season, or at any other time when the Division determines that it would result in elk, deer, pronghorn, bighorn sheep, moose, or black bear not being available to Ranching for Wildlife public hunters.
 - cc. The Division determines that any resulting harvest achieved will contribute to achieving DAU management objectives.
 - 3. Any Dream Hunt or Youth Outreach license may be used on a ranch when authorized in writing by the Division, subject to the following provisions:
 - aa. Such licenses shall not be used concurrently with any public Ranching for Wildlife season, or at any other time when the Division determines that it would result in species under contract on the ranch not being available to Ranching for Wildlife public hunters.

E. License Allocation

- 1. A maximum of 1,000 licenses of each species and sex for deer, elk, and pronghorn, a maximum of 30 black bear licenses, a maximum of 20 licenses of each sex for bighorn sheep, and a maximum of 50 licenses of each sex for moose may be allocated to each ranch annually, and subsequently distributed to the public and private share according to the distribution table established in this regulation.
- 2. Division staff recommendations regarding license allocations for each ranch shall be forwarded to and approved by the Director based upon Data Analysis Unit harvest objectives, relative ranch land base and occupied habitat for each species on the ranch

to that of the Data Analysis Unit, hunter crowding, enhancement of hunter harvest, and relative densities of the species on the ranch.

3. Substitution of licenses of one species or sex for licenses of another species or sex shall not be permitted.
4. For purposes of determining distribution of licenses allocated to each ranch, either sex licenses will be treated as antlered licenses for deer and elk and buck licenses for pronghorn.
5. Landowner preference shall not be used for any public or private Ranching For Wildlife license. In addition, Ranching for Wildlife property may not be used to qualify for or receive landowner preference pursuant to §33-4-103, C.R.S.
6. The public share of the licenses in the following distribution tables represents the minimum for each species. Fractions of licenses shall be rounded up for public distribution licenses.

DEER, ELK, AND PRONGHORN				
Private Share of Licenses			Public Share of Licenses	
% of total allocation to each ranch			% of total allocation to each ranch	
Tier	Buck, Antlered, or Either Sex	Doe or Antlerless	Buck, Antlered, or Either Sex	Doe or Antlerless
A	90	0	10	100
B	85	0	15	100
C	80	0	20	100

BLACK BEAR			
Private Share of Licenses		Public Share of Licenses	
% of total allocation to each ranch		% of total allocation to each ranch	
Either Sex		Either Sex	
60		40	
BIGHORN SHEEP			
Private Share of Licenses		Public Share of Licenses	
% of total allocation to each ranch		% of total allocation to each ranch	
Ram	Ewe	Ram	Ewe
50	0	50	100

MOOSE	
Private Share of Licenses	Public Share of Licenses

% of total allocation to each ranch		% of total allocation to each ranch	
Antlered, or Either Sex	Antlerless	Antlered, or Either Sex	Antlerless
50	0	50	100

F. Youth Licenses

1. The Division and the ranch may formulate and implement youth hunting opportunities on any ranch through Division approved youth hunting programs. The Division must approve the youth hunting program on the ranch prior to any season or license allocation for such youth hunts.
2. A maximum of 15% of the total number for deer, elk, pronghorn, or black bear licenses allocated for a ranch may be allocated as youth hunting licenses on each ranch, over and above the total number of licenses allocated for a ranch.
3. Youth hunting seasons may occur at any time within the broad parameters for seasons within the Ranching For Wildlife program.
4. Youth licenses shall be distributed to individual youth hunters by mechanisms of the approved youth hunting program on the ranch. Youth licenses shall not count as either private or public licenses for purposes of calculating the relative share of other licenses allocated for the ranch.

G. License Distribution

1. Applications
 - a. Applications for private hunter licenses stamped with the ranch name and season dates shall be available to the landowner for distribution.
 - b. Public hunter licenses shall be available through application and selection from the Division during the annual limited license drawing process, except as provided in this regulation.
 - c. Leftover Ranching for Wildlife Licenses: Ranching for Wildlife licenses which are not issued through the regular drawing will be issued as "leftover" licenses, only through the "leftover" drawing process, rather than through the over-the-counter leftover license process.
2. Trinchera Ranch - One hundred percent (100%) of the limited antlered public licenses and eighty percent (80%) of the limited antlerless public licenses shall be available through the Division's annual limited license drawing process. Twenty percent (20%) of the limited public antlerless licenses will be allocated by public drawing at 1:00 p.m. on the second Wednesday in August, annually, at the San Luis Community Center, San Luis, CO. Applications will be accepted between 9:00 am and noon, on the second Wednesday in August, annually.

H. Special Restrictions

1. Unless otherwise provided in these Ranching for Wildlife regulations all hunters must comply with other applicable regulations, including, but not limited to, manner of take

(except that private hunters may use any legal weapon during private seasons), hunting hours, application requirements and deadlines, bag limits, season participation, mandatory checks, OHV restrictions, and other generally applicable regulations for big game hunting.

2. A copy of the mutually agreed upon ranch rules will be provided to all public hunters prior to their hunting season. All public hunters will be required to sign a statement acknowledging that they have read, understand, and agree to comply with all ranch rules, before the hunter is allowed access to the ranch.
 - a. Compliance with ranch rules is a specific condition of the Ranching For Wildlife public licenses and subsequent access to the ranch. In addition to criminal penalties, non-compliance with ranch rules constitutes grounds for suspension and revocation of the license and/or being prohibited from further participation in hunting on the ranch, and/or in the Ranching For Wildlife program as a public hunter.
 - b. Final determination on any legal action taken towards hunters found in non-compliance with ranch rules shall be made solely by officers of the Division. This includes any citation that may be issued for non-compliance with the provisions of a license, or directing a hunter to leave a ranch. Ranch personnel may not direct a hunter to leave a ranch without specific authorization of a Division officer.

#211- BIGHORN SHEEP ACCESS PROGRAM

A. Implementation Authority

1. The Director is authorized to implement the Bighorn Sheep Access Program (BSAP), including the authority to determine private land enrollment status, enter into cooperative agreements with legal landowners, establish and modify public and private season dates on each property, and establish and modify license allocations to each property including the subsequent distribution of licenses to the public and private share, and may establish additional BSAP operating guidelines subject to the following provisions. All new or renewed contracts must be signed by the Director by October 15 in order to participate in the program the following year.

B. Property Enrollment Constraints

1. Properties must have a minimum of 5,000 acres of privately owned land.
2. Except under the provisions of regulation #211(E)(5), there must be a sustainable population of Rocky Mountain bighorn sheep that are predictably present on the private lands and at times for which public hunting seasons may be set. All sheep on the property must be a part of a single bighorn sheep herd (DAU). Land under contract may not cross sheep herd boundaries. At least 60% of the sheep herd within the bighorn sheep game management unit to be hunted must be located on private land or State Trust Land.
3. Properties may not charge public hunters an access fee for hunting.
4. Except as agreed to in writing by the Division, enrolled properties must provide for equality of access in terms of geographical area and mode of transportation for both public and private hunters. No closure or restriction of land or roads shall apply to public hunters that do not also apply to private hunters.

5. Public hunts must be established at a time when sheep are present and available for harvest. No public seasons shall be established during times when normal winter conditions would prevent access to most of the property, nor when normal migration patterns would result in sheep having migrated off the property.
6. Ranches that establish coinciding or overlapping public and private hunts may not exclude public hunters from any portion of the property due to the presence of private hunters.
7. The private landowner(s) will provide to each public hunter a property information packet which includes, but is not limited to, property maps showing access routes and camping areas, and landowner contact information.
8. Enrolled properties shall not be eligible for game damage payments or materials for damage caused by Rocky Mountain bighorn sheep.

C. Cooperative Agreements, Enrollment, Termination of Enrollment

1. The Division is authorized to enter into cooperative agreements with private property owners. Multiple private property owners may participate in the program under a single contract as long as all legal owners agree to the same terms and requirements.
2. The Division shall establish minimum performance standards or requirements for properties enrolled in the program. Such performance standards shall be incorporated into the cooperative agreement with each property owner(s). Each cooperative agreement will include an option to renew at the end of the contract period if agreed to by both the Division and private landowner.
3. Each cooperative agreement will also contain a termination clause. Potential termination will be based on public hunter satisfaction that is within the control of the property owner or manager. No future private ram licenses will be allocated to a property after their contract is terminated.

D. Season Structures, Manner of Take, License Restrictions

1. Public and private seasons opening and closing date parameters
 - a. Ram seasons may not begin before August 1 and may not extend beyond December 31.
 - b. Ewe seasons may not begin before September 1 and may not extend beyond January 15.
 - c. Public ram seasons shall always precede private ram seasons. When necessary for private and public seasons to be conducted in the same year, public ram seasons will occur prior to private seasons.
2. Private season length
 - a. Private ram seasons shall not be less than 20 days nor greater than 60 days.
3. Public season length
 - a. Public ram seasons shall be equal or greater in length to the private ram seasons, but not less than 30 days nor greater than 60 days. If multiple ram

seasons are necessary to spread out hunting pressure, then season length may be shortened to not less than 20 days per season.

- b. Ewe seasons shall be not less than 10 days in length with no more than a 5 day overlap with public ram seasons.
- 4. Method of take for ram hunting will be hunter's choice in accordance with regulation #203 of this chapter. Method of take for ewe hunting will be determined by contract negotiation.
- 5. License Restrictions
 - a. BSAP licenses are the only licenses valid for hunting sheep on the property, except that auction and raffle licenses may be used when there is not a public season in progress on the property.

E. License Allocation

- 1. Division staff recommendations regarding license allocations for each property shall be approved by the Director.
- 2. All ewe licenses allocated are public licenses. The Division shall determine if ewe hunting is needed or desired for sheep management on the property.
- 3. The public share of the licenses in the following distribution table represents the minimum number of licenses provided to the public. Fractions of licenses shall be rounded up for public distribution licenses.

ROCKY MOUNTAIN BIGHORN SHEEP				
Private Share of Licenses			Public Share of Licenses	
% of total allocation to each enrolled property			% of total allocation to each enrolled property	
Option	Ram	Ewe	Ram	Ewe
A	67	0	33	100
B	75	0	25	100
C	50	0	50	100

- 4. Enrolled properties with a sustainable Rocky Mountain bighorn sheep population already present will have the choice between two license distribution options (option A or B). In order to receive the license allocation percentages listed in option B, a competent, skilled guide will be provided for free to the public ram hunter. The guide must be competent and knowledgeable of the property and of bighorn sheep behavior and use patterns on the property. The guide provided to the public ram hunter must be the same guide provided to the private ram hunter, unless otherwise agreed to in writing by the Division. In order to receive the license allocation percentages listed in option A, each public sheep hunter will receive free access to the property and a free area for camping if the property is located 40 minutes or more from public accommodations. No free guiding services are provided under option A.
- 5. Option C is available for property owners who would like their land evaluated for bighorn sheep transplant or augmentation for inclusion in the BSAP under option C. Notice of

interest must be submitted in writing to the local district wildlife manager by April 1 annually. If the Division approves the transplant and property enrollment, the Division and landowner will share the costs of the trap and transplant operation. When the Division and property owner determine that the transplanted herd can sustain hunting harvest, the property will be opened to hunting under option C. Properties enrolled in the BSAP under option C will be enrolled for a 10-year period with bighorn sheep ram licenses being issued at a 1:1 public/private ratio during that period. After 10 years of hunting, the landowner may choose to withdraw from the program or re-enroll in a new contract under option A or B.

6. Public ram hunters will be allowed to bring a maximum of two additional non-hunting persons with them onto the property during their hunt. Ewe hunters will be allowed to bring a maximum of one additional non-hunting person with them onto the property during their hunt.
7. Landowners are not required to provide pre-draw or pre-season scouting access in any license allocation option.

F. License Distribution

1. Applications

- a. Applications for private ram licenses stamped with the ranch name and season dates shall be available to the landowner for distribution.
- b. Public hunter licenses shall be available through application and selection from the Division during the annual limited license drawing process.

#212 - 216 VACANT

#217 - SEASON TABLES AND HUNT CODE DESCRIPTIONS

- A. Big Game season tables are established by species (sheep, goat, bear, lion, deer, elk, pronghorn, and moose) and hunt (archery, muzzle-loading, early, regular, plains, private land only, late, and Ranching for Wildlife). Tables contain general information describing the hunt type, season dates, unit(s) or portions thereof, hunt code, license types, and numbers.

ARTICLE III - BIGHORN SHEEP

#218 - SEASON DATES, HUNT TYPE, UNITS (AS DESCRIBED IN CHAPTER 0 OF THESE REGULATIONS), AND LICENSE NUMBERS.

- A. All rams taken shall be one half (1/2) curl or larger unless otherwise specified in these regulations.

1. Archery Season Dates, Units, License Types and Numbers							
Unit #/Unit Name	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Ram	Ewe	Ram	Ewe
S06 Pike's Peak and S46 Dome Rock	SMS06O1A	11/10/2017	11/30/2017	2		0	
S09 Sangre De Cristo	SMS09O1A	08/05/2017	08/29/2017	10		1	
S12 Buffalo Peaks and S78 Ten Mile	SMS12O1A	08/05/2017	08/29/2017	9		1	
S20 Marshall Pass	SMS20O1A	08/05/2017	08/29/2017	1		0	

1. Archery Season Dates, Units, License Types and Numbers							
Unit #/Unit Name	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
S32 Georgetown - Except within ¼ mile north of I-70 or within ¼ mile of US 6 or US 40	SMS32O1A	08/05/2017	08/20/2017	3		1	
S32 Georgetown - Except within ¼ mile north of I-70 or within ¼ mile of US 6 or US 40	SMS32O2A	08/26/2017	09/10/2017	4		0	
S32 Georgetown - Except within ¼ mile north of I-70 or within ¼ mile of US 6 or US 40	SFS32O2A	08/26/2017	09/10/2017		3		0
S34 Rampart Range	SMS34O1A	10/15/2017	10/31/2017	2		0	
S34 Rampart Range	SFS34O1A	10/01/2017	10/14/2017		1		0
S34 Rampart Range	SMS34O2A	12/01/2017	12/15/2017	3		0	
S35 Greenhorns	SMS35O1A	08/05/2017	08/29/2017	4		1	
S37 St. Vrain	SMS37O1A	11/01/2017	11/30/2017	1		0	
S38 Apishapa	SMS38O1A	12/01/2017	12/31/2017	1		0	
S39 Mt Silverheels	SMS39O1A	08/05/2017	08/29/2017	1		0	
S44 Basalt	SMS44O1A	08/26/2017	09/24/2017	4		1	
S49 Grape Creek - Copper Ridge	SMS49O1A	08/05/2017	08/29/2017	5		1	
S51 Spanish Peaks	SMS51O1A	08/05/2017	08/29/2017	1		0	
S54 West Elk - Dillon Mesa	SMS54O1A	08/05/2017	08/29/2017	1		0	
S57 Big Thompson	SMS57O1A	12/01/2017	12/31/2017	2		0	
S57 Big Thompson	SFS57O1A	12/08/2017	12/31/2017		2		0
S69 Lower Cochetopa Canyon	SMS69O1A	08/05/2017	08/29/2017	1		0	
S71 West Needles	SMS71O1A	08/26/2017	10/08/2017	2		0	
TOTALS				57	6	6	0

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers							
Unit #/ Unit Name	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Ram	Ewe	Ram	Ewe
S01 Poudre River and S18 Rawah	SMS01O1R	09/05/2017	10/08/2017	4		1	
S01 Poudre River and S18 Rawah	SFS01O1R	09/05/2017	10/08/2017		3		0
S02 Gore-Eagles Nest- Except within ½ mile north of I-70 from Bighorn Creek to Spraddle Creek	SMS02O1R	09/05/2017	10/08/2017	1		0	
S03 Mount Evans	SMS03O1R	08/14/2017	08/30/2017	1		1	
S03 Mount Evans	SMS03O2R	09/05/2017	10/08/2017	2		0	
S03 Mount Evans	SFS03O2R	09/05/2017	10/08/2017		1		0
S04 Grant	SMS04O1R	08/14/2017	08/30/2017	2		0	
S04 Grant	SMS04O2R	09/05/2017	10/08/2017	1		0	
S04 Grant	SFS04O2R	09/05/2017	10/08/2017		1		0
S05 Beaver Creek and S60 Shelf Rd	SMS05O1R	09/30/2017	10/31/2017	2		1	

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers							
Unit #/ Unit Name	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Ram	Ewe	Ram	Ewe
S06 Pikes Peak	SMS06O1R	09/05/2017	09/19/2017	1		0	
S06 Pikes Peak	SMS06O2R	09/22/2017	10/06/2017	2		0	
S06 Pikes Peak	SFS06O2R	09/22/2017	10/06/2017		2		0
S07 Arkansas River	SMS07O1R	09/05/2017	10/08/2017	2		0	
S08 Huerfano	SMS08O1R	09/05/2017	10/08/2017	3		0	
S09 Sangre de Cristo	SMS09O1R	09/05/2017	10/08/2017	10		1	
S09 Sangre de Cristo	SFS09O1R	09/11/2017	10/08/2017		4		1
S10 Trickle Mountain and S55 Natural Arch	SMS10O1R	09/05/2017	10/08/2017	1		0	
S11 Collegiate North	SMS11O1R	09/05/2017	10/08/2017	5		1	
S11 Collegiate North	SFS11O1R	09/16/2017	10/08/2017		2		0
S12 Buffalo Peaks and S78 Ten Mile	SMS12O1R	09/05/2017	10/08/2017	6		1	
S12 Buffalo Peaks and S78 Ten Mile	SFS12O1R	09/16/2017	10/08/2017		2		0
S13 Snowmass East	SMS13O1R	09/05/2017	10/08/2017	2		0	
S15 Sheep Mountain	SMS15O1R	09/05/2017	10/08/2017	4		1	
S15 Sheep Mountain	SFS15O1R	09/16/2017	10/08/2017		4		0
S16 Cimarron Peak	SMS16O1R	09/05/2017	10/08/2017	3		0	
S16 Cimarron Peak	SFS16O1R	09/16/2017	10/08/2017		3		0
S17 Collegiate South	SMS17O1R	09/05/2017	10/08/2017	5		1	
S17 Collegiate South	SFS17O1R	09/16/2017	10/08/2017		2		0
S19 Never Summer Range	SMS19O1R	09/05/2017	10/08/2017	1		0	
S20 Marshall Pass	SMS20O1R	09/05/2017	10/08/2017	1		0	
S21 Cow Creek - Wetterhorn Peak	SMS21O1R	09/05/2017	10/08/2017	6		1	
S21 Cow Creek - Wetterhorn Peak - East of Hwy 550 only	SFS21O1R	09/16/2017	10/08/2017		5		3
S21 Cow Creek- Wetterhorn Peak – West of Hwy 550 only	SFS21S1R	09/16/2017	10/08/2017		3		0
S22 San Luis Peak	SMS22O1R	09/05/2017	10/08/2017	2		0	
S23 Kenosha and S27 Tarryall	SMS23O1R	09/05/2017	10/08/2017	3		0	
S24 Battlement	SMS24O1R	11/01/2017	11/30/2017	2		0	
S25 Snowmass West	SMS25O1R	09/05/2017	10/08/2017	2		0	
S28 Vallecito	SMS28O1R	09/05/2017	10/08/2017	1		0	
S29 Alamosa Canyon and S30 Conejos River	SMS29O1R	09/05/2017	10/08/2017	1		0	
S31 Blanca River	SMS31O1R	09/05/2017	10/08/2017	3		1	
S32 Georgetown - Except within ¼ mile north of I-70 or within ¼ mile of US 6 or US 40	SMS32O1R	09/16/2017	10/08/2017	7		1	
S32 Georgetown - Except within ¼ mile north of I-70 or within ¼ mile of US 6 or US 40	SFS32O1R	09/16/2017	10/08/2017		1		1
S33 Lake Fork/Pole Mtn	SMS33O1R	09/05/2017	09/19/2017	2		1	

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers							
Unit #/ Unit Name	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Ram	Ewe	Ram	Ewe
S33 Lake Fork/Pole Mtn - North of Lake Fork River, Cottonwood Creek, Cuba Gulch, Minnie Gulch; west and north of CO 110	SFS33O1R	09/10/2017	09/19/2017		2		0
S33 Lake Fork/Pole Mtn - South of Lake Fork River, Cottonwood Creek, Cuba Gulch and Minnie Gulch; east and south of CO 110	SFS33S1R	09/10/2017	09/19/2017		1		0
S33 Lake Fork/Pole Mtn	SMS33O2R	09/21/2017	10/08/2017	2		0	
S33 Lake Fork/Pole Mtn - North of Lake Fork River, Cottonwood Creek, Cuba Gulch, Minnie Gulch; west and north of CO 110	SFS33O2R	09/26/2017	10/08/2017		2		0
S33 Lake Fork/Pole Mtn - South of Lake Fork River, Cottonwood Creek, Cuba Gulch and Minnie Gulch; east and south of CO 110	SFS33S2R	09/26/2017	10/08/2017		1		0
S35 Greenhorns	SMS35O1R	09/05/2017	10/08/2017	1		0	
S35 Greenhorns	SFS35O1R	10/09/2017	10/29/2017		2		0
S36 Bellows Creek	SMS36O1R	09/05/2017	10/08/2017	1		0	
S37 St. Vain	SMS37O1R	09/05/2017	10/08/2017	1		0	
S39 Mount Silverheels	SMS39O1R	09/05/2017	09/20/2017	1		0	
S39 Mount Silverheels	SFS39O1R	09/05/2017	09/20/2017		1		0
S39 Mount Silverheels	SMS39O2R	09/23/2017	10/08/2017	2		0	
S40 Lone Pine and S58 Lower Poudre	SMS40O1R	09/05/2017	10/08/2017	3		0	
S40 Lone Pine and S58 Lower Poudre	SFS40O1R	09/05/2017	10/08/2017		2		0
S41 Peru Creek	SMS41O1R	09/05/2017	10/08/2017	1		0	
S41 Peru Creek	SFS41O1R	09/05/2017	10/08/2017		2		0
S42 Waterton Canyon	SMS42O1R	12/04/2017 Weekdays Only	12/08/2017 Weekdays Only	1		0	
S42 Waterton Canyon	SFS42O1R	12/04/2017 Weekdays Only	12/08/2017 Weekdays Only		1		0
S44 Basalt	SMS44O1R	09/28/2017	10/11/2017	2		0	
S47 Browns Canyon	SMS47O1R	09/05/2017	10/08/2017	2		0	
S48 Carrizo Canyon	SMS48O1R	12/01/2017	12/31/2017	2		0	
S49 Grape Creek - Copper Ridge	SMS49O1R	09/05/2017	10/08/2017	2		0	
S50 Mount Mestas	SMS50O1R	09/05/2017	10/08/2017	2		0	
S51 Spanish Peaks	SMS51O1R	09/25/2017	10/22/2017	2		0	
S51 Spanish Peaks - West of Hwy 12 only	SFS51O1R	08/30/2017	09/10/2017		1		1
S51 Spanish Peaks	SMS51O2R	10/30/2017	11/14/2017	2		0	
S53 Bristol Head	SMS53O1R	09/05/2017	10/08/2017	2		0	

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers							
Unit #/ Unit Name	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Ram	Ewe	Ram	Ewe
S53 Bristol Head	SFS53O1R	09/18/2017	10/08/2017		2		0
S54 West Elk-Dillon Mesa bound on the north by Gunnison CR 12 (Kebler Pass Rd.); on the east by Hwy 135; on the south by N boundary T50N; on the west by Curecanti Ck & Coal Ck.	SMS54O1R	09/05/2017	10/08/2017	3		0	
S59 Derby Creek	SMS59O1R	09/05/2017	10/08/2017	1		1	
S61 Purgatory Canyon	SMS61O1R	12/01/2017	12/31/2017	3		0	
S66 Mount Elbert	SMS66O1R	09/11/2017	10/15/2017	5		1	
S66 Mount Elbert	SFS66O1R	09/23/2017	10/15/2017		2		0
S67 Flattops	SMS67O1R	08/29/2017	10/01/2017	1		0	
S68 Northern Sangres	SMS68O1R	09/05/2017	10/08/2017	1		0	
S69 Lower Cochetopa Canyon	SMS69O1R	09/05/2017	10/08/2017	1		0	
S69 Lower Cochetopa Canyon	SFS69O1R	09/11/2017	09/17/2017		1		0
S69 Lower Cochetopa Canyon	SFS69O2R	09/18/2017	09/24/2017		1		0
S71 West Needles	SMS71O1R	09/05/2017	10/08/2017	1		0	
S73 Mt. Zirkel	SMS73O1R	09/05/2017	10/08/2017	2		1	
S73 Mt. Zirkel	SFS73O1R	10/18/2017	10/31/2017		3		0
S74 Glenwood	SMS74O1R	09/13/2017	10/13/2017	1		0	
S75 Main Canyon	SMS75O1R	11/01/2017	11/30/2017	1		0	
S77 Gore Canyon	SMS77O1R	09/05/2017	10/08/2017	1		0	
TOTALS				138	57	15	6

#219 DESERT BIGHORN SHEEP SEASON DATES, HUNT TYPE, UNITS, LICENSES

- A.** All rams taken shall be one half (1/2) curl or larger unless otherwise specified in these regulations.

1. Archery – None

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers

Unit	Hunt Code	Date Open	Date Closed	Resident Ram Licenses (2017)	Nonresident Ram Licenses (2017)
S56 Black Ridge	CMS56O1R	11/01/2017	11/30/2017	3	1
S62 Dominguez Ck.	CMS62O1R	11/01/2017	11/30/2017	4	0
S63 Middle Dolores River	CMS63O1R	11/01/2017	11/30/2017	2	0
S64 Upper Dolores River	CMS64O1R	11/01/2017	11/30/2017	3	0
TOTALS				12	1

#220 - SPECIAL RESTRICTIONS

- A. All bighorn sheep harvested through hunting after July 1, 1981, shall be inspected by an employee of the Division on or before the 5th working day after the taking thereof. Any licensee who takes a bighorn sheep shall personally present the sheep with the horns and skull intact to any Division office. A mandatory check report shall be completed at the time of inspection and each legally taken bighorn sheep ram shall have a Division permanent marker attached to the horn.
- B. Any bighorn sheep licensee who does not complete and return the mandatory questionnaire to the Division within thirty (30) days after the close of the season shall not be considered for any future bighorn sheep license.
- C. No person may barter, trade, transfer, or sell any bighorn sheep ram head or horns unless the horns have been inspected and permanently marked by the Division.
- D. Only bighorn sheep rams legally taken with a valid license will be permanently marked by the Division.
- E. Sheep hunters in S42, including auction and raffle hunters, are restricted to hunt weekdays only and are required to attend an S42 Waterton Canyon hunter orientation.

#221 - 226 VACANT

ARTICLE IV - MOUNTAIN GOAT

#227 - SEASON DATES, HUNT TYPE, UNITS (as described in Chapter 0 of these regulations), LICENSES

- A. Mountain goats of either sex may be taken unless otherwise specified in these regulations.

1. Archery Season Dates, Units, License Types and Numbers					
Unit #/Unit Name	Hunt Code	Date Open	Date Closed	Resident Either-Sex Licenses (2017)	Nonresident Either-Sex Licenses (2017)
G01 Mt. Shavano and G14 Antero	GEG01O1A	09/05/2017	10/08/2017	6	0
G05 West Needles	GEG05O1A	09/05/2017	10/31/2017	18	2
G08 Fossil Ridge	GEG08O1A	09/05/2017	10/08/2017	2	0
			TOTALS	26	2

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers							
Unit	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Either-Sex	Female	Either-Sex	Female
G02 Mount Princeton	GEG02O1R	09/05/2017	10/08/2017	6		0	
G03 Mount Harvard	GEG03O1R	09/05/2017	10/08/2017	6		0	
G04 Mount Evans	GEG04O1R	09/18/2017 Weekdays Only	09/29/2017 Weekdays Only	1		0	

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers							
Unit	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Either-Sex	Female	Either-Sex	Female
G04 Mount Evans	GEG04O2R	10/02/2017 Weekdays Only	10/13/2017 Weekdays Only	1		0	
G04 Mount Evans	GEG04O3R	10/16/2017 Weekdays Only	10/27/2017 Weekdays Only	2		0	
G05 Needles – from 09/05/2017-09/23/2017 rifle hunters must hunt west of the Animas River and north of Ten Mile and Trinity Creeks. From 09/24/2017-10/31/2017 rifle hunters can hunt all of G05.	GEG05O1R	09/05/2017	10/31/2017	2		0	
G06 Gore Range	GEG06O1R	09/05/2017	10/08/2017	3		0	
G07 Grays Peak	GEG07O1R	09/05/2017 Weekdays Only	09/15/2017 Weekdays Only	3		0	
G07 Grays Peak	GFG07O1R	09/05/2017 Weekdays Only	09/15/2017 Weekdays Only		1		0
G07 Grays Peak	GEG07O2R	09/18/2017 Weekdays Only	09/29/2017 Weekdays Only	2		1	
G07 Grays Peak	GFG07O2R	09/18/2017 Weekdays Only	09/29/2017 Weekdays Only		1		0
G07 Grays Peak	GEG07O3R	10/02/2017 Weekdays Only	10/13/2017 Weekdays Only	1		1	
G07 Grays Peak	GFG07O3R	10/02/2017 Weekdays Only	10/13/2017 Weekdays Only		1		0
G07 Grays Peak	GEG07O4R	10/16/2017 Weekdays Only	10/27/2017 Weekdays Only	2		0	
G07 Grays Peak	GFG07O4R	10/16/2017 Weekdays Only	10/27/2017 Weekdays Only		1		0
G10 Tenmile	GEG10O1R	09/05/2017 Weekdays Only	09/15/2017 Weekdays Only	1		0	
G10 Tenmile	GEG10O2R	09/18/2017 Weekdays Only	09/29/2017 Weekdays Only	2		0	

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers							
Unit	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Either-Sex	Female	Either-Sex	Female
G10 Tenmile	GEG10O3R	10/02/2017 Weekdays Only	10/13/2017 Weekdays Only	1		0	
G10 Tenmile	GEG10O4R	10/16/2017 Weekdays Only	10/27/2017 Weekdays Only	1		0	
G11 The Raggeds-portion bounded on the N by Colo 133 and Gunnison CR 3 (Crystal River Road); on the E by Gunnison CR 3C (Marble Quarry Road) and USFS Trail 832; on the S by Anthracite Creek to Gunnison CR 12 (Kebler Pass Road); and on the W by Colo 133	GEG11O1R	09/05/2017	10/08/2017	3		1	
G11 The Raggeds-, portion bounded on the N by Gunnison CR 3 (Crystal River Road), USFS 314 and USFS 317; on the E by USFS 317; on the S by Gunnison CR 12 (Kebler Pass Road) to Anthracite Creek; on the W by Anthracite Creek, USFS Trail 832, and Gunnison CR 3C (Marble Quarry Road)	GEG11S1R	09/05/2017	10/08/2017	2		0	
G12 Maroon Bells	GEG12O1R	09/05/2017	09/19/2017	22		3	
G12 Maroon Bells	GFG12O1R	09/05/2017	09/19/2017		4		1
G12 Maroon Bells	GEG12O2R	09/20/2017	10/08/2017	23		2	
G12 Maroon Bells	GFG12O2R	09/20/2017	10/08/2017		5		0
G13 Quail Mountain	GEG13O1R	09/05/2017	09/22/2017	13		2	
G13 Quail Mountain	GEG13O2R	09/23/2017	10/08/2017	13		2	

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers							
Unit	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Either-Sex	Female	Either-Sex	Female
G15 Jones Pass	GEG15O1R	09/05/2017 Weekdays Only	09/15/2017 Weekdays Only	2		0	
G15 Jones Pass	GFG15O1R	09/05/2017 Weekdays Only	09/15/2017 Weekdays Only		1		0
G15 Jones Pass	GEG15O2R	09/18/2017 Weekdays Only	09/29/2017 Weekdays Only	1		0	
G15 Jones Pass	GFG15O2R	09/18/2017 Weekdays Only	09/29/2017 Weekdays Only		1		0
G15 Jones Pass	GEG15O3R	10/02/2017 Weekdays Only	10/13/2017 Weekdays Only	1		0	
G15 Jones Pass	GFG15O3R	10/02/2017 Weekdays Only	10/13/2017 Weekdays Only		1		0
G15 Jones Pass	GEG15O4R	10/16/2017 Weekdays Only	10/27/2017 Weekdays Only	2		0	
G15 Jones Pass	GFG15O4R	10/16/2017 Weekdays Only	10/27/2017 Weekdays Only		1		0
G16 Mt Guyot	GEG16O1R	09/05/2017 Weekdays Only	09/15/2017 Weekdays Only	3		0	
G16 Mt Guyot	GFG16O1R	09/05/2017 Weekdays Only	09/15/2017 Weekdays Only		1		0
G16 Mt Guyot	GEG16O2R	09/18/2017 Weekdays Only	09/29/2017 Weekdays Only	3		0	
G16 Mt Guyot	GFG16O2R	09/18/2017 Weekdays Only	09/29/2017 Weekdays Only		1		1
G16 Mt Guyot	GEG16O3R	10/02/2017 Weekdays Only	10/13/2017 Weekdays Only	2		1	
G16 Mt Guyot	GFG16O3R	10/02/2017 Weekdays Only	10/13/2017 Weekdays Only		2		0
G16 Mt Guyot	GEG16O4R	10/16/2017 Weekdays Only	10/27/2017 Weekdays Only	3		0	

2. Rifle and Associated Methods Season Dates, Units, License Types and Numbers							
Unit	Hunt Code	Date Open	Date Closed	Resident Licenses (2017)		Nonresident Licenses (2017)	
				Either-Sex	Female	Either-Sex	Female
G16 Mt Guyot	GFG16O4R	10/16/2017 Weekdays Only	10/27/2017 Weekdays Only		1		0
G17 Independence Pass	GEG17O1R	09/05/2017	10/08/2017	5		1	
G18 Holy Cross	GEG18O1R	09/05/2017	10/08/2017	1		0	
			TOTALS	133	22	14	2

#228 - SPECIAL RESTRICTIONS

- A. All mountain goat hunters who take a goat shall personally present the goat with horns and skull intact to any Division office on or before the 5th working day after the taking thereof. A mandatory check report shall be completed at the time of inspection.
- B. Any mountain goat licensee who does not complete and return the mandatory questionnaire to the Division within thirty (30) days after the close of the season shall not be considered for any future mountain goat license.
- C. Where specified in regulation #227 of this chapter, auction and raffle hunters are also restricted to hunting weekdays only.

#229 - SPECIAL PROVISIONS REGARDING BIGHORN SHEEP, MOUNTAIN GOAT, MOOSE, DEER, ELK, AND PRONGHORN LICENSES AUTHORIZED BY AUCTION OR COMPETITIVE RAFFLE

See also §§33-4-116 through 116.5, C.R.S., concerning statutes for these auctions and raffles

- A. Conduct of the Auction or Raffle.** Any organization selected to conduct a license auction or raffle for the Wildlife Commission shall abide by the following rules:

1. General

- a. All auctions and raffles shall be carried out in accordance with applicable Colorado and Federal laws and the laws of the state where such auction or raffle is held. In the event the auction is held outside of Colorado and there is a conflict between Colorado and local laws, such conflict will be resolved in accordance with applicable principles of conflict of laws; provided the requirements of this regulation must be complied with.
- b. Unless their hunting license privilege is revoked or under suspension pursuant to the law of any state or country, any person, without regard to resident status or citizenship, is eligible to bid at competitive auction or to participate in any raffle for any license authorized by the Commission.
- c. Except as provided herein, auction and raffle licenses are non-transferable and shall be issued only to the winner of a raffle and the highest bidder at an auction. The highest bidder in any auction may give the license as a gift to another person provided written designation of such person is received by the Director at least 30 days prior to the opening of the season. Further, the Director may authorize a transfer of an auction or raffle license prior to the opening of the season due to death or medical incapacity of the holder of any auction or raffle license.

- d. Funds received by a conservation organization which conducts any auction for the Commission and due the Division shall be paid to the Division within 60 days after the auction and at least 30 days prior to the opening of the season. Funds received by a conservation organization which conducts any raffle for the Commission and due the Division shall be paid to the Division within 90 days after the raffle. No license shall be issued until such funds are received by the Division.
 - e. The conservation organization shall ensure no discrimination against any person on the basis of race, creed, color, national origin, religion, sex, age (except as required by Colorado raffle statutes), marital status or physical handicap.
- 2. Competitive Auction:**
- a. Conduct the competitive auction at a location reasonably accessible to prospective bidders.
 - b. Utilize the services of a professional and experienced auctioneer.
 - c. Accept verbal and customary bids as well as absentee written and telephone bids.
 - d. No minimum bid shall be established.
 - e. No buyers premium in any form may be charged.
 - f. Advertise the location, date and starting time of the auction in at least one Colorado paper with statewide circulation. Also, announce the auction through at least two conservation or wildlife oriented magazines with nationwide circulation. Such advertisement shall be accomplished at least 30 days in advance of the auction.
 - g. Accept payment by legal tender, cashier's check, certified check or major credit card.
 - h. Provide appropriate Colorado hunting regulations and other information to potential bidders and other interested parties at least 10 days prior to the auction upon a request basis and to any in attendance immediately prior to and during the auction.
 - i. Make award to the highest bidder, but maintain a record of the second highest bidder in case of payment default or other contingency.
 - j. Conduct the auction in accordance with auction procedures established and announced at the start of the auction, including, but not limited to, re-bidding procedures. In the case of any dispute, the auctioneer shall make the final determination as to the highest competitive bid. In the event of a tie, the auctioneer may reopen the bidding of those two bidders to determining the highest bidder. The auctioneer has the sole discretion to advance the bidding and may reject a nominal or fractional advance over the preceding bid. The auctioneer may refuse any bid for reasonable cause.
- 3. Raffle**
- a. Procedures for issuing and collecting raffle tickets and related funds, the location, date and approximate time of a random drawing and all other procedures pertaining to the raffle shall be published and made available upon request at least three (3) months prior to any drawing or award.
 - b. Any raffle drawing shall be conducted at a meeting of a conservation organization open to general public attendance. The location, date and time of such meeting must be advertised at least 30 days in advance.
 - c. Raffle tickets shall be available for a value of not more than \$25.00 each, and the same name shall not appear on more than 25 tickets.
 - d. All tickets shall include a place for a name, address and phone number of the holder and all tickets and stubs shall be numbered. Winner need not be present.
 - e. The location and time of the drawing as well as the purpose of the raffle and other information pertaining to the raffle shall be printed on each ticket.
 - f. The raffle license shall be issued to the person whose name appears on the winning raffle ticket.

B. Auction and Raffle Licenses

- 1. Licenses issued by auction or raffle shall permit the taking of one animal of either sex, as defined or specified by unit or season in this chapter; except as otherwise provided in these regulations. Rocky Mountain bighorn sheep licenses are not valid for desert bighorn sheep.

2. All licenses issued as a product of a competitive auction or raffle shall be written at the Division headquarters.
3. There shall be no refund of any monies collected through auction or raffle.
4. Licenses for each species shall be valid on a unit-by-unit basis from the first open season in a unit for that species after August 1 through December 31, except as provided in regulation #210(D)(5)(a), #220(E), #228(C) or #4(a) below. Licenses are not valid in units, or portions of units, that do not have an open season for that species. An open season is any season in which licenses are issued by the Division for the species in question by drawing, over the counter, or in a Special Management License unit for bighorn sheep or mountain goat, upon request from an Auction and Raffle hunter as approved by the Division. Provided further, and except as otherwise provided herein, auction and raffle licensees must comply with all other unit specific restrictions provided by these regulations.
 - a. Licenses for deer shall be valid on a unit-by-unit basis from the first open deer season in a unit after August 1 through November 30 or the last day of the last open antlered or either-sex deer season in a unit, whichever comes later.
5. For sheep, goat and moose, manner of take must be consistent with manner of take restrictions for any ongoing open season, or if no open season is ongoing, restricted to the manners of take allowed in the unit or part of a unit.
6. For deer, elk, and pronghorn, any manner of take legal for that species can be used during the period the license is valid, except pronghorn licenses are valid by archery before the last Saturday in August.
7. Licenses will be valid for one year only and only in accordance with applicable provisions of this chapter and other appropriate regulations of the Commission, unless otherwise provided herein.
8. Prior to hunting, all holders of auction and raffle licenses shall provide the Division with the following information:
 - a. Anticipated hunting areas, including GMUs and nearest towns.
 - b. Vehicle descriptions.
 - c. Intended methods of take.
9. All auction and raffle hunters shall complete and return a harvest questionnaire provided by the Division within 30 days after the close of their final hunting season. All wildlife harvested through the use of an auction or raffle license shall be presented to and inspected by an employee of the Division on or before the 5th working day after the taking thereof. Failure to present harvested wildlife for inspection as required by this regulation shall make the licensee ineligible for future licenses for that species in Colorado.

C. Expenditure of Auction and Raffle Proceeds

1. A Project Advisory Committee (PAC) shall be established for each species qualifying for auction and raffle licenses. Each PAC shall be made up of a spokesperson representative from each nonprofit, conservation organization selling an auction or raffle license for that species and a spokesperson representative of the Division. A conservation organization can abstain from participating on a PAC if they so choose or if they do not provide representation. In addition, the USFS, BLM, and other potentially affected land management agencies shall each have the opportunity to provide a spokesperson representative for each PAC at their discretion.
2. The Division shall be responsible for annual solicitation of project proposals requesting auction and raffle funding with a deadline no later than April 30th of each year. Funding can potentially be provided to government agencies, including the Division, nonprofit organizations, and private entities for appropriate projects as provided by Colorado laws. Each PAC shall review the project proposals for their respective species and recommend how auction and raffle proceeds for that species shall be expended. Each PAC shall make funding recommendations to the Division Director no later than May 31st of each

year. Project funding shall require approval by the Division Director or a designee of the Director.

3. As provided by Colorado laws, auction and raffle funds for deer, elk, and pronghorn can be used interchangeably among said species and auction and raffle funds for bighorn sheep, mountain goats, and moose can be used interchangeably among said species. PACs that desire to recommend funding of projects using auction and raffle funds for a different species within an interchangeable group shall include in their recommendations for funding the respective recommendations of any PAC responsible for an affected species.

D. Accounting of auction and raffle proceeds.

1. Each conservation organization receiving an auction or raffle license for sale shall enter into an agreement with the Division that includes requirements for auction and raffle income and disposition records. Each organization shall maintain records of activities relating to auction and raffle proceeds retained by the organization. Such records shall be available for inspection by the Division at all reasonable times and subject to audit by the state.
2. The Division shall provide each conservation organization with a list of all projects that have been approved for auction and raffle funding each year.
3. The Division shall provide the PAC committees with current auction and raffle fund balances by May 1st of each year.
4. Recipients of auction and raffle funds must provide an annual status report to the Division by July 1st for each fiscal year funding is provided. In some cases the Division may also request a comprehensive final report. At a minimum, such reports must provide a summary of accomplishments and results in relation to proposal objectives and a basic accounting of auction and raffle fund expenditures. The Division may request additional follow-up information such as more detailed records of results and expenditures. Failure to provide a satisfactory report or follow-up information can result in termination of auction and raffle funding at the discretion of the Division. The Division shall provide copies of available annual status reports and final reports to each PAC upon request.

#230 - SPECIAL MANAGEMENT LICENSES FOR SHEEP AND GOAT

- A. The Director is authorized to issue special management licenses for bighorn sheep or mountain goat when necessary to:
 1. prevent exposure of a sheep or goat population to disease which could result from sheep or goats having had contact with domestic livestock which present a disease transmission risk; either within or outside of an established game management unit; or to prevent the potential spread of disease by sheep or goats pioneering from units with such disease.
 2. allow for targeted surveillance of sheep and goat populations for management purposes.
 3. prevent unplanned expansion of sheep or goats outside of established game management units for the species.
- B. Licenses will be offered to unsuccessful applicants for an adjacent or nearby unit for the same species, in the order in which they would have been drawn if successful.
- C. Manner of Take will be rifle and associated methods.

- D. Mandatory check requirements are the same as for established seasons for sheep or goat, except that mandatory tissue submission requirements may be stipulated for individual targeted surveillance hunts.
- E. Such licenses will not use or generate preference points.

#231-#235 - VACANT

ARTICLE V – BLACK BEAR

#236 - BAITING

- A. It shall be unlawful to hunt black bear over bait as prohibited in §33-4-101.3, C.R.S.

#237 - ARCHERY BLACK BEAR SEASONS – ONLY LAWFUL HAND-HELD BOWS MAY BE USED TO HUNT OR TAKE BLACK BEAR DURING THIS SEASON.

A. Archery Seasons

1. Hunt type, Dates, Units (as described in Chapter 0 of these regulations), Licenses, Over the Counter with a cap

Unit(s)	Season Dates: 09/02/2017 - 09/30/2017 Unless Otherwise Shown	
	Hunt Code	Either-Sex Licenses (2016)
		Over the Counter with Cap
1	BE001U1A	5
2	BE002U1A	5
3, 11, 211, 301	BE003U1A	75
4, 5, 6, 14, 16, 17, 161, 171, 214, 441	BE004U1A	300
7, 8, 9, 19, 191	BE007U1A	50
10	BE010U1A	5
12, 13, 23, 24, 25, 26, 33, 131, 231	BE012U1A	400
15, 18, 27, 28, 37, 181, 371	BE015U1A	95
20, 29, 38	BE020U1A	80
21, 22, 30, 31, 32	BE021U1A	200
34	BE034U1A	30
35, 36, 44, 45, 361, 444	BE035U1A	310
39, 46, 51, 391, 461	BE039U1A	90
40	BE040U1A	30
41, 42, 52, 411, 421, 521	BE041U1A	600
43 - north and west of Capitol Creek and Capitol Peak, west and south of the Elk Mountains ridgeline between Capitol Peak and Snowmass Mountain, and west of Pitkin-Gunnison County lines	BE043U1A	160
43 - south and east of Capitol Creek and Capitol Peak, east and north of the Elk Mountains ridgeline between Capitol Peak and Snowmass Mountain, and east of Pitkin-Gunnison County lines, 47, 471	BE047U1A	160
48, 49, 56, 57, 481, 561	BE048U1A	110
50, 500, 501	BE050U1A	60

Unit(s)	Season Dates: 09/02/2017 - 09/30/2017 Unless Otherwise Shown	
	Hunt Code	Either-Sex Licenses (2016) Over the Counter with Cap
53, 63	BE053U1A	150
54, 55, 551	BE054U1A	75
58, 581	BE058U1A	75
59, 511, 591	BE059U1A	100
60, 70	BE060U1A	120
61	BE061U1A	15
62, 64, 65	BE062U1A	200
66, 67	BE066U1A	30
68, 76, 79, 80, 81, 681, 682, 791	BE068U1A	60
69, 84, 691	BE069U1A	55
71, 72, 73, 74, 711, 741	BE071U1A	150
75, 77, 78, 751, 771	BE075U1A	200
82, 86, 861	BE082U1A	65
83, 85, 140, 851 except Bosque del Oso SWA	BE083U1A	45
201	BE201U1A	5
851 Bosque del Oso SWA only	BE851U1A	4
	TOTAL	4114

#238 - MUZZLE-LOADING FIREARMS BLACK BEAR SEASON - ONLY LAWFUL MUZZLE-LOADING FIREARMS (RIFLES AND SMOOTHBORE MUSKETS) MAY BE USED TO HUNT OR TAKE BLACK BEAR

A. Muzzle-loading Firearms Seasons

- Hunt type, Dates, Units (as described in Chapter 0 of these regulations), Licenses, Over the Counter with a cap

Unit(s)	Season Dates: 09/09/2017-09/17/2017 Unless Otherwise Shown	
	Hunt Code	Either-Sex Licenses (2016) (Over the Counter with Cap)
1	BE001U1M	5
2	BE002U1M	5
3, 11, 211, 301	BE003U1M	20
4, 5, 6, 14, 16, 17, 161, 171, 214, 441	BE004U1M	100
7, 8, 9, 19, 191	BE007U1M	20
10	BE010U1M	5
12, 13, 23, 24, 25, 26, 33, 131, 231	BE012U1M	150
15, 18, 27, 28, 37, 181, 371	BE015U1M	25

Unit(s)	Season Dates: 09/09/2017-09/17/2017 Unless Otherwise Shown	
	Hunt Code	Either-Sex Licenses (2016) (Over the Counter with Cap)
20, 29, 38	BE020U1M	35
21, 22, 30, 31, 32	BE021U1M	60
34	BE034U1M	25
35, 36, 44, 45, 361, 444	BE035U1M	200
39, 46, 51, 391, 461	BE039U1M	40
40	BE040U1M	15
41, 42, 52, 411, 421, 521	BE041U1M	150
43 - north and west of Capitol Creek and Capitol Peak, west and south of the Elk Mountains ridgeline between Capitol Peak and Snowmass Mountain, and west of Pitkin-Gunnison County lines	BE043U1M	50
43 - south and east of Capitol Creek and Capitol Peak, east and north of the Elk Mountains ridgeline between Capitol Peak and Snowmass Mountain, and east of Pitkin-Gunnison County lines, 47, 471	BE047U1M	50
48, 49, 56, 57, 481, 561	BE048U1M	45
50, 500, 501	BE050U1M	50
53, 63	BE053U1M	100
54, 55, 551	BE054U1M	60
58, 581	BE058U1M	30
59, 511, 591	BE059U1M	40
60, 70	BE060U1M	80
61	BE061U1M	10
62, 64, 65	BE062U1M	100
66, 67	BE066U1M	15
68, 76, 79, 80, 81, 681, 682, 791	BE068U1M	45
69, 84, 691	BE069U1M	25
71, 72, 73, 74, 711, 741	BE071U1M	60
75, 77, 78, 751, 771	BE075U1M	100
82, 86, 861	BE082U1M	35
83, 85, 140, 851 except Bosque del Oso SWA	BE083U1M	20
201	BE201U1M	5
851 Bosque del Oso SWA only	BE851U1M	4
TOTAL		1779

#239 - RIFLE AND ASSOCIATED METHODS - BLACK BEAR

A. Limited Rifle Seasons

1. Season Dates and Units (as described in Chapter 0 of these regulations)

Unit	Season Dates: 09/02-09/30 Annually Unless Otherwise Shown	
	Hunt Code	Either-Sex Licenses (2016)
1	BE001O1R	5
2	BE002O1R	5

	Season Dates: 09/02-09/30 Annually Unless Otherwise Shown	
Unit	Hunt Code	Either-Sex Licenses (2016)
3, 11, 211, 301	BE003O1R	150
4, 5, 6, 14, 16, 17, 161, 171, 214, 441	BE004O1R	800
7, 8, 9, 19, 191	BE007O1R	90
10	BE010O1R	5
12, 13, 23, 24, 25, 26, 33, 131, 231	BE012O1R	800
15, 18, 27, 28, 37, 181, 371	BE015O1R	125
20, 29, 38	BE020O1R	85
21, 22, 30, 31, 32	BE021O1R	800
34	BE034O1R	120
35, 36, 44, 45, 361, 444	BE035O1R	1000
39, 46, 51, 391, 461	BE039O1R	175
40	BE040O1R	40
41, 42, 52, 411, 421, 521	BE041O1R	1500
43 - north and west of Capitol Creek and Capitol Peak, west and south of the Elk Mountains ridgeline between Capitol Peak and Snowmass Mountain, and west of Pitkin-Gunnison County lines	BE043O1R	270
43 - south and east of Capitol Creek and Capitol Peak, east and north of the Elk Mountains ridgeline between Capitol Peak and Snowmass Mountain, and east of Pitkin-Gunnison County lines, 47, 471	BE047O1R	250
48, 49, 56, 57, 481, 561	BE048O1R	200
50, 500, 501	BE050O1R	75
53, 63	BE053O1R	600
54, 55, 551	BE054O1R	125
58, 581	BE058O1R	100
59, 511, 591	BE059O1R	100
60, 70	BE060O1R	240
61	BE061O1R	180
62, 64, 65	BE062O1R	200
66, 67	BE066O1R	65
68, 76, 79, 80, 81, 681, 682, 791	BE068O1R	210
69, 84, 691	BE069O1R	140
71, 72, 73, 74, 711, 741	BE071O1R	350
75, 77, 78, 751, 771	BE075O1R	400
82, 86, 861	BE082O1R	115
83, 85, 140, 851 except Bosque del Oso SWA	BE083O1R	105
201	BE201O1R	10
851 Bosque del Oso SWA only	BE851O1R 09/02/2017- 09/17/2017	4
851 Bosque del Oso SWA only	BE851O2R 09/18/2017- 10/04/2017	4
	TOTAL	9443

- B. Over the Counter with Caps Either-Sex Concurrent Rifle Season, Dates, Units (as described in Chapter 0 of these regulations), Licenses as shown by hunt code, concurrent with Regular Rifle Deer and Elk Seasons subject to season participation restrictions in #207.**

	Season Dates: 10/14/2017-10/18/2017 and 10/21/2017-10/29/2017 and 11/04/2017-11/12/2017 and 11/15/2017-11/19/2017 Unless Otherwise Shown	
Unit	Hunt Code	Either-Sex Licenses (2016)
1	BE001U5R	5
2	BE002U5R	5
3, 11, 211, 301	BE003U5R	170
4, 5, 6, 14, 16, 17, 161, 171, 214, 441	BE004U5R	380
7, 8, 9, 19, 191	BE007U5R	160
10	BE010U5R	5
12, 13, 23, 24, 25, 26, 33, 34, 131, 231	BE012U5R	980
15, 18, 27, 28, 37, 181, 371	BE015U5R	150
20, 29, 38	BE020U5R	160
21, 22, 30, 31, 32	BE021U5R	360
35, 36, 43, 44, 45, 47, 361, 444, 471	BE035U5R	800
39, 46, 51, 391, 461	BE039U5R	75
40	BE040U5R	100
41, 42, 52, 411, 421, 521	BE041U5R	1230
48, 49, 56, 57, 481, 561	BE048U5R	240
50, 500, 501	BE050U5R	100
53, 63	BE053U5R	370
54, 55, 551	BE054U5R	85
58, 59, 511, 581, 591	BE058U5R	210
60, 62, 64, 65, 70	BE060U5R	465
61	BE061U5R	100
66, 67	BE066U5R	45
68, 79, 80, 81, 681, 682, 791	BE068U5R	100
69, 84, 691	BE069U5R	65
71, 72, 73, 74, 711, 741	BE071U5R	455
75, 77, 78, 751, 771	BE075U5R	500
76	BE076U5R	10
82, 86, 861	BE082U5R	100
83, 85, 140, 851 except Bosque del Oso SWA	BE083U5R	120
201	BE201U5R	5
851 Bosque del Oso SWA only	BE851U5R	5
	TOTAL	7555

- C. Over the Counter with Caps Either-Sex Concurrent Rifle Season in Unit 61 Only, Dates, Units (as described in Chapter 0 of these regulations), Over the Counter as shown by hunt code, concurrent with the early either-sex elk season in Unit 61. Requires elk license EE061E1R to purchase.**

Unit	Season Dates:	Licenses (2016)
61	BE061U6R 10/01/2017-10/07/2017	30
TOTAL		30

- D. Over the Counter Plains Regular Rifle Season, Dates, Units (as described in Chapter 0 of these regulations), Over the Counter as shown by hunt code**

Unit	Season Dates:	Licenses (2016)
87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 135, 136, 137, 138, 139, 141, 142, 143, 144, 145, 146, 147, 951	BE087U6R 09/02/2017- 11/19/2017	Unlimited
TOTAL		Unlimited

- E. Over the Counter with Cap Private Land Only Rifle Season, Dates, Units (as described in Chapter 0 of these regulations), Over the Counter as shown by hunt code**

Unit	Season Dates:	Licenses (2016)
48, 49, 56, 57, 481, 561	BE048P5R 09/02/2017-11/19/2017	75
58, 581	BE058P5R 09/02/2017-11/19/2017	150
59, 511	BE059P5R 09/02/2017-11/19/2017	300
83, 85, 140, 851	BE083P1R 09/02/2017-09/30/2017	210
84 - That portion bounded on the north by Colo 96, Siloam Rd, Colo 78, Water Barrel Rd, and Burnt Mill Rd; on the east by I-25; on the south by Huerfano Co Rd 650 (Lascar Rd); and on the west by the San Isabel Forest boundary and Colo 165	BE084P5R 09/02/2017-11/19/2017	100
TOTAL		835

F. Private Land Only Seasons

- 1. Private Land Only Dates, Unit (as described in Chapter 0 of these regulations), and Licenses, Limited Licenses as shown by hunt code.**

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)
14	BE014P1R	09/02/2017	09/30/2017	20
15, 27	BE015P1R	09/02/2017	09/30/2017	15
15, 27	BE015P5R	10/01/2017	11/19/2017	15
18, 28, 181	BE018P1R	09/02/2017	09/30/2017	15
18, 28, 181	BE018P5R	10/01/2017	11/19/2017	15

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)
25, 26	BE025P1R	09/02/2017	09/30/2017	50
25, 26	BE025P5R	10/01/2017	11/19/2017	50
30	BE030P1R	09/02/2017	09/30/2017	40
30	BE030P5R	10/01/2017	11/19/2017	25
31, 32	BE031P1R	09/02/2017	09/30/2017	80
31, 32	BE031P5R	10/01/2017	11/19/2017	80
34	BE034P1R	09/02/2017	09/30/2017	10
34	BE034P5R	10/01/2017	11/19/2017	20
35, 36, 43, 44, 45, 47, 361, 444, 471	BE035P1R	09/02/2017	09/30/2017	130
35, 36, 43, 44, 45, 47, 361, 444, 471	BE035P5R	10/01/2017	11/19/2017	120
37, 371	BE037P1R	09/02/2017	09/30/2017	10
37, 371	BE037P5R	10/01/2017	11/19/2017	5
40	BE040P1R	09/02/2017	09/30/2017	110
41, 42, 421	BE041P1R	09/02/2017	09/30/2017	250
41, 42, 421	BE041P5R	10/01/2017	11/19/2017	250
60, 70	BE060P1R	09/02/2017	09/30/2017	90
60, 70	BE060P5R	10/01/2017	11/19/2017	60
61	BE061P1R	09/02/2017	09/30/2017	60
62, 64, 65	BE062P1R	09/02/2017	09/30/2017	120
62, 64, 65	BE062P5R	10/01/2017	11/19/2017	90
69, 84, 691	BE069P1R	09/02/2017	09/30/2017	145
71, 72, 73, 74, 711, 741	BE071P1R	09/02/2017	09/30/2017	55
75, 77, 78, 751, 771	BE075P1R	09/02/2017	09/30/2017	60
86, 861	BE086P1R	09/02/2017	09/30/2017	95
131	BE131P1R	09/02/2017	09/30/2017	25
			TOTAL	2110

#240 - VACANT

#241 - SPECIAL RESTRICTIONS

- A. No person shall hunt, take or harass a bear in its den.
- B. No cubs shall be killed nor shall any black bear accompanied by one (1) or more cubs be killed. As used herein a "cub" shall mean any black bear less than one (1) year of age.
- C. Inspection and Seal Required.
 1. Black bear taken by licensed hunters shall be personally presented to the Division or other official designated by the Division for inspection and sealing within 5 working days after the taking thereof. Bear heads and hides must be unfrozen when presented for inspection. If not unfrozen, the Division may retain heads and hides as necessary for thawing sufficient to extract a premolar tooth. No fee shall be required for the inspection and issuance of a legal possession seal, which shall remain attached to the hide until such hide is tanned.

2. Black bears shall not be transported, shipped or otherwise taken out of Colorado until the hide and skull are inspected and sealed by authorized personnel of the Division. Possession of any bear hide not having a seal attached within the 5 working days shall be unlawful and such hide shall become the property of the State.
 3. Inspection and sealing shall be arranged by contacting the Division Officer or the Division office.
 4. A mandatory check report shall be accurately completed by the hunter at the time of inspection.
 5. At the time of the mandatory check, the Division shall be authorized to extract and retain a premolar tooth.
- D. Individuals taking black bear under authority of §33-3-106(3) shall report the bear within five (5) days after the taking thereof as required by said statute and the carcass, hide and other parts of the bear shall remain the property of the state.

ARTICLE VI - MOUNTAIN LION

#242 - RIFLE AND ASSOCIATED METHODS MOUNTAIN LION SEASONS

A. General and Extended Seasons

1. Dogs may be used to hunt mountain lion. However, the pack size shall be limited to no more than eight (8) dogs.
2. The hunter that takes a mountain lion shall be present at the time and place that any dogs are released on the track of a mountain lion and must continuously participate in the hunt until it ends. After a mountain lion has been pursued, treed, cornered or held at bay, a properly licensed person shall take or release the mountain lion immediately. No person shall in any manner restrict or hinder the mountain lion's ability to escape for the purpose of allowing a person who was not present at the time and place that any dogs were released, to arrive and take the mountain lion.
3. Without regard to harvest limit quotas, unit boundaries or season dates, the Director or his designee may authorize the taking of any problem lion by any lawful means designated, including but not limited to methods permitted under Article XVIII, Section 12b, of the Colorado Constitution, when such lion are causing damage to livestock or property or are frequenting areas of incompatibility with other users as may be necessary to protect public health, safety and welfare. The taking of lion under this section shall be by licensed hunters, houndsmen, or trappers who shall be bound by all other statutes and regulations regarding the taking and possession of mountain lion.
4. The Director shall establish a statewide list of hunters, houndsmen, and trappers to take problem lions taking into consideration the ability to respond, skill, experience, location, and the ability of the hunters, houndsmen, or trappers who have applied to participate in removal operations; and, in selecting participants from that list for any particular removal operation shall further take into consideration the urgency dictated by the situation and the environment in which the removal will occur.
5. Hunt Type, Dates, Units (as described in Chapter 0 of these regulations), and Harvest Limit Quotas.

- a. Mountain Lion, Either-sex Season and Harvest Limit Quota – In Game Management Units, as follows, the day after the close of the final combined rifle season through March 31 annually:

Units	Lion Harvest Limit Quota
1, 2	5
3, 301	5
4 (north of Co Rd 27 and USFS 110), 5	8
4 (south of Co Rd 27 and USFS 110), 14, 214, 441	5
6, 16, 17, 161, 171	4
7	1
8	4
9	3
10	10
11	12
12	18
13 (west of Hayden Divide Road)	12
13 (east of Hayden Divide Road), 131, 231	5
15	5
18, 27, 28, 37, 181, 371	12
19	5
20	9
21	15
22	17
23	17
24	6
25, 26, 34	7
29	2
30	10
31	12
32	5
33	13
35, 36, 361	9
38	7
39, 391	7
40	7
41	5
42	10
43	7
44	6
45	1
46	6
47	1
48, 56, 481, 561	10
49, 57, 58, 581	24
50, 500, 501	10
51	7
52, 411	10
53, 63	10
54, 55, 551	7
59, 591	7
60	5
61	10

Units	Lion Harvest Limit Quota
62	9
64	5
65	5
66, 67	8
68, 681, 682	6
69, 84, 86, 691, 861	15*
70 east of Colo 141	10
70 west of Colo 141	6
71, 711	9
72	4
73	10
74, 741	6
75	4
76, 79, 791	5
77	6
78	5
80	5
81	4
82	6
83	10
85, 140, 851	24
87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 106, 107, 109, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 951	5
104, 105, 110	5
123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 135, 136, 137, 138, 139, 141, 142, 143, 144, 145, 146, 147	20
191	8
201	5
211	17
421	10
444	7
461	7
511	4
521	6
751, 771	5
TOTAL	654

* This reduction from 26 to 15 is contingent upon the Parks and Wildlife Commission approving the associated mountain lion research proposal to be submitted later in 2016. If the research is not approved the harvest limit quota will remain at 26 for the season ending March 31, 2017.

- b. Mountain Lion, Either-sex Season and Harvest Limit Quota – In Game Management Units, as follows, April 1 - April 30 annually:

Units	Lion Harvest Limit Quota
1, 2	2
7	1
8	3
9	1
10	5

Units	Lion Harvest Limit Quota
11	5
12	1
13 (west of Hayden Divide Road)	3
13 (east of Hayden Divide Road), 131, 231	3
19	2
20	6
21	2
23	1
24	1
29	2
30	1
31	5
32	2
33	4
38	4
39, 391	6
46	4
50, 500, 501	4
51	1
68, 681, 682	1
70 east of Colo 141	4
70 west of Colo 141	2
71, 711	1
72	3
73	4
81	1
87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 106, 107, 109, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 951	5
104, 105, 110	3
123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 135, 136, 137, 138, 139, 141, 142, 143, 144, 145, 146, 147	5
191	4
201	3
211	12
461	4
TOTAL	121

B. Licenses and GMU Harvest Limit Quota Status

1. A valid mountain lion license is required to hunt any mountain lion.
2. Except as provided in 33-3-106 C.R.S., it is unlawful for any person to purchase or obtain a mountain lion hunting license or hunt mountain lions unless the person obtains a mountain lion education certificate issued by the Division attesting to the person's successful completion of the Division's certified mountain lion education and identification course. Any person required to obtain such a certificate shall have the certificate on his or her person while hunting or taking mountain lion.
3. Prior to each hunting trip in any game management unit, but not earlier than 5:00 p.m. of the day before hunting, lion hunters must contact 1-888-940-LION (1-888-940-5466), or any Division office and determine which game management units have not reached the

unit harvest quota and are open to hunting. It shall be unlawful to hunt in a unit after it is closed.

C. Special Restrictions

1. Reporting and Sealing

- a. The taking of mountain lions by licensed hunters shall be reported to the Division within 48 hours after the taking thereof, and except as provided in these regulations, the lion shall be personally presented by the hunter for inspection and sealing within five (5) days after the taking thereof. Mountain lion heads and hides must be unfrozen when presented for inspection. If not unfrozen, the Division may retain heads and hides as necessary for thawing sufficient to extract a premolar tooth. A mandatory check report shall be accurately completed by the hunter at the time of inspection, which shall include certification that all information provided is accurate.
- b. At the time of the mandatory check, the Division shall be authorized to extract and retain a premolar tooth.

2. The legal possession seal when attached to the mountain lion skull or hide shall authorize possession, transportation, tanning or mounting thereof. No fee shall be required for the inspection and issuance of a legal possession seal which shall remain attached to the skull or hide until processed. Mountain lions shall not be transported, shipped or otherwise taken out of Colorado until the hide and skull are inspected and sealed.

3. All mountain lion taken or destroyed under Commission regulation #1702 or §33-3-106(3) C.R.S., as amended, shall remain the property of the state and shall be delivered to an officer of the Division within five (5) days. A report shall be given to an officer of the Division at the time of delivery which contains the following:

- 1) Name(s) of person(s) who killed the animal(s).
- 2) The county and the specific location of the kill.
- 3) The species and number of animals killed.
- 4) The reason for such action.

4. Lions With Kittens – No person shall kill a mountain lion accompanied by one or more kittens or kill a kitten.

5. “Kitten” shall mean a lion with spots.

ARTICLE VIII – DEER

#243-247 VACANT

#248 - ARCHERY DEER SEASONS – ONLY LAWFUL HAND HELD BOWS MAY BE USED TO HUNT OR TAKE DEER DURING THE FOLLOWING SEASONS:

A. Regular Seasons	Season Dates: 08/26/2017-09/24/2017 Unless Otherwise Shown	
Unit	Hunt Code	Licenses (2016)

		Antlered	Antlerless	Either Sex
1	DM001O1A	1		
2	DM002O1A	4		
3, 4, 5, 14, 214, 301, 441	DE003O1A			550
6, 16, 17, 161, 171	DM006O1A	100		
7, 8, 9, 19, 191	DE007O1A			750
10	DM010O1A	2		
11, 13, 22, 131, 211, 231 and private land portions of 12, 23, and 24	DE011O1A			250
12, 23 north of the White River, and 24 north of the North Fork of the White River	DE012O1A			100
15	DE015O1A			285
18, 27, 28, 37, 181, 371	DE018O1A			1160
20	DE020O1A			300
21, 30	DM021O1A	60		
23 south of the White River, and 24 south of the North Fork of the White River	DE023O1A			175
25, 26	DE025O1A			190
29	DE029O1A			150
31, 32	DE031O1A			200
33	DE033O1A			150
34	DE034O1A			125
35, 36, 45, 361	DE035O1A			380
38	DE038O1A			300
39, 46	DE039O1A			225
40	DM040O1A	80		
41, 42, 421	DE041O1A			325
43, 47, 471	DE043O1A			175
44	DE044O1A			65
48, 56, 481, 561	DE048O1A			160
49, 57, 58, 581	DE049O1A			360
50, 500, 501	DE050O1A			200
51	DE051O1A			115
52, 411, 521	DM052O1A	150		
53	DM053O1A	55		
54	DM054O1A	50		
55	DM055O1A	60		
59, 511, 591	DM059O1A	175		
60	DM060O1A	50		
61	DM061O1A	50		
62	DM062O1A	185		
63	DM063O1A	50		
64, 65	DM064O1A	120		
66	DM066O1A	40		
67	DM067O1A	40		
68, 681, 682	DM068O1A	80		
69, 84, 86, 691, 861	DE069O1A			360
70	DM070O1A	130		
71, 711	DM071O1A	120		
72, 73	DM072O1A	110		

A. Regular Seasons		Season Dates: 08/26/2017-09/24/2017 Unless Otherwise Shown		
Unit	Hunt Code	Licenses (2016)		
		Antlered	Antlerless	Either Sex
74	DM074O1A	110		
75, 751	DE075O1A			220
76	DM076O1A	20		
77, 78, 771	DE077O1A			245
79, 791	DM079O1A	10		
80, 81	DM080O1A	200		
82	DM082O1A	40		
85, 851 except Bosque del Oso SWA	DM085O1A	80		
140	DM140O1A	25		
201	DM201O1A	8		
391, 461	DE391O1A			100
444	DE444O1A			120
551	DM551O1A	25		
741	DE741O1A			60
851 Bosque del Oso SWA only	DM851O1A	5		
TOTALS		2235		7795

B. Late Seasons

1. Archery – Late Season, Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either Sex
87, 88, 89, 90, 95	DE087O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			75
91	DE091O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			60
92	DE092O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			60
93, 97, 98, 100	DE093O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			75
94, 951	DE094O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			150
96	DE096O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			90
99	DE099O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			50
101, 102	DE101O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			50

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either Sex
103	DE103O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			40
104, 105, 106	DE104O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			480
107	DE107O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			30
109	DE109O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			35
110, 111, 118, 119, 123, 124	DE110O2A	10/01/2017 11/08/2017	10/27/2017 12/31/2017			130
112, 113, 114, 115, 120, 121	DE112O2A	10/01/2017 11/08/2017	10/27/2017 12/31/2017			80
116, 117	DE116O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			50
122, 125, 126, 127, 130, 132, 137, 138, 139, 146	DE122O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			240
128, 133, 134, 135	DE128O2A	10/01/2017 11/08/2017	10/27/2017 12/31/2017			125
129	DE129O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			20
136, 141, 147	DE136O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			45
142	DE142O2A	10/01/2017 12/15/2017	11/30/2017 12/31/2017			25
143, 144, 145	DE143O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			40
TOTALS						1950

C. Private Land Only Deer Seasons

1. Archery - Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either Sex

Unit	Hunt Code	Date Open	Date	Licenses (2016)		
4, 13, 301 – Those portions not within Craig city limits in the following townships, ranges, and sections: <ul style="list-style-type: none"> • T6N R90W Sections 5, 6 • T6N R91W Sections 1, 2, 3 • T7N R90W Sections 29, 30, 31, 32 • T7N R91 W Sections 25, 26, 27, 34, 36 	DF004P5A	08/15/2017	09/30/2017		50	
4, 13, 301 – Those portions not within Craig city limits in the following townships, ranges, and sections: <ul style="list-style-type: none"> • T6N R90W Sections 5, 6 • T6N R91W Sections 1, 2, 3 • T7N R90W Sections 29, 30, 31, 32 • T7N R91 W Sections 25, 26, 27, 34, 36 	DM004P5A	08/15/2017	09/30/2017	5		
30 – that portion south of the Highline Canal and east of West Salt Creek	DE030P5A	08/26/2017	10/31/2017			10
30 – that portion south of the Highline Canal and east of West Salt Creek	DF030P5A	08/26/2017	12/31/2017		10	
41 - Those portions bounded on the north by the Colorado River; on the east by the Orchard Mesa Canal and 38 Rd; on the south by the #2 Orchard Mesa Canal; and on the west by the 28 Rd alignment.	DE041P5A	08/26/2017	12/31/2017			25
41 - Those portions bounded on the north by the Colorado River; on the east by the Orchard Mesa Canal and 38 Rd; on the south by the #2 Orchard Mesa Canal; and on the west by the 28 Rd alignment.	DF041P5A	08/26/2017	12/31/2017		10	
83	DM083P1A	08/26/2017	09/24/2017	7		
TOTALS				12	70	35

D. Whitetail Only Deer Seasons

1. Archery - Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either Sex
103	DF103O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017		10	
104, 105, 106	DE104O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			50
107	DE107O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			30
107	DF107O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017		20	
109	DE109O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			30
109	DF109O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017		20	
110, 111, 118, 119, 123, 124	DE110O4A	10/01/2017 11/08/2017	10/27/2017 12/31/2017			100
110, 111, 118, 119, 123, 124	DF110O4A	10/01/2017 11/08/2017	10/27/2017 12/31/2017		50	
112, 113, 114, 115, 120, 121	DE112O4A	10/01/2017 11/08/2017	10/27/2017 12/31/2017			80
112, 113, 114, 115, 120, 121	DF112O4A	10/01/2017 11/08/2017	10/27/2017 12/31/2017		50	
116, 117	DE116O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			60
116, 117	DF116O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017		30	
122, 125, 126, 127, 130, 132, 137, 138, 139, 146	DE122O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			120
122, 125, 126, 127, 130, 132, 137, 138, 139, 146	DF122O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017		100	
128, 133, 134, 135	DE128O4A	10/01/2017 11/08/2017	10/27/2017 12/31/2017			50
128, 133, 134, 135	DF128O4A	10/01/2017 11/08/2017	10/27/2017 12/31/2017		30	
129	DE129O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			20
129	DF129O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017		15	
136, 141, 147	DE136O3A	10/01/2017	10/27/2017			30

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either Sex
		11/08/2017 12/15/2017	11/30/2017 12/31/2017			
136, 141, 147	DF136O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017		10	
143, 144, 145	DE143O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			20
143, 144, 145	DF143O3A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017		30	
TOTALS					365	590

#249 - MUZZLE LOADING FIREARMS (RIFLE AND SMOOTHBORE MUSKET) DEER SEASON – ONLY LAWFUL MUZZLE-LOADING FIREARMS MAY BE USED TO HUNT OR TAKE DEER DURING THE FOLLOWING SEASONS:

A. Regular Seasons

1. Muzzle-loading, Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.			
		Season Dates: 09/09/2017 – 09/17/2017 Unless Otherwise Shown	
Unit	Hunt Code	Licenses (2016)	
		Antlered	Antlerless
1	DM001O1M	1	
2	DM002O1M	5	
3, 4, 5, 14, 214, 301, 441	DM003O1M	100	
3, 4, 5, 14, 214, 301, 441	DF003O1M		75
6, 16, 17, 161, 171	DM006O1M	50	
7, 8, 9, 19, 191	DM007O1M	500	
7, 8, 9, 19, 191	DF007O1M		150
10	DM010O1M	1	
11, 13, 22, 131, 211, 231 and private land portions of 12, 23, and 24	DM011O1M	150	
11, 13, 22, 131, 211, 231 and private land portions of 12, 23, and 24	DF011O1M		10
12, 23 north of the White River, and 24 north of the North Fork of the White River	DM012O1M	50	
12, 23 north of the White River, and 24 north of the North Fork of the White River	DF012O1M		10
15	DM015O1M	160	
15	DF015O1M		60
18, 27, 28, 37, 181, 371	DM018O1M	660	
18, 27, 28, 37, 181, 371	DF018O1M		460
20	DM020O1M	125	
20	DF020O1M		50
21, 30	DM021O1M	25	
23 south of the White River, and 24 south of the North Fork of the White	DM023O1M	75	

1. Muzzle-loading, Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.			
	Season Dates: 09/09/2017 – 09/17/2017 Unless Otherwise Shown		
Unit	Hunt Code	Licenses (2016)	
		Antlered	Antlerless
River			
23 south of the White River, and 24 south of the North Fork of the White River	DF023O1M		10
25, 26	DM025O1M	90	
25, 26	DF025O1M		50
29	DM029O1M	60	
29	DF029O1M		35
31, 32	DM031O1M	110	
33	DM033O1M	75	
33	DF033O1M		10
34	DM034O1M	90	
34	DF034O1M		50
35, 36, 45, 361	DM035O1M	280	
35, 36, 45, 361	DF035O1M		100
38	DM038O1M	150	
38	DF038O1M		50
39, 46	DM039O1M	90	
39, 46	DF039O1M		25
40	DM040O1M	35	
41, 42, 421	DM041O1M	250	
41, 42, 421	DF041O1M		10
43, 47, 471	DM043O1M	175	
43, 47, 471	DF043O1M		10
43, 47, 471 – Youth only	DF043K1M		10
44	DM044O1M	50	
44	DF044O1M		10
48, 56, 481, 561	DM048O1M	70	
48, 56, 481, 561	DF048O1M		25
49, 57, 58, 581	DM049O1M	150	
49, 57, 58, 581	DF049O1M		25
50, 500, 501	DM050O1M	110	
51	DM051O1M	35	
51	DF051O1M		15
52, 411, 521	DM052O1M	60	
53	DM053O1M	30	
54	DM054O1M	45	
55	DM055O1M	40	
59, 511, 591	DM059O1M	60	
59, 511, 591	DF059O1M		10
60	DM060O1M	10	
61	DM061O1M	15	
62	DM062O1M	30	
63	DM063O1M	25	
64, 65	DM064O1M	30	
66	DM066O1M	30	
67	DM067O1M	30	

1. Muzzle-loading, Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.			
		Season Dates: 09/09/2017 – 09/17/2017 Unless Otherwise Shown	
Unit	Hunt Code	Licenses (2016)	
		Antlered	Antlerless
68, 681, 682	DM068O1M	90	
69, 84, 86, 691, 861	DM069O1M	205	
69, 84, 86, 691, 861	DF069O1M		25
70	DM070O1M	80	
71, 711	DM071O1M	70	
72, 73	DM072O1M	90	
74	DM074O1M	105	
75, 751	DM075O1M	190	
75, 751	DF075O1M		10
76	DM076O1M	15	
77, 78, 771	DM077O1M	245	
77, 78, 771	DF077O1M		10
79, 791	DM079O1M	20	
80, 81	DM080O1M	135	
82	DM082O1M	50	
85, 851 except Bosque del Oso SWA	DM085O1M	20	
140	DM140O1M	5	
201	DM201O1M	8	
391, 461	DM391O1M	25	
391, 461	DF391O1M		10
444	DM444O1M	60	
444	DF444O1M		10
501	DF501O1M		25
551	DM551O1M	20	
741	DM741O1M	40	
741	DF741O1M		5
851 Bosque del Oso SWA only	DM851O1M	5	
TOTALS		5605	1355

B. Eastern Plains Season (East of I-25)

1. Muzzle-loading – Eastern Plains Season, Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.			
		Season Dates: 10/14/2017 – 10/22/2017 Unless Otherwise Shown	
Unit	Hunt Code	Licenses (2016)	
		Antlered	Antlerless
87, 88, 89, 90, 95	DM087O2M	40	
87, 88, 89, 90, 95	DF087O2M		40
91	DM091O2M	25	
91	DF091O2M		30
92	DM092O2M	25	
92	DF092O2M		25
93, 97, 98, 100	DM093O2M	25	
93, 97, 98, 100	DF093O2M		30

1. Muzzle-loading – Eastern Plains Season, Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.			
Unit	Season Dates: 10/14/2017 – 10/22/2017		
	Unless Otherwise Shown		
	Hunt Code	Licenses (2016)	
		Antlered	Antlerless
94	DM094O2M	10	
94	DF094O2M		15
96	DM096O2M	35	
96	DF096O2M		30
99	DM099O2M	25	
99	DF099O2M		30
101, 102	DM101O2M	20	
101, 102	DF101O2M		20
103	DM103O2M	10	
103	DF103O2M		15
104, 105, 106	DM104O2M	45	
104, 105, 106	DF104O2M		25
107, 112, 113, 114, 115, 120, 121	DM107O2M	75	
107, 112, 113, 114, 115, 120, 121	DF107O2M		30
109	DM109O2M	10	
109	DF109O2M		10
110, 111, 118, 119, 123, 124	DM110O2M	15	
110, 111, 118, 119, 123, 124	DF110O2M		15
116, 117	DM116O2M	10	
116, 117	DF116O2M		10
122, 125, 126, 127, 130, 132, 137, 138, 139, 146	DM122O2M	35	
122, 125, 126, 127, 130, 132, 137, 138, 139, 146	DF122O2M		30
128, 129, 133, 134, 135, 136, 141, 147	DM128O2M	25	
128, 129, 133, 134, 135, 136, 141, 147	DF128O2M		10
142	DM142O2M	15	
142	DF142O2M		10
143, 144, 145	DM143O2M	15	
143, 144, 145	DF143O2M		15
951	DM951O2M	15	
951	DF951O2M		15
TOTALS		475	405

C. Private Land Only Deer Seasons

1. Muzzle-loading – Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either Sex
83	DM083P1M	09/09/2017	09/17/2017	8		
TOTAL				8		

D. Whitetail Only Deer Seasons

1. Muzzle-loading - Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

Unit	Season Dates: 10/14/2017-10/22/2017 Antlerless		Season Dates: 10/14/2017 – 10/22/2017 Either-sex	
	Hunt Code	Licenses (2016)	Hunt Code	Licenses (2016)
104, 105, 106	DF104O3M	45	DE104O3M	15
107, 112, 113, 114, 115, 120, 121	DF107O3M	15	DE107O3M	80
109	DF109O3M	20	DE109O3M	35
110, 111, 118, 119, 123, 124	DF110O3M	45	DE110O3M	50
116, 117	DF116O3M	15	DE116O3M	20
122, 125, 126, 127, 130, 132, 137, 138, 139, 146	DF122O3M	10	DE122O3M	60
128, 129, 133, 134, 135, 136, 141, 147	DF128O3M	20	DE128O3M	10
143, 144, 145	DF143O3M	10	DE143O3M	20
TOTALS		180		290

#250 - RIFLE AND ASSOCIATED METHODS DEER SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED

A. Early Seasons

1. Early Rifle Season, Deer, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)	
				Antlered	Antlerless
That portion of GMU 6 above 10,000 feet elevation and GMU 7 within the Rawah Wilderness area	DM006E1R	09/02/2017	09/10/2017	10	
6	DM006E2R	09/25/2017	10/03/2017	25	
Those portions of GMUs 12, 24, 25, 26, and 231 within the Flat Tops Wilderness Area	DM012E1R	09/02/2017	09/10/2017	10	
Those portions of GMUs 14, 16, and 161 within the Mt. Zirkel Wilderness Area	DM014E1R	09/02/2017	09/10/2017	50	
16	DM016E1R	09/25/2017	10/03/2017	40	
17	DM017E1R	09/25/2017	10/03/2017	30	
That portion of GMU 36 within the Eagles Nest Wilderness Area.	DM036E1R	09/09/2017	09/17/2017	15	
That portion of GMU 43 within the	DM043E1R	09/09/2017	09/17/2017	30	

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)	
				Antlered	Antlerless
Maroon Bells-Snowmass Wilderness area					
Those portions of GMUs 44, 45, and 444 within the Holy Cross Wilderness Area	DM044E1R	09/09/2017	09/17/2017	15	
That portion of GMU 47 within the Hunter-Fryingpan Wilderness Area	DM047E1R	09/09/2017	09/17/2017	30	
Those portions of GMUs 48, 56, 481, 561 above timberline	DM048E1R	09/09/2017	09/17/2017	20	
That portion of GMU 65 above 11,000 feet elevation	DM065E1R	09/09/2017	09/17/2017	15	
That portion of GMU 74 above timberline	DM074E1R	09/02/2017	09/10/2017	20	
Those portions of GMUs 82, 86, and 861 above timberline	DM082E1R	09/02/2017	09/10/2017	30	
161	DM161E1R	09/25/2017	10/03/2017	35	
171	DM171E1R	09/25/2017	10/03/2017	25	
471	DM471E1R	09/09/2017	09/17/2017	25	
TOTAL				425	

B. Regular Rifle Deer Seasons

1. Combined over the counter white-tailed rifle deer seasons, Dates, Units (as described in Chapter 0 of these regulations).

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either Sex
48, 49, 56, 57, 58, 59, 69, 84, 85, 86, 140, 481, 511, 561, 581, 591, 691, 851 except Bosque del Oso SWA, 861 Available for purchase at CPW offices only	DE048U6R	12/01/2017	12/31/2017			Unlimited

C. Regular Rifle Deer Seasons

1. Combined rifle deer seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

Unit	2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown		3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown		4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown		FLOAT	Total (2016)
	Hunt Code	Licenses (2016)	Hunt Code	Licenses (2016)	Hunt Code	Licenses (2016)		

		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		
1	DM001O2R	11		DM001O3R	4						15
2	DM002O2R	15		DM002O3R	10						25
3, 301	DM003O2R	500		DM003O3R	650		DM003O4R	15			1165
3, 301	DF003O2R		100	DF003O3R		145					245
4, 14, 214, 441	DM004O2R	825		DM004O3R	300		DM004O4R	15			1140
4, 14, 214, 441	DF004O2R		200	DF004O3R		35					235
5	DM005O2R	100		DM005O3R	30		DM005O4R	10			140
5	DF005O2R		20	DF005O3R		10					30
6	DM006O2R	20		DM006O3R	20						40
6, 16, 17, 161, 171							DM006O4R	20			20
7, 8	DM007O2R			DM007O3R			DM007O4R	170		650	820
7, 8	DF007O2R		160	DF007O3R		100					260
9, 19, 191	DM009O2R			DM009O3R			DM009O4R	400		1150	1550
9, 19, 191	DF009O2R		250	DF009O3R		150					400
10	DM010O2R	20		DM010O3R	5						25
11, 211	DM011O2R	400		DM011O3R	350		DM011O4R	15			765
11, 211	DF011O2R		10	DF011O3R		10					20
12, 13, 23, 24	DM012O2R	725		DM012O3R	500		DM012O4R	15			1240
12, 13, 23, 24	DF012O2R		10	DF012O3R		10					20
15	DM015O2R	565		DM015O3R	370		DM015O4R	40			975
15	DF015O2R			DF015O3R						335	335
16	DM016O2R	25		DM016O3R	10						35
17	DM017O2R	15		DM017O3R	10						25
18, 28, 37, 371	DM018O2R	1900		DM018O3R	1485		DM018O4R	270			3655
18, 28, 37, 371	DF018O2R		925	DF018O3R		875					1800
20	DM020O2R			DM020O3R			DM020O4R	125		370	495
20	DF020O2R			DF020O3R			DF020O4R			70	70
21	DM021O2R	265		DM021O3R	60						325
22	DM022O2R	300		DM022O3R	275		DM022O4R	15			590
22	DF022O2R		10	DF022O3R		10					20
25, 26	DM025O2R	495		DM025O3R	330		DM025O4R	65			890
25, 26	DF025O2R			DF025O3R						275	275
27, 181	DM027O2R	560		DM027O3R	460		DM027O4R	90			1110
27, 181	DF027O2R		270	DF027O3R		255					525
29	DM029O2R	80		DM029O3R	80		DM029O4R	80			240
29	DF029O2R		25	DF029O3R		25	DF029O4R		25		75
30	DM030O2R	80		DM030O3R	45						125
30	DF030O2R		10	DF030O3R		10					20
31, 32	DM031O2R	250		DM031O3R	190						440

Unit	2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			FLOAT	Total (2016)
	Hunt Code	Licenses (2016)		Hunt Code	Licenses (2016)		Hunt Code	Licenses (2016)			
		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		
33	DM033O2R	500		DM033O3R	325		DM033O4R	15			840
34	DM034O2R	275		DM034O3R	190		DM034O4R	45			510
34	DF034O2R			DF034O3R						100	100
35, 36, 45, 361	DM035O2R	910		DM035O3R	620		DM035O4R	25			1555
35, 36, 45, 361	DF035O2R			DF035O3R						335	335
38	DM038O2R			DM038O3R			DM038O4R	160		300	460
38	DF038O2R			DF038O3R			DF038O4R			190	190
39, 46	DM039O2R			DM039O3R			DM039O4R	100		350	450
39, 46	DF039O2R		25	DF039O3R		25	DF039O4R		25		75
40	DM040O2R	135		DM040O3R	95						230
41, 42, 421	DM041O2R			DM041O3R						1800	1800
41, 42, 421	DF041O2R			DF041O3R						10	10
43, 47, 471	DM043O2R	280		DM043O3R	180		DM043O4R	20			480
43, 47, 471	DF043O2R			DF043O3R						10	10
43, 47, 471 - Youth Only	DF043K2R			DF043K3R						10	10
44	DM044O2R	65		DM044O3R	20		DM044O4R	20			105
44	DF044O2R		10	DF044O3R		10					20
48, 56, 481, 561	DM048O2R			DM048O3R						700	700
49, 57, 58, 581	DM049O2R			DM049O3R						1800	1800
49, 57	DF049O2R		10	DF049O3R		10					20
50, 500, 501	DM050O2R	275		DM050O3R	275						550
51	DM051O2R	75		DM051O3R	75		DM051O4R	50			200
52, 411, 521	DM052O2R	490		DM052O3R	160		DM052O4R	15			665
53	DM053O2R	140		DM053O3R	100		DM053O4R	10			250
54	DM054O2R	295		DM054O3R	70		DM054O4R	10			375
55	DM055O2R	210		DM055O3R	65		DM055O4R	15			290
55	DF055O2R		60	DF055O3R		60					120
58, 581	DF058O2R		10	DF058O3R		10					20
59, 511	DM059O2R			DM059O3R						250	250

Unit	2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Total (2016)	
	Hunt Code	Licenses (2016)		Hunt Code	Licenses (2016)		Hunt Code	Licenses (2016)			
		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		
60	DM060O2R	70		DM060O3R	70		DM060O4R	5			145
61	DM061O2R	115		DM061O3R	110						225
62	DM062O2R	390		DM062O3R	355						745
63	DM063O2R	105		DM063O3R	85		DM063O4R	10			200
64, 65	DM064O2R	340		DM064O3R	310		DM064O4R	15			665
66	DM066O2R	120		DM066O3R	50		DM066O4R	15			185
66	DF066O2R		70	DF066O3R		40					110
67	DM067O2R	120		DM067O3R	50		DM067O4R	15			185
67	DF067O2R		70	DF067O3R		40					110
68, 681, 682	DM068O2R	190		DM068O3R	170		DM068O4R	15			375
69, 84, 86, 691, 861	DM069O2R	405		DM069O3R	405						810
70	DM070O2R	400		DM070O3R	400		DM070O4R	40			840
71, 711	DM071O2R	330		DM071O3R	460		DM071O4R	40			830
72, 73	DM072O2R	270		DM072O3R	340		DM072O4R	50			660
74	DM074O2R			DM074O3R			DM074O4R	50		320	370
75, 751	DM075O2R	485		DM075O3R	400		DM075O4R	110			995
75, 751	DF075O2R			DF075O3R			DF075O4R			10	10
76	DM076O2R	25		DM076O3R	20						45
77, 78, 771	DM077O2R	835		DM077O3R	595		DM077O4R	145			1575
77, 78, 771	DF077O2R			DF077O3R			DF077O4R			10	10
79, 791	DM079O2R	75		DM079O3R	90		DM079O4R	10			175
80, 81	DM080O2R	255		DM080O3R	255		DM080O4R	35			545
82	DM082O2R	140		DM082O3R	100		DM082O4R	5			245
85, 851 except Bosque del Oso SWA	DM085O2R	310		DM085O3R	225						535
131, 231	DM131O2R	60		DM131O3R	30						90
140	DM140O2R	105		DM140O3R	60						165
161	DM161O2R	35		DM161O3R	15						50
171	DM171O2R	15		DM171O3R	15						30
201	DM201O2R	23		DM201O3R	14		DM201O4R	3			40
391, 461	DM391O2R			DM391O3R			DM391O4R	20		30	50
444	DM444O2R	240		DM444O3R	100		DM444O4R	30			370
444	DF444O2R		10	DF444O3R		10					20
501							DM501O4R	30			30

Unit	2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			FLOAT	Total (2016)
	Hunt Code	Licenses (2016)		Hunt Code	Licenses (2016)		Hunt Code	Licenses (2016)			
		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		
501	DF501O2R		60	DF501O3R		60					120
511							DM511O4R	15			15
511	DF511O2R			DF511O3R						10	10
551	DM551O2R	135		DM551O3R	40		DM551O4R	10			185
551	DF551O2R		40	DF551O3R		35					75
741	DM741O2R			DM741O3R			DM741O4R	20		200	220
851 Bosque del Oso SWA only	DM851O1R 10/14/2017- 10/18/2017	5		DM851O2R 10/21/2017- 10/29/2017	5						10
TOTALS		16399	2355		12128	1935		2518	50	9285	44670

2. Plains Regular Rifle, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.				
Unit	Season Dates 10/28/2017 – 11/07/2017 Unless Otherwise Shown			
	Hunt Code	Antlered Licenses (2016)	Hunt Code	Antlerless Licenses (2016)
87	DM087O1R	40	DF087O1R	65
88	DM088O1R	30	DF088O1R	65
89	DM089O1R	40	DF089O1R	50
90	DM090O1R	20	DF090O1R	30
91	DM091O1R	20	DF091O1R	60
92	DM092O1R	20	DF092O1R	50
93	DM093O1R	20	DF093O1R	25
94	DM094O1R	30	DF094O1R	40
95	DM095O1R	45	DF095O1R	60
96	DM096O1R	50	DF096O1R	60
97	DM097O1R	20	DF097O1R	15
98	DM098O1R	45	DF098O1R	55
99	DM099O1R	80	DF099O1R	100
100	DM100O1R	30	DF100O1R	30
101	DM101O1R	25	DF101O1R	30
102	DM102O1R	45	DF102O1R	75
103	DM103O1R	25	DF103O1R	80
104	DM104O1R	110	DF104O1R	55
105, 106	DM105O1R	360	DF105O1R	135
107	DM107O1R	75	DF107O1R	50

2. Plains Regular Rifle, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.				
Unit	Season Dates 10/28/2017 – 11/07/2017 Unless Otherwise Shown			
	Hunt Code	Antlered Licenses (2016)	Hunt Code	Antlerless Licenses (2016)
109	DM109O1R	40	DF109O1R	40
110	DM110O1R	60	DF110O1R	55
111	DM111O1R	25	DF111O1R	15
112	DM112O1R	30	DF112O1R	30
113	DM113O1R	20	DF113O1R	20
114, 115	DM114O1R	65	DF114O1R	70
116	DM116O1R	20	DF116O1R	20
117	DM117O1R	20	DF117O1R	20
118, 123	DM118O1R	70	DF118O1R	20
119	DM119O1R	45	DF119O1R	20
120, 121	DM120O1R	50	DF120O1R	60
122	DM122O1R	25	DF122O1R	50
124	DM124O1R	50	DF124O1R	35
125	DM125O1R	15	DF125O1R	20
126	DM126O1R	30	DF126O1R	40
127	DM127O1R	35	DF127O1R	40
128, 129	DM128O1R	90	DF128O1R	50
130	DM130O1R	20	DF130O1R	20
132	DM132O1R	30	DF132O1R	25
133	DM133O1R	20	DF133O1R	10
134	DM134O1R	30	DF134O1R	15
135	DM135O1R	30	DF135O1R	25
136, 147	DM136O1R	85	DF136O1R	10
137	DM137O1R	20	DF137O1R	10
138, 146	DM138O1R	20	DF138O1R	20
139	DM139O1R	25	DF139O1R	20
141	DM141O1R	15	DF141O1R	20
143, 144, 145	DM143O1R	50	DF143O1R	15
951	DM951O1R	60	DF951O1R	35
TOTALS		2225		1960

3. Regular Plains Whitetail Only Season, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses				
Unit	Season Dates: 10/28/2017 – 11/07/2017 Antlerless		Season Dates: 10/28/2017 – 11/07/2017 Either-sex	
	Hunt Code	Licenses (2016)	Hunt Code	Licenses (2016)
104	DF104O2R	50	DE104O2R	5
105, 106	DF105O2R	60	DE105O2R	30
107, 112, 113, 114, 115, 120, 121	DF107O2R	70	DE107O2R	70
109	DF109O2R	50	DE109O2R	50

110, 111, 118, 119, 123, 124	DF110O2R	30	DE110O2R	35
116, 117	DF116O2R	25	DE116O2R	30
122, 126, 127	DF122O2R	40	DE122O2R	55
125, 130	DF125O2R	30	DE125O2R	25
128, 129, 133, 134, 135, 136, 141, 147	DF128O2R		DE128O2R	65
132, 139	DF132O2R	20	DE132O2R	30
137, 138, 146	DF137O2R	10	DE137O2R	10
143, 144, 145	DF143O2R	15	DE143O2R	30
TOTALS		400		435

D. Late Deer Seasons

1. Late Regular Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Licenses.

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either-sex
38 Jefferson County portion only	DF038L1R	12/01/2017	01/31/2018		200	
38 Jefferson County portion only	DE038L1R	12/01/2017	01/31/2018			200
56 That portion bounded on the north and east by Colo 291; on the south by US 50; and on the west by Colo 285	DF056L1R	09/01/2017	10/31/2017		70	

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either-sex
104 – Those portions bounded on the north by the Arapahoe/ Douglas/ Elbert County lines; on the east by CR 29, CR 33, Colo 86, CR 17/21, CR 15/21; on the south by CR 86/Steele Ave, E. Cherry Creek Rd and E. Jones Rd,; and on the west by Colo 83	DF104L3R	10/01/2017	12/31/2017		500	
211 That portion bounded on the north and east by Moffat Co Rd 17; on the south by Moffat Co Rd 32, and on the west by Moffat Co Rd 55	DF211L1R	12/01/2017	12/31/2017		5	

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either-sex
481 – That portion bounded on the north by Chaffee Co Rds 384A and 384; on the east by the Arkansas River; on the south by Chaffee Co Rds 306, 337, Gregg Drive, Chaffee Co Rd 319 and US 24; and on the west by Chaffee Co Rd 361	DF481L1R	09/01/2017	10/31/2017		70	
512	DM512L1R	12/01/2017	12/31/2017	15		
512	DF512L1R	12/01/2017	12/31/2017		15	
591	DM591L1R	10/01/2017	01/31/2018	50		
591	DF591L1R	10/01/2017	01/31/2018		25	
TOTALS				65	885	200

2. Late Plains Season, Dates (unless otherwise shown), Units (as described in Chapter 0 of these regulations), Limited Licenses.				
Unit	Season Dates: 12/01/2017 – 12/14/2017 Antlered		Season Dates: 12/01/2017 – 12/14/2017 Antlerless	
	Hunt Code	Licenses (2016)	Hunt Code	Licenses (2016)
87	DM087L1R	40	DF087L1R	
88	DM088L1R	35	DF088L1R	
89	DM089L1R	50	DF089L1R	50
90	DM090L1R	25	DF090L1R	30
91	DM091L1R	25	DF091L1R	60
92	DM092L1R	25	DF092L1R	50
93	DM093L1R	25	DF093L1R	25
94	DM094L1R	40	DF094L1R	35
95	DM095L1R	55	DF095L1R	60
96	DM096L1R	60	DF096L1R	60
97	DM097L1R	25	DF097L1R	15
98	DM098L1R	50	DF098L1R	55
99	DM099L1R	90	DF099L1R	100
100	DM100L1R	40	DF100L1R	30

2. Late Plains Season, Dates (unless otherwise shown), Units (as described in Chapter 0 of these regulations), Limited Licenses.				
Unit	Season Dates: 12/01/2017 – 12/14/2017 Antlered		Season Dates: 12/01/2017 – 12/14/2017 Antlerless	
	Hunt Code	Licenses (2016)	Hunt Code	Licenses (2016)
101	DM101L1R	30	DF101L1R	30
102	DM102L1R	55	DF102L1R	75
103	DM103L1R	10	DF103L1R	40
104	DM104L1R	60	DF104L1R	90
105, 106	DM105L1R	80	DF105L1R	105
107	DM107L1R	40	DF107L1R	25
109	DM109L1R	30	DF109L1R	20
116	DM116L1R	15	DF116L1R	10
117	DM117L1R	20	DF117L1R	15
122	DM122L1R	10	DF122L1R	30
125	DM125L1R	10	DF125L1R	10
126	DM126L1R	20	DF126L1R	30
127	DM127L1R	20	DF127L1R	40
129	DM129L1R	10	DF129L1R	10
130	DM130L1R	15	DF130L1R	15
132	DM132L1R	10	DF132L1R	25
136, 147	DM136L1R	15		
136			DF136L1R	10
137	DM137L1R	10	DF137L1R	10
138, 146	DM138L1R	20	DF138L1R	15
139	DM139L1R	10	DF139L1R	15
141	DM141L1R	10	DF141L1R	10
142	DM142L1R	20	DF142L1R	20
143	DM143L1R	20	DF143L1R	10
144	DM144L1R	20	DF144L1R	10
145	DM145L1R	20	DF145L1R	10
147			DF147L1R	10
951	DM951L1R	75	DF951L1R	50
TOTALS		1240		1310

3. Late Plains Whitetail Only Season, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses				
Unit	Season Dates: 12/01/2017 – 12/14/2017 Antlerless		Season Dates: 12/01/2017 – 12/14/2017 Either-sex	
	Hunt Code	Licenses (2016)	Hunt Code	Licenses (2016)
103 and the portion of 109 bounded on the west by Kit Carson CR 40 and Yuma CR V.	DF103L2R 01/01/2018- 01/15/2018	100		
104	DF104L2R	45	DE104L2R	10
105, 106	DF105L2R	60	DE105L2R	30

107	DF107L2R	40	DE107L2R	55
109	DF109L2R	30	DE109L2R	40
116, 117	DF116L2R	15	DE116L2R	25
122, 126, 127	DF122L2R	50	DE122L2R	25
125, 130	DF125L2R	30	DE125L2R	25
129	DF129L2R	25	DE129L2R	10
132, 139	DF132L2R	20	DE132L2R	20
136, 141, 147	DF136L2R	10	DE136L2R	10
137, 138, 146	DF137L2R	10	DE137L2R	15
143, 144, 145	DF143L2R	25	DE143L2R	25
TOTALS		460		290

4. Season-Choice Whitetail Only Deer Seasons, Dates, Units (as described in Chapter 0 of these regulations). Licenses are valid during Archery, Muzzleloader, Regular Rifle and Late Rifle seasons until filled, License holders must comply with all applicable season restrictions, including but not limited to, applicable season dates and manner of take restrictions.									
		Archery		Muzzleloader		Rifle		Licenses (2016)	
Unit	Hunt Code	Date Open	Date Closed	Date Open	Date Closed	Date Open	Date Closed	Antlerless	Either Sex
89, 90, 95	DE089S2R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017	11/07/2017 12/14/2017		150
89, 90, 95	DF089S2R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017	11/07/2017 12/14/2017	150	
93, 97, 98, 99, 100	DE093S2R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017	11/07/2017 12/14/2017		150
93, 97, 98, 99, 100	DF093S2R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017	11/07/2017 12/14/2017	150	
101, 102	DE101S2R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017	11/07/2017 12/14/2017		120
101, 102	DF101S2R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017	11/07/2017 12/14/2017	120	
TOTALS								420	420

E. Private-Land-Only Deer Seasons

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.															
a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.															
b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.															
Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Eithe r Sex				Ant lered	Antle r-less	
3, 4, 5, 14, 214, 301, 441	DE003P2R			DE003P3R											1000
			500			500									
9											DF009P5R	09/01/2017- 11/30/2017		75	75
11, 12, 13, 22, 23, 24, 211	DE011P2R			DE011P3R											625
			275			350									
15	DE015P2R			DE015P3R						140					140
18, 27, 28, 37, 181, 371	DE018P2R			DE018P3R						350					350
20											DM020P5R	10/21/2017 -11/30/2017	575		575

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Eithe r Sex				Ant lered	Antle r-less	
20											DF020P5R	09/01/2017- 11/30/2017		575	575
25, 26	DE025P2R			DE025P3R						100					100
29											DM029P5R	10/21/2017 -11/30/2017	250		250
29											DF029P5R	09/01/2017- 11/30/2017		300	300
31, 32	DM031P2R			DM031P3R						60					60
33	DM033P2R			DM033P3R						40					40
33											DF033P5R	12/01/2017- 01/31/2018		25	25
33 - Those portio ns bound ed on the north by Co Rd 226 and Co											DF033P6R	08/15/2017- 01/31/2018		200	200

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler -less	Eithe r Sex				Ant lered	Antle r-less	
Rd 245 ; on the east by Elk Creek ; on the south by the Color ado River ; and on the west by Colo 13 and Colo 325															
34	DE034P2R			DE034P3R						35					35
35, 36, 45.	DE035P2R			DE035P3R						100					100

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Eithe r Sex				Ant lered	Antle r-less	
361															
38											DM038P5R	10/21/2017- 11/30/2017		275	275
38											DF038P5R	09/01/2017- 11/30/2017		400	400
39, 46											DF039P5R	09/01/2017- 11/30/2017		55	55
40	DM040P2R			DM040P3R											50
	25			25											
41, 42, 421	DM041P2R			DM041P3R											280
	110			170											
43, 47, 471	DE043P2R			DE043P3R						50					50
44	DE044P2R			DE044P3R											20
			10			10									
49, 57	DF049P2R			DF049P3R											100
		50			50										
51											DM051P5R	10/21/2017- 11/19/2017	75		75
51											DF051P5R	09/01/2017- 11/30/2017		75	75
52, 411, 521	DM052P2R			DM052P3R						70					70

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler -less	Eithe r Sex				Ant lered	Antle r-less	
52											DF052P5R	09/01/2017- 10/31/2017		75	75
53	DM053P2R			DM053P3R						45					45
53											DF053P5R	09/01/2017- 10/31/2017		40	40
56	DF056P2R			DF056P3R											50
		25			25										
60	DM060P2R			DM060P3R											20
	10			10											
60	DF060P2R			DF060P3R											10
		5			5										
62	DM062P2R			DM062P3R											55
	30			25											
62	DF062P2R			DF062P3R											85
		55			30										
63	DM063P2R			DM063P3R						75					75
63											DF063P5R	09/01/2017- 10/31/2017		50	50
64, 65	DM064P2R			DM064P3R											105
	55			50											
69, 84, 86, 691,	DM069P2R			DM069P3R											900
	450			450											

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler -less	Eithe r Sex				Ant lered	Antle r-less	
861															
69, 84, 86, 691, 861	DF069P2R			DF069P3R											100
		50			50										
70	DM070P2R			DM070P3R						265					265
70	DF070P2R			DF070P3R											40
		20			20										
71, 711	DM071P2R			DM071P3R											70
	45			25											
72, 73 south of Colo 184 and US 160											DF072P5R	09/01/2017- 09/30/2017		50	50
72, 73	DM072P2R			DM072P3R											105
	45			60											
74	DM074P2R			DM074P3R						20					20
75, 751	DM075P2R			DM075P3R			DM075P4R			90					140
							50								

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler -less	Eithe r Sex				Ant lered	Antle r-less	
75, 751	DF075P2R			DF075P3R			DF075P4R			30					30
75 and 751- S of US 160 Only											DF075P5R	12/01/2017- 01/15/2018		150	150
77, 78, 771	DM077P2R			DM077P3R			DM077P4R			85					115
77, 78, 771											DF077P5R	12/01/2017- 01/15/2018		75	75
79											DF079P5R	09/01/2017- 12/31/2017		50	50
83	DM083P2R			DM083P3R			DM083P4R								65

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler -less	Eithe r Sex				Ant lered	Antle r-less	
85 - Those portio ns bound ed on the north by Colo 160; on the east by Co Rd 350 and Waha toya Creek ; on the south by Co Rd 362, 360											DF085P5R	09/01/2017- 12/31/2017		55	55

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Eithe r Sex				Ant lered	Antle r-less	
and the fencel ine on the south side of LaVet a Town Lakes and golf cours e from the inters ection of Co Rds 360 and 361 to Colo 12.															

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler -less	Eithe r Sex				Ant lered	Antle r-less	
and Co Rd 420; and on the east by Colo 12, and Co Rds 430, 440 and 451.															
91											DM091P5R	12/01/2017- 12/14/2017	35		35
92											DM092P5R	12/01/2017- 12/14/2017	30		30
96											DM096P5R	12/01/2017- 12/14/2017	65		65
103											DM103P5R	12/01/2017- 12/14/2017	30		30
103											DF103P5R	12/01/2017- 12/14/2017		80	80

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Eithe r Sex				Ant lered	Antle r-less	
131, 231	DE131P2R			DE131P3R											55
			35			20									
143, 144, 145											DM143P1R	10/28/2017- 11/07/2017	80		80
143, 144, 145											DF143P1R	10/28/2017- 11/07/2017		25	25
391, 461											DM391P5R	10/21/2017- 11/19/2017	500		500
391, 461											DF391P5R	09/01/2017- 11/30/2017		200	200
411											DF411P5R	09/01/2017- 10/31/2017		40	40
444	DE444P2R			DE444P3R											150
			100			50									
481	DF481P2R			DF481P3R											60
		30			30										
511	DF511P2R			DF511P3R						30					30
511							DM511P4R								20
							20								
741	DM741P2R			DM741P3R			DM741P4R			200					230
							30								
741	DF741P2R			DF741P3R			DF741P4R			100					100

1. Private Land Only, Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates: 10/21/2017 – 10/29/2017			Season Dates: 11/04/2017 – 11/12/2017			Season Dates: 11/15/2017 – 11/19/2017			Float (2016)	Hunt Code	Season Dates	Licenses (2016)		Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)								
	Hunt Code			Hunt Code			Hunt Code								
	Ant lered	Antler- less	Either Sex	Ant lered	Antler- less	Either Sex	Ant lered	Antler -less	Eithe r Sex				Ant lered	Antle r-less	
791											DF791P5R	09/01/2017- 12/31/2017		25	25
TOTAL S	800	235	920	845	210	930	135	0	0	1885			1640	2915	10515

- 2. Season-Choice Private Land Only Seasons, Dates, Units (as described in Chapter 0 of these regulations).** Licenses are valid during Archery, Muzzleloader, Regular Rifle and Late Rifle seasons until filled, License holders must comply with all applicable season restrictions, including but not limited to, applicable season dates and manner of take restrictions.

Unit	Hunt Code	Archery		Muzzleloader		Rifle		Licenses (2016) Antlerless
		Date Open	Date Closed	Date Open	Date Closed	Date Open	Date Closed	
91	DF091S3R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017 01/01/2018	11/07/2017 12/14/2017 01/31/2018	120
92	DF092S3R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017 01/01/2018	11/07/2017 12/14/2017 01/31/2018	120
96	DF096S3R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017 01/01/2018	11/07/2017 12/14/2017 01/31/2018	35
96 - East of Hwy 71	DF096S5R	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017	10/14/2017	10/22/2017	10/28/2017 12/01/2017 01/01/2018	11/07/2017 12/14/2017 01/31/2018	180
TOTAL								455

#251-#253 - VACANT

ARTICLE IX - ELK

#254 - ANTLER POINT RESTRICTIONS BY UNIT - ELK

- A. All antlered elk taken in the following game management units during any established season, including archery, muzzle-loading rifle or rifle seasons, shall have four (4) or more points or a brow tine on one antler: GMU's 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 47, 52, 53, 54, 55, 59, 60, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 85, 86, 131, 140, 161, 171, 181, 191, 211, 214, 231, 301, 361, 371, 411, 421, 441, 444, 471, 511, 521, 551, 581, 681, 691, 711, 741, 751, 771, 851, and 861.
- B. There are no antler point restrictions for elk taken during any established season, including archery, muzzle-loading rifle or rifle seasons, in the following game management units: 1, 2, 10, 20, 29, 39, 40, 46, 48, 49, 50, 51, 56, 57, 58, 61, 69, 76, 84, 201, 391, 461, 481, 500, 501, 561, 591, 682, 791, or in any unit east of I-25 except 140.
- C. There are no antler point restrictions for elk on Wildlife Ranching properties during Wildlife Ranching seasons.

#255 - ARCHERY ELK SEASONS - ONLY LAWFUL HAND HELD BOWS MAY BE USED TO HUNT OR TAKE ELK DURING THE FOLLOWING SEASONS:

- A. **Early Seasons** - None

B. Regular Archery Elk Seasons

1. Archery Season Dates, Units (as described in Chapter 0 of these regulations), Limited or Unlimited License as shown by hunt code

Unit(s)	Season Dates: 08/26/2017 – 09/24/2017 Unless Otherwise Shown				
	Hunt Code	License Numbers (2016)			
		Antlered	Antler-less	Limited Either Sex	Unlimited Either Sex
3, 6, 11, 13, 14, 15, 16, 17, 18, 21, 22, 25, 26, 27, 28, 30, 31, 32, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 47, 52, 53, 59, 60, 62, 63, 64, 65, 68, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 161, 171, 181, 211, 214, 231, 301, 361, 371, 411, 421, 444, 471, 511, 521, 581, 591, 681, 691, 711, 741, 751, 771, 851 except Bosque del Oso SWA, 861, 951, private land portions of 4, 5, 12, 23, 24, 33, and 441	EE000U1A				Unlimited
3, 6, 11, 13, 14, 15, 16, 17, 18, 21, 22, 25, 26, 27, 28, 30, 31, 32, 34, 35, 36, 37, 41, 42, 43, 44, 45, 47, 52, 82, 83, 85, 86, 131, 133, 134, 140, 141, 142, 161, 171, 181, 211, 214, 231, 301, 361, 371, 411, 421, 444, 471, 521, 682, 691, 791, 851 except Bosque del Oso SWA, 861, private land portions of 4, 5, 12, 23, 24, 33, and 441	EF000U1A		Unlimited		
1	EE001O1A			2	
2	EE002O1A			10	
Public and private lands in 4, 5, 441	EE004O1A			450	
7, 8, 9, 19, 191	EE007O1A			1050	
10	EE010O1A			15	
12, 23 north of the White River, and 24 north of the North Fork of the White River	EE012O1A			630	
20	EM020O1A	5			
20	EF020O1A		15		
20 excluding the area around the town of Estes Park bounded by Rocky Mountain National Park on the north and west and by the boundary of Roosevelt National Forest on the north, east and south	EE020O1A			105	
29	EE029O1A			30	
33, 23 south of the White River, and 24 south of the North Fork of the White River	EE033O1A			1050	
39	EE039O1A			90	

Unit(s)	Season Dates: 08/26/2017 – 09/24/2017 Unless Otherwise Shown				
	Hunt Code	License Numbers (2016)			
		Antlered	Antlerless	Limited Either Sex	Unlimited Either Sex
40	EE040O1A			85	
46	EE046O1A			60	
48	EE048O1A			100	
49	EE049O1A			170	
50	EE050O1A			125	
51	EE051O1A			100	
54	EE054O1A			350	
55	EE055O1A			665	
56	EE056O1A			100	
57, 58	EE057O1A			180	
61	EE061O1A			90	
66	EE066O1A			170	
67	EE067O1A			65	
69, 84	EE069O1A			180	
76	EE076O1A			160	
104	EE104O1A			25	
201	EE201O1A			10	
391	EE391O1A			50	
461	EE461O1A			55	
481	EE481O1A			100	
500	EE500O1A			135	
501	EE501O1A			85	
551	EE551O1A			230	
561	EE561O1A			70	
851 Bosque del Oso SWA only	EE851O1A			8	
TOTALS		5	15	6800	

#256 - MUZZLE LOADING FIREARMS (RIFLE AND SMOOTHBORE MUSKET) ELK SEASON - ONLY LAWFUL MUZZLE-LOADING FIREARMS MAY BE USED TO HUNT OR TAKE ELK DURING THE FOLLOWING SEASONS:

A. Regular Muzzle-loading Elk Seasons

1. Muzzle-loading Season Dates, Units (as described in Chapter 0 of these regulations), Limited License Types and Numbers

Unit	Season Dates 09/09/2017 – 09/17/2017 Unless Otherwise Shown			
	Hunt Code	Licenses (2016)		
		Antlered	Antlerless	Limited Either Sex
1	EM001O1M	4		
1	EF001O1M		5	
2	EM002O1M	10		
2	EF002O1M		5	
3, 301	EE003O1M			10
3, 301	EF003O1M		10	

Unit	Season Dates 09/09/2017 – 09/17/2017 Unless Otherwise Shown			
	Hunt Code	Licenses (2016)		
		Antlered	Antlerless	Limited Either Sex
4, 5, and 441	EE004O1M			100
4, 5, and 441	EF004O1M		110	
6, 16, 17, 161, 171	EE006O1M			300
6, 16, 17, 161, 171	EF006O1M		250	
7, 8, 9, 19, 191	EM007O1M	350		
7, 8, 9, 19, 191	EF007O1M		375	
10	EM010O1M	5		
10	EF010O1M		5	
11, 13, 131, 211	EE011O1M			100
11, 13, 131, 211	EF011O1M		100	
12, 23 north of the White River, and 24 north of the North Fork of the White River	EE012O1M			100
12, 23 north of the White River, and 24 north of the North Fork of the White River	EF012O1M		100	
14, 214	EE014O1M			275
14, 214	EF014O1M		75	
15, 27	EE015O1M			300
15, 27	EF015O1M		100	
18, 181	EE018O1M			385
18, 181	EF018O1M		180	
20	EM020O1M	35		
20	EF020O1M		20	
21, 22, 30, 31, 32	EE021O1M			175
21, 22, 30, 31, 32	EF021O1M		150	
25, 26, 34, 231	EE025O1M			175
25, 26, 34, 231	EF025O1M		175	
28, 37, 371	EE028O1M			440
28, 37, 371	EF028O1M		165	
29	EM029O1M	30		
29	EF029O1M		30	
33, 23 south of the White River, and 24 south of the North Fork of the White River	EE033O1M			100
33, 23 south of the White River, and 24 south of the North Fork of the White River	EF033O1M		100	
35, 36, 361	EM035O1M	165		
35, 36, 361	EF035O1M		190	
38	EM038O1M	30		
38	EF038O1M		50	
39	EM039O1M	70		
39	EF039O1M		45	
40	EE040O1M			45
40	EF040O1M		30	
41, 42, 52, 411, 421, 521	EM041O1M	600		

Unit	Season Dates 09/09/2017 – 09/17/2017 Unless Otherwise Shown			
	Hunt Code	Licenses (2016)		
		Antlered	Antlerless	Limited Either Sex
41, 42, 52, 411, 421, 521	EF041O1M		880	
43, 471	EM043O1M	150		
43, 471	EF043O1M		40	
44, 45, 47, 444	EM044O1M	350		
44, 45, 47, 444	EF044O1M		125	
46	EM046O1M	30		
46	EF046O1M		15	
48	EM048O1M	35		
48	EF048O1M		30	
49	EM049O1M	70		
49	EF049O1M		60	
50	EM050O1M	35		
50	EF050O1M		40	
51	EM051O1M	30		
51	EF051O1M		40	
53	EM053O1M	85		
53	EF053O1M		100	
54	EM054O1M	70		
54	EF054O1M		70	
55	EM055O1M	115		
55	EF055O1M		190	
56	EM056O1M	35		
56	EF056O1M		30	
57, 58	EM057O1M	100		
57, 58	EF057O1M		80	
59, 511, 581, 591	EM059O1M			
59, 511, 581, 591	EF059O1M		120	
60	EM060O1M	15		
60	EF060O1M		15	
61	EM061O1M	45		
61	EF061O1M		45	
62	EM062O1M	115		
62	EF062O1M		75	
63	EM063O1M	35		
63	EF063O1M		55	
64, 65	EM064O1M	110		
64, 65	EF064O1M		120	
66	EM066O1M	35		
66	EF066O1M		40	
67	EM067O1M	35		
67	EF067O1M		40	
68, 681	EM068O1M	85		
68, 681	EF068O1M		135	
69, 84	EM069O1M	65		
69, 84	EF069O1M		40	
70	EE070O1M			175
70	EF070O1M		145	

Unit	Season Dates 09/09/2017 – 09/17/2017 Unless Otherwise Shown			
	Hunt Code	Licenses (2016)		
		Antlered	Antlerless	Limited Either Sex
71, 72, 73, 711	EE071O1M			220
71, 72, 73, 711	EF071O1M		185	
74, 741	EE074O1M			100
74, 741	EF074O1M		25	
75, 751	EE075O1M			100
75, 751	EF075O1M		50	
76	EM076O1M	70		
76	EF076O1M		15	
77, 78, 771	EE077O1M			150
77, 78, 771	EF077O1M		60	
79	EM079O1M	15		
79	EF079O1M		25	
80, 81	EM080O1M	115		
80, 81	EF080O1M		175	
82	EE082O1M			75
82	EF082O1M		30	
85, 140, 851 Except Bosque del Oso SWA	EE085O1M			130
85, 140, 851 Except Bosque del Oso SWA	EF085O1M		130	
86, 691, 861	EE086O1M			90
86, 691, 861	EF086O1M		80	
104	EM104O1M	25		
104	EF104O1M		30	
128	EE128O1M			25
133, 134, 141, 142	EE133O1M			10
133, 134, 141, 142	EF133O1M		10	
201	EM201O1M	10		
201	EF201O1M		5	
391	EM391O1M	40		
391	EF391O1M		40	
461	EM461O1M	20		
461	EF461O1M		25	
481	EM481O1M	35		
481	EF481O1M		30	
500	EM500O1M	50		
500	EF500O1M		65	
501	EM501O1M	35		
501	EF501O1M		40	
551	EM551O1M	45		
551	EF551O1M		90	
561	EM561O1M	35		
561	EF561O1M		20	
682, 791	EF682O1M		10	
851 Bosque del Oso SWA only	EM851O1M	5		
851 Bosque del Oso SWA only	EF851O1M		5	
Limited License Totals		3444	5945	3680

B. Private Land Only Muzzle-loading Elk Seasons			
1. Muzzle-loading Season Dates, Units (as described in Section #020 of these regulations), Limited License Types and Numbers			
Unit	Hunt Code	Season Dates 09/09/2017 – 09/17/2017 Unless Otherwise Shown	
		Licenses (2016)	
		Antlerless	Either Sex
4, 5, 441	EE004P1M		50
4, 5, 441	EF004P1M	50	
12, 13, 23, 24, 33	EE012P1M		50
12, 13, 23, 24, 33	EF012P1M	100	
83	EE083P1M		45
83	EF083P1M	10	
TOTALS		160	145

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

A. Early Rifle Elk Seasons

1. Early Season Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either Sex
1	EE001E1R	10/01/2017	10/11/2017			11
2	EE002E1R	10/01/2017	10/11/2017			32
2, 3, 11 - Those portions bounded on the north by Moffat Co Rd 4; on the east by Moffat Co Rd 7, Moffat Co Rd 21, Moffat Co Rd 19 and Yampa River; on the south by US 40; and on the west by Twelve Mile Gulch, Yampa River, Little Snake River, Moffat Co Rd 75 and Moffat Co Rd 66	EF003E1R	08/15/2017	10/31/2017		25	
10	EE010E1R	10/01/2017	10/11/2017			32
45	EF045E1R	09/15/2017	09/30/2017		40	
61	EE061E1R	10/01/2017	10/07/2017			30
76	EM076E1R	10/01/2017	10/07/2017	20		
201	EE201E1R	10/01/2017	10/11/2017			28

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)		
				Antlered	Antlerless	Either Sex
TOTALS				20	65	133

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.						
Unit(s)	1st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown	2nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown	3rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown	4th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown	Float Total (2016)	Total Licenses (2016), unless otherwise shown
	License #s (2016)	License #s (2016)	License #s (2016)	License #s (2016)		
	Hunt Code	Hunt Code	Hunt Code	Hunt Code		
3, 4, 5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 47, 52, 53, 54, 55, 59, 60, 62, 63, 64, 65, 68, 70, 71, 72, 73, 74, 75, 77, 78, 80, 81, 82, 83, 85, 86, 131, 133, 134, 140, 141, 142, 161, 171, 181, 211, 214, 231, 301, 361, 371, 411, 421, 441, 444, 471, 511, 521, 551, 581, 591, 681, 691, 711, 741, 751, 771, 851 except Bosque del Oso SWA, 861		EM000U2R Unlimited Antlered				Unlimited
3, 4, 5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25,			EM000U3R Unlimited Antlered			Unlimited

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.						
Unit(s)	1st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown	2nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown	3rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown	4th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown	Float Total (2016)	Total Licenses (2016), unless otherwise shown
	License #s (2016)	License #s (2016)	License #s (2016)	License #s (2016)		
	Hunt Code	Hunt Code	Hunt Code	Hunt Code		
26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 47, 52, 53, 54, 55, 59, 60, 62, 63, 64, 65, 68, 70, 71, 72, 73, 74, 75, 77, 78, 80, 81, 82, 83, 85, 86, 131, 133, 134, 140, 141, 142, 161, 171, 181, 211, 214, 231, 301, 361, 371, 411, 421, 441, 444, 471, 511, 521, 551, 581, 591, 681, 691, 711, 741, 751, 771, 851 except Bosque del Oso SWA, 861						
128	EM128U5R Unlimited Antlered 10/14/2017-11/19/2017					Unlimited
87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115,	EE087U5R Unlimited Either-Sex 09/01/2017– 01/31/2018					Unlimited

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.						
Unit(s)	1st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown	2nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown	3rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown	4th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown	Float Total (2016)	Total Licenses (2016), unless otherwise shown
	License #s (2016)	License #s (2016)	License #s (2016)	License #s (2016)		
	Hunt Code	Hunt Code	Hunt Code	Hunt Code		
116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 129, 130, 132, 135, 136, 137, 138, 139, 143, 144, 145, 146, 147, 951						
TOTALS	Unlimited					Unlimited

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex		
1	EF001O1R			EF001O2R			EF001O3R			EF001O4R				80
		10			25			20			25			
2	EF002O1R			EF002O2R			EF002O3R			EF002O4R				115
		30			25			35			25			
3, 301										EM003O4R				550
										550				
3, 301				EF003O2R			EF003O3R						1000	1000
3, 4, 5, 214, 301, 441	EM003O1R													1300
	1300													
3, 4, 5, 214, 301, 441	EF003O1R													600
		600												
3, 4, 5, 301, 441										EF003O4R				750
											750			
4, 441										EM004O4R				350
											350			
4, 441				EF004O2R			EF004O3R						800	800
5										EM005O4R				10
											10			
5				EF005O2R			EF005O3R						100	100
6										EE006O4R				80

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex		
												80		
6							EF006O3R			EF006O4R				355
								225			130			
6, 16, 17, 161, 171	EE006O1R													740
			740											
6, 16, 17, 161, 171	EF006O1R			EF006O2R										3090
		1510			1580									
7, 8	EM007O1R			EM007O2R			EM007O3R			EM007O4R			1350	1650
	300													
7, 8				EF007O2R			EF007O3R			EF007O4R			400	400
9	EM009O1R			EM009O2R			EM009O3R			EM009O4R			120	170
	50													
10	EF010O1R			EF010O2R			EF010O3R			EF010O4R				295
		65			70			75			85			
11, 12, 13, 23, 24, 25, 26, 33, 34, 131, 211, 231	EM011O1R													5000
	5000													
11, 12,	EF011O1R													2000

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
13, 23, 24, 25, 26, 33, 34, 131, 211, 231		2000												
11, 211										EM011O4R				420
11, 211				EF011O2R			EF011O3R							1300
11, 12, 23, 24, 211										EF011O4R				1700
12, 23, 24				EF012O2R			EF012O3R						3000	3000
12, 13, 23, 24										EM012O4R				500
13				EF013O2R			EF013O3R			EF013O4R			500	500
14	EM014O1R									EM014O4R				225
14	150									75			250	350
15	EE015O1R									EE015O4R				400
15	EF015O1R			EF015O2R			EF015O3R			EF015O4R			1200	1425

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
16										EE016O4R				75
												75		
16							EF016O3R			EF016O4R				240
								160			80			
17										EE017O4R				65
												65		
17, 171							EF017O3R			EF017O4R				525
								340			185			
18, 181	EE018O1R									EE018O4R				1680
			840									840		
18, 181	EF018O1R													480
		480												
18				EF018O2R			EF018O3R			EF018O4R				1570
					455			575			540			
19	EM019O1R			EM019O2R			EM019O3R			EM019O4R			550	660
	110													
19				EF019O2R			EF019O3R			EF019O4R			160	160
20	EM020O1R			EM020O2R			EM020O3R			EM020O4R				80
	20			20			20			20				
20				EF020O2R			EF020O3R			EF020O4R				70
					30			20			20			
21, 22, 30, 31, 32	EM021O1R									EM021O4R				1260
	900									360				

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
21, 22, 30, 31, 32	EF021O1R													100
		100												
21, 30				EF021O2R			EF021O3R			EF021O4R				875
					350			350			175			
22				EF022O2R			EF022O3R			EF022O4R			400	500
											100			
25										EM025O4R				40
										40				
25, 26				EF025O2R			EF025O3R			EF025O4R			200	200
26										EM026O4R				100
										100				
27	EE027O1R									EE027O4R				125
			75									50		
27	EF027O1R			EF027O2R			EF027O3R			EF027O4R				645
		115			260			185			85			
28, 37	EE028O1R									EE028O4R				935
			550									385		
28, 37	EF028O1R			EF028O2R			EF028O3R			EF028O4R				1485
		330			330			440			385			
29	EM029O1R			EM029O2R			EM029O3R			EM029O4R			20	30
	10													
29	EF029O1R			EF029O2R			EF029O3R			EF029O4R			65	75
		10												

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex		
31				EF031O2R			EF031O3R			EF031O4R			500	500
32				EF032O2R			EF032O3R			EF032O4R			300	300
33										EM033O4R				115
33				EF033O2R			EF033O3R			EF033O4R			950	950
34										EM034O4R				35
34				EF034O2R			EF034O3R			EF034O4R			200	200
35										EE035O4R				40
35				EF035O2R			EF035O3R			EF035O4R			190	190
35, 36, 361	EE035O1R													210
35, 36, 361	EF035O1R													190
36, 361										EE036O4R				40
36, 361				EF036O2R			EF036O3R			EF036O4R			305	305
38	EM038O1R									EM038O4R				65

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
38	EF038O1R			EF038O2R			EF038O3R			EF038O4R			60	80
		20												
39	EM039O1R			EM039O2R			EM039O3R			EM039O4R				180
	60			50			50			20				
39	EF039O1R			EF039O2R			EF039O3R			EF039O4R			120	140
		20												
40	EE040O1R			EE040O2R			EE040O3R			EE040O4R				126
			35			33			33			25		
40	EF040O1R			EF040O2R			EF040O3R			EF040O4R				150
		40			35			35			40			
41, 42, 52, 411, 421, 521	EM041O1R									EM041O4R				1500
	1100									400				
41, 42, 52, 411, 421, 521	EF041O1R													1000
		1000												
41				EF041O2R			EF041O3R			EF041O4R			600	600
42				EF042O2R			EF042O3R			EF042O4R			900	1550
					650									
43, 471	EE043O1R													225
			225											
43, 471	EF043O1R													35
		35												

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
43										EE043O4R				75
												75		
43				EF043O2R			EF043O3R			EF043O4R			650	650
44, 45, 47, 444	EE044O1R													200
			200											
44, 45, 47, 444	EF044O1R													170
		170												
44										EE044O4R				95
												95		
44				EF044O2R			EF044O3R			EF044O4R			65	65
45										EE045O4R				65
												65		
45				EF045O2R			EF045O3R			EF045O4R			85	85
46	EM046O1R			EM046O2R			EM046O3R			EM046O4R			60	85
	25													
46	EF046O1R			EF046O2R			EF046O3R			EF046O4R			60	80
		20												
47										EE047O4R				30
												30		
47				EF047O2R			EF047O3R			EF047O4R			115	115
48	EM048O1R			EM048O2R			EM048O3R			EM048O4R			90	160
	70													

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex		
48				EF048O2R			EF048O3R			EF048O4R			100	150
											50			
49	EM049O1R			EM049O2R			EM049O3R			EM049O4R			140	220
	80													
49				EF049O2R			EF049O3R			EF049O4R				300
					100			100			100			
49 within Lake County ONLY				EF049S2R			EF049S3R			EF049S4R				140
					50			50			40			
50	EM050O1R			EM050O2R			EM050O3R			EM050O4R			200	250
	50													
50				EF050O2R			EF050O3R			EF050O4R			400	400
51	EM051O1R			EM051O2R			EM051O3R			EM051O4R			100	140
	40													
51	EF051O1R			EF051O2R			EF051O3R			EF051O4R			100	130
		30												
52				EF052O2R			EF052O3R			EF052O4R			225	550
					325									
53, 63	EM053O1R													225
	225													
53, 63	EF053O1R													275
		275												

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
53										EM053O4R				25
										25				
53				EF053O2R			EF053O3R			EF053O4R				320
				120				150			50			
54	EF054O1R			EF054O2R			EF054O3R			EF054O4R				360
		100			120			70			70			
54	EM054O1R									EM054O4R				485
	335									150				
55										EE055O4R				45
												45		
55	EM055O1R													280
	280													
55	EF055O1R			EF055O2R			EF055O3R			EF055O4R				1135
		325			305			375			130			
56	EM056O1R			EM056O2R			EM056O3R			EM056O4R				175
	50			50			50			25				
56				EF056O2R			EF056O3R			EF056O4R				130
					50			50			30			
57, 58	EM057O1R			EM057O2R			EM057O3R			EM057O4R				320
	80			80			80			80				
57, 58	EF057O1R			EF057O2R			EF057O3R			EF057O4R				400
		90			110			110			90			
59, 581	EM059O1R									EM059O4R				280
	100									180				

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
59, 581	EF059O1R			EF059O2R			EF059O3R			EF059O4R			150	200
		50												
60										EE060O4R				50
												50		
60	EM060O1R													45
	45													
60	EF060O1R			EF060O2R			EF060O3R			EF060O4R			20	40
		10			10									
61	EM061O1R			EM061O2R			EM061O3R			EM061O4R			180	310
	130													
61	EF061O1R			EF061O2R			EF061O3R			EF061O4R				665
		60			180			200			225			
62										EE062O4R				100
												100		
62	EM062O1R													285
	285													
62	EF062O1R			EF062O2R			EF062O3R			EF062O4R			150	390
		90			150									
63										EM063O4R				15
										15				
63				EF063O2R			EF063O3R			EF063O4R				250
					125			75			50			
64, 65	EE064O1R									EE064O4R				475
			400									75		

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
64, 65	EF064O1R			EF064O2R			EF064O3R			EF064O4R			360	840
		180			300									
66	EM066O1R			EM066O2R			EM066O3R			EM066O4R				785
	315			260			155			55				
66	EF066O1R			EF066O2R			EF066O3R			EF066O4R				630
		135			165			200			130			
67	EM067O1R			EM067O2R			EM067O3R			EM067O4R				800
	290			275			155			80				
67	EF067O1R			EF067O2R			EF067O3R			EF067O4R				635
		100			155			190			190			
68, 681	EM068O1R									EM068O4R				505
	375									130				
68				EF068O2R			EF068O3R			EF068O4R				540
					210			230			100			
69, 84	EM069O1R			EM069O2R			EM069O3R			EM069O4R				235
	75			80			40			40				
69, 84				EF069O2R			EF069O3R			EF069O4R				360
					200			100			60			
70				EF070O2R			EF070O3R			EF070O4R				770
					330			240			200			
70,	EE070O1R									EE070O4R				440
			400									40		
71, 72, 73, 711	EE071O1R									EE071O4R				1075
			885									190		
71				EF071O2R			EF071O3R			EF071O4R			195	195

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex		
72				EF072O2R			EF072O3R			EF072O4R			50	50
73				EF073O2R			EF073O3R			EF073O4R			40	40
74, 741	EE074O1R													325
			325											
74, 741										EM074O4R				60
										60				
74				EF074O2R			EF074O3R			EF074O4R			125	125
75, 751	EE075O1R													650
			650											
75, 751										EM075O4R				80
										80				
75, 751				EF075O2R			EF075O3R			EF075O4R			450	450
76	EM076O1R			EM076O2R			EM076O3R							280
	190			60			30							
76				EF076O2R			EF076O3R			EF076O4R				570
					200			180			190			
77, 78, 771	EE077O1R													750
			750											
77, 78, 771										EM077O4R				80
										80				
77, 78, 771				EF077O2R			EF077O3R			EF077O4R				245
					125			70			50			

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
79	EM079O1R			EM079O2R			EM079O3R							365
	165			100			100							
79	EF079O1R			EF079O2R			EF079O3R			EF079O4R				325
		50			100			75			100			
80, 81	EM080O1R									EM080O4R				900
	850									50				
80				EF080O2R			EF080O3R			EF080O4R				225
					5			5			215			
81				EF081O2R			EF081O3R			EF081O4R				235
					5			5			225			
82	EE082O1R									EE082O4R				375
			300									75		
82	EF082O1R			EF082O2R			EF082O3R			EF082O4R				465
		25			200			200			40			
85, 140, 851 except Bosque del Oso SWA	EE085O1R									EE085O4R				250
			100									150		
85, 140, 851 except Bosque del Oso SWA				EF085O2R			EF085O3R			EF085O4R				120
					40			40			40			

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex	Antlered	Antler- less	Either Sex		
86, 691, 861	EE086O1R									EE086O4R				240
			150									90		
86, 691, 861				EF086O2R			EF086O3R			EF086O4R			400	400
104	EM104O1R			EM104O2R			EM104O3R			EM104O4R			85	115
	30													
131										EM131O4R				60
										60				
131				EF131O2R			EF131O3R			EF131O4R			250	250
133, 134, 141, 142										EM133O4R				30
										30				
161										EE161O4R				100
												100		
161							EF161O3R			EF161O4R				410
								260			150			
171										EE171O4R				60
												60		
181				EF181O2R			EF181O3R			EF181O4R				620
					190			240			190			
191	EM191O1R			EM191O2R			EM191O3R			EM191O4R			330	380
	50													
191				EF191O2R			EF191O3R			EF191O4R			140	140
201	EF201O1R			EF201O2R			EF201O3R			EF201O4R				155

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
		30			55			30			40			
214										EM214O4R				50
				EF214O2R			EF214O3R			50				
214										EF214O4R			500	500
231										EM231O4R				60
										60				
231				EF231O2R			EF231O3R			EF231O4R			250	250
371	EE371O1R									EE371O4R				265
			155									110		
371	EF371O1R			EF371O2R			EF371O3R			EF371O4R				430
		110		75			130			115				
391	EM391O1R			EM391O2R			EM391O3R			EM391O4R			60	60
411				EF411O2R			EF411O3R			EF411O4R			100	200
				100										
421				EF421O2R			EF421O3R			EF421O4R			1100	1100
444										EE444O4R				70
										70				
444				EF444O2R			EF444O3R			EF444O4R			215	215
461	EM461O1R			EM461O2R			EM461O3R			EM461O4R			50	50

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

- 1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.**

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
461	EF461O1R			EF461O2R			EF461O3R			EF461O4R			50	50
471										EE471O4R				25
												25		
471				EF471O2R			EF471O3R			EF471O4R			60	60
481	EM481O1R			EM481O2R			EM481O3R			EM481O4R			200	270
	70													
481				EF481O2R			EF481O3R			EF481O4R			175	175
500	EM500O1R			EM500O2R			EM500O3R			EM500O4R			130	230
	100													
500				EF500O2R			EF500O3R			EF500O4R			350	350
501	EM501O1R			EM501O2R			EM501O3R			EM501O4R			120	155
	35													
501				EF501O2R			EF501O3R			EF501O4R			200	200
511	EM511O1R									EM511O4R				175
	75									100				
511	EF511O1R			EF511O2R			EF511O3R			EF511O4R			100	130
		30												

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
521 north of West Muddy Creek and east of Colo 133				EF521O2R			EF521O3R			EF521O4R			700	700
521 south of West Muddy Creek and west of Paonia Reservoir				EF521S2R			EF521S3R			EF521S4R			650	650
551										EE551O4R				20
												20		
551	EM551O1R													70
	70													
551	EF551O1R			EF551O2R			EF551O3R			EF551O4R				660
		120			240			250			50			
561	EM561O1R			EM561O2R			EM561O3R			EM561O4R				105
	30			30			30			15				

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

B. Regular Rifle Elk Seasons

1. Separate and Combined Rifle Seasons, Dates, Units (as described in Chapter 0 of these regulations), Limited License Numbers or Unlimited Licenses as shown by hunt code.

Unit(s)	1 st Season (Separate Limited Elk) Season Dates: 10/14/2017 – 10/18/2017 Unless Otherwise Shown			2 nd Season (Combined) Season Dates: 10/21/2017 – 10/29/2017 Unless Otherwise Shown			3 rd Season (Combined) Season Dates: 11/04/2017 – 11/12/2017 Unless Otherwise Shown			4 th Season (Combined) Season Dates: 11/15/2017 – 11/19/2017 Unless Otherwise Shown			Float Total (2016)	Total Licenses (2016)
	License #s (2016)			License #s (2016)			License #s (2016)			License #s (2016)				
	Hunt Code			Hunt Code			Hunt Code			Hunt Code				
	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex	Antlered	Antler-less	Either Sex		
561				EF561O2R			EF561O3R			EF561O4R				80
					30			30			20			
681				EF681O2R			EF681O3R			EF681O4R				335
					160			125			50			
711				EF711O2R			EF711O3R			EF711O4R			170	275
											105			
741				EE741O2R			EE741O3R			EE741O4R			70	70
851 Bosque del Oso SWA only	EM851O1R			EM851O2R			EM851O3R			EM851O4R				20
	5			5			5			5				
851 Bosque del Oso SWA only							EF851O3R							5
								5						
851 Bosque del Oso SWA only Youth Only				EE851K2R			EE851K3R							4
						2			2					
Totals	13555	8880	7240	1010	8840	35	715	7045	35	4395	7420	3215	24805	87190

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex	
1														EF001P5R	08/15/2017-01/15/2018		10		10
3, 4, 5, 214, 301, 441	EE003P1R													EF003P5R	10/21/2017-11/30/2017		850		1250
			400																
6, 16, 17, 161, 171	EE006P1R																		100
			100																
6, 16, 17, 161, 171				EF006P2R										EF006P5R	08/15/2017-09/30/2017		350		400
					50														
6							EF006P3R			EF006P4R									20
								10			10								
7, 8														EF007P5R	09/01/2017-01/31/2018		200		200
9														EF009P5R	09/01/2017-01/31/2018		145		145

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

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Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
10														EF010P5R	08/15/2017-01/15/2018		125		125
11, 12, 13, 23, 24, 25, 26, 33, 34, 131, 211, 231	EE011P1R																		700
			700																
11, 12, 13, 23, 24, 211														EF011P5R	10/01/2017-11/30/2017		800		800
14, 214, 441														EF014P5R	12/01/2017-12/31/2017		300		300
15	EE015P1R			EE015P2R			EE015P3R			EE015P4R				EF015P5R	11/20/2017-01/31/2018		300		600
			75			75			75			75							
16							EF016P3R			EF016P4R									20
								10			10								
17							EF017P3R			EF017P4R									20
								10			10								
18	EF018P1R			EF018P2R			EF018P3R			EF018P4R			240						240

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex	
18, 181	EE018P1R									EE018P4R									
			360									360							
19														EF019P5R	09/01/2017-01/31/2018		150		
20														EF020P5R	09/01/2017-01/31/2018		550		
21, 22, 30, 31, 32	EE021P1R																		
			125																
22, 31, 32														EF022P5R	10/14/2017-12/31/2017		400		
23, 24														EF023P5R	12/01/2017-12/31/2017		50		

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex	
25, 26, 231														EF025P5R	08/15/2017-01/15/2018		400		400
27	EF027P1R			EF027P2R			EF027P3R			EF027P4R			25						50
		25																	
27	EE027P1R									EE027P4R									200
			100									100							
28, 37	EF028P1R			EF028P2R			EF028P3R			EF028P4R			440						440
28, 37	EE028P1R									EE028P4R									440
			220									220							
29														EF029P5R	09/01/2017-01/31/2018		100		100

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
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Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
33										EE033P4R				EF033P5R	12/01/2017-01/31/2018		50		75
												25							
34														EF034P5R	08/15/2017-01/15/2018		50		50
35														EF035P5R	08/15/2017-01/15/2018		100		100
35, 36, 361	EE035P1R																		30
			30																
36, 361														EF036P5R	08/15/2017-01/15/2018		65		65
38	EE038P1R													EF038P5R	09/01/2017-01/31/2018		150		160
			10																
39														EF039P5R	09/01/2017-01/31/2018		50		50

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
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Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex	
40														EF040P5R	09/01/2017-11/30/2017		250		
41, 42, 52, 411, 421, 521	EE041P1R									EE041P4R									
			330									250							
41														EF041P5R	09/01/2017-01/31/2018		275		
43														EF043P5R	08/15/2017-01/15/2018		125		
43, 471	EE043P1R																		
			10																

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
44														EF044P5R	08/15/2017-01/15/2018		60		60
44, 45, 47, 444	EE044P1R																		50
			50																
45														EF045P5R	08/15/2017-01/15/2018		25		25
46														EF046P5R	09/01/2017-01/31/2018		40		40
47														EF047P5R	08/15/2017-01/15/2018		40		40
50														EF050P5R	09/01/2017-01/31/2018		30		30
51														EF051P5R	09/01/2017-01/31/2018		175		175
52														EF052P5R	12/01/2017-01/31/2018		175		175

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
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Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates						Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)				
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex		
53, 63	EE053P1R									EE053P4R									150	
			85									65								
53, 63 - Delta County only, 521 - South of Colo 133 and west of Somerset														EF053P5R	12/01/2017-01/31/2018		125		125	
54	EE054P1R									EE054P4R									50	
			25									25								

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

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Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex	
54 - area														EF054P5R	08/26/2017-		50		50

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

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Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
bounded on the N by South Castle Creek, CR 730, Carbon Creek and Squaw Gulch; on the E by Colo 135; on S by U.S. 50; on W by Gunnison River, Antelope Creek, CR 818, CR 727 and USFS Trail 438.															11/19/2017				

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

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	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
56														EF056P5R	09/01/2017-01/31/2018		60		60
57, 58														EF057P5R	09/01/2017-01/31/2018		250		250
59, 581	EE059P1R																		70
			70																
59, 581														EF059P5R	09/01/2017-01/31/2018		165		165
60	EE060P1R									EE060P4R				EF060P5R	09/01/2017-12/31/2017		50		70
			10									10							
61														EF061P5R	12/15/2017-01/15/2018		105		105
62	EE062P1R									EE062P4R									150
			75									75							
62				EF062P2R			EF062P3R			EF062P4R				EF062P5R	12/01/2017-12/31/2017		25		195

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex	
63 - West of Hwy 92														EF063P5R	08/15/2017-11/19/2017		225		
64, 65	EE064P1R									EE064P4R									
			130									85							
64				EF064P2R			EF064P3R			EF064P4R			50	EF064P5R	12/01/2017-12/31/2017		25		
65														EF065P5R	10/14/2017-11/30/2017		425		
68														EF068P5R	09/01/2017-12/31/2017		15		
69, 84														EF069P5R	09/01/2017-01/31/2018		425		
70	EE070P1R									EE070P4R									
			220									60							
70				EF070P2R			EF070P3R			EF070P4R			500	EF070P5R	12/15/2017-12/31/2017		180		

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex	
71, 72, 73, 711	EE071P1R									EE071P4R									105
			75									30							
72, 711 – south and west of the Dolores River within Dolores County														EF072P5R	09/01/2017-09/30/2017		100		100
73 - South of Colo 184 and US 160														EF073P5R	09/01/2017-10/13/2017		75		75
74, 741	EE074P1R									EE074P4R									35
			15									20							

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates						Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)				
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex		
74 - all private lands in La Plata County, and 75 - all private lands west of Florida River and north of US 160, and all private lands south of US 160														EF074P5R	09/01/2017-01/15/2018		200		200	

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex	
75, 751										EE075P4R								25	
												25							
77, 78, 771	EE077P1R									EE077P4R				EF077P5R	09/01/2017-09/30/2017		40		135
			70									25							
79														EF079P5R	09/01/2017-01/31/2018		20		20
80														EF080P5R	09/01/2017-01/31/2018		30		30
81														EF081P5R	09/01/2017-01/31/2018		50		50
82	EE082P1R													EE082P5R-see #257.5 - special restrictions	09/01/2017-01/31/2018			40	55
			15																
83	EE083P1R									EE083P4R									150
			75									75							

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
83				EF083P2R			EF083P3R			EF083P4R									140
					50			75			15								
85, 140, 851	EE085P1R																		300
			300																
85, 140, 851														EF085P5R	10/14/2017-11/30/2017		300		300
85, 140, 851														EF085P6R	12/01/2017-12/31/2017		375		375
86, 691, 861														EF086P5R	09/01/2017-01/31/2018		600		600
86, 691, 861	EE086P1R																		55
			55																
104, 105, 106,														EF104P5R	09/01/2017-01/31/2018		300		300
131				EF131P2R			EF131P3R			EF131P4R			200	EF131P5R	11/20/2017-01/31/2018		200		400
161							EF161P3R			EF161P4R									20
								10			10								

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
171							EF171P3R			EF171P4R									20
								10			10								
181	EF181P1R			EF181P2R			EF181P3R			EF181P4R			240						240
191														EF191P5R	09/01/2017-01/31/2018		150		150
231				EE231P2R			EE231P3R			EE231P4R			75						75
371	EF371P1R			EF371P2R			EF371P3R			EF371P4R			165						165
371	EE371P1R									EE371P4R									220
			110									110							
39- all portions within Jefferson County, 391.														EF391P5R	09/01/2017-01/31/2018		275		275

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
411														EF411P5R	12/01/2017-01/31/2018		140		140
421														EF421P5R	09/01/2017-01/02/2018		400		400
444														EF444P5R	08/15/2017-01/15/2018		150		150
461														EF461P5R	09/01/2017-01/31/2018		25		25
471														EF471P5R	08/15/2017-01/15/2018		10		10
481														EF481P5R	09/01/2017-01/31/2018		80		80
500														EF500P5R	09/01/2017-01/31/2018		20		20
501														EF501P5R	09/01/2017-01/31/2018		30		30
511	EE511P1R																		10
			10																

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS

C. Private Land Only Elk Seasons

1. Private Land Only Season Dates, Units (as described in Chapter 0 of these regulations), and Limited Licenses.

- a. All applicants for "Private Land Only" licenses must obtain permission to hunt from at least one private landowner within the game management unit prior to applying for a license.
- b. Private land only licenses are valid on all private land within the game management unit upon which the license holder has permission to hunt.

Unit	Season Dates Concurrent with 1 st Season (Separate Limited Elk) 10/14/2017 – 10/18/2017			Season Dates Concurrent with 2 nd Season (Combined) 10/21/2017 – 10/29/2017			Season Dates Concurrent with 3 rd Season (Combined) 11/04/2017 – 11/12/2017			Season Dates Concurrent with 4 th Season (Combined) 11/15/2017 – 11/19/2017			Float Total (2016)	Other Season Dates					Total (2016)
	Licenses (2016)			Licenses (2016)			Licenses (2016)			Licenses (2016)						Licenses (2016)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex		Hunt Code	Date Open-Date Closed	Antlered	Antlerless	Either Sex	
511														EF511P5R	09/01/2017-01/31/2018		125		125
682, 791 – see #257.5 - special restriction														EF682P5R	08/15/2017-02/28/2018		150		150
682, 791 - see #257.5 - special restrictions														EM682P6R	08/15/2017-02/28/2018	100			100
741														EF741P5R	09/01/2017-01/15/2018		300		300
751 south of US 160														EF751P5R	12/01/2017-01/15/2018		100		100
TOTALS	0	25	3850	0	100	75	0	125	75	0	65	1635	2105			100	12770	40	20965

#257 - RIFLE AND ASSOCIATED METHODS ELK SEASONS - ANY LAWFUL METHOD OF TAKE PERMITTED DURING THESE SEASONS D. San Luis Valley Game Damage Private Land Only Antlered Elk Seasons				
Units	Hunt Code	Date Open-Date Closed	Licenses (2016)	Total (2016)
682, 791 - see #257.5 - special restrictions	EM682P5R	05/15/2017-07/31/2017	100	100

E. Late Elk Seasons

1. Late Season Hunt, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.					
Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)	
				Antlered	Antlerless
1	EF001L1R	12/01/2017	12/31/2017		10
2, 201	EF002L1R	12/01/2017	12/31/2017		25
3, 301	EF003L1R	12/01/2017	12/31/2017		300
7, 8	EF007L1R	12/02/2017	12/13/2017		50
9	EF009L1R	10/15/2017	11/30/2017		45
10	EF010L1R	12/01/2017	12/31/2017		175
11	EF011L1R	12/01/2017	12/31/2017		100
13	EF013L1R	12/01/2017	12/31/2017		100
18	EF018L1R	11/25/2017	12/03/2017		150
19	EF019L1R	12/02/2017	12/13/2017		50
20	EM020L1R	11/25/2017	12/06/2017	60	
20	EF020L1R	11/25/2017	12/06/2017		30
20	EM020L2R	01/06/2018	01/17/2018	60	
20 - Those portions bounded on the north by the Little Thompson River; on the east by US 287, on the south by Colo 66 (Ute Hwy) and US 36; and on the west by Boulder CR 71N (Blue Mountain Road), Larimer CR 37E, Lonestar Rd, then Stagecoach Trail N at the intersection of Lonestar Rd and Stagecoach Trail.	EF020L3R	08/15/2017	01/31/2018		100
22	EF022L1R	12/01/2017	12/31/2017		100
26	EF026L1R	12/01/2017	01/15/2018		60
27	EF027L1R	11/25/2017	12/03/2017		80
28, 37	EF028L1R	11/25/2017	12/03/2017		220
30	EF030L1R	12/15/2017	01/15/2018		50
31	EF031L1R	12/15/2017	01/15/2018		300
35, 36	EF035L1R	11/25/2017 12/15/2017	12/03/2017 01/15/2018		125
38 Jefferson County ONLY	EF038L1R	12/01/2017	01/31/2018		75
50	EF050L1R	12/30/2017	01/07/2018		75
61	EF061L1R	12/02/2017	12/10/2017		50
68	EF068L1R	12/01/2017	12/31/2017		100
70	EF070L1R	12/02/2017	12/10/2017		60
79	EF079L1R	12/01/2017	12/31/2017		5
80	EF080L1R	12/01/2017	12/31/2017		5
81	EF081L1R	12/01/2017	12/31/2017		5
85, 140, 851, except the Bosque del Oso State Wildlife Area	EF085L1R	01/01/2018	01/31/2018		175
128	EF128L1R	09/01/2017	01/31/2018		400
133, 134, 141	EF133L1R	10/15/2017	01/31/2018		45

1. Late Season Hunt, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.					
Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)	
				Antlered	Antlerless
142	EF142L1R	10/15/2017	01/31/2018		25
181	EF181L1R	11/25/2017	12/03/2017		90
191	EF191L1R	12/02/2017	12/13/2017		45
211	EF211L1R	12/01/2017	12/31/2017		50
361	EF361L1R	11/25/2017	12/03/2017		40
371	EF371L1R	11/25/2017	12/03/2017		110
500	EF500L1R	12/30/2017	01/07/2018		60
501	EF501L1R	12/30/2017	01/07/2018		30
512 See special restrictions	EF512L1R	10/01/2017	01/31/2018		30
591	EF591L1R	10/01/2017	01/31/2018		25
681	EF681L1R	12/01/2017	12/31/2017		50
851 - Bosque del Oso SWA ONLY	EF851L1R	11/25/2017	12/03/2017		20
851 - Bosque del Oso SWA ONLY	EF851L2R	12/09/2017	12/17/2017		20
851 - Bosque del Oso SWA ONLY	EF851L3R	12/23/2017	12/31/2017		25
TOTALS				120	3685

#257.5 - SPECIAL RESTRICTIONS

A. Unit 512 - Air Force Academy

Hunters must apply in person, no later than May 31 annually to participate in a random drawing to be placed on a priority list of hunters. Applications along with a non-refundable application fee not to exceed \$10.00 will be accepted at the Academy's Outdoor Recreation Center, Building 5136 - Community Center Drive, AFA, Colorado Springs.

The first 15 hunters drawn will be placed on the list and will be notified of their placement by June 15 annually. When elk are available to be hunted, up to 4 hunters will be called. After obtaining a license, paying a fee not to exceed \$30.00 to the Academy and receiving a safety briefing, hunters will be escorted on the hunt. Hunters may decline one opportunity to hunt and hold their place on the list. Hunts will continue when possible until (30) antlerless elk have been taken.

B. Units 82, 682 and 791 – San Luis Valley Damage Elk Hunts

1. The purpose of these hunts is to provide flexibility in managing damage by elk and maintain landowners' rights to determine who may enter their property. Most license vouchers may be issued to friends and family of the landowner. Opportunities for non-associated public hunters may exist and will be selected from a list of interested hunters.
2. License vouchers may be transferred one time only, and shall only be transferred by the landowner to the hunter that will use the voucher to purchase the license. Third-party brokering of landowner vouchers is not permitted. Violation of this subsection shall invalidate the applicable landowner voucher and any license purchased with it.
3. Public hunters must apply no later than July 15 annually, to participate in a random drawing to be placed on a priority list of hunters. Applications will be accepted at the Monte Vista Service Center at 0722 S Rd. 1 E, Monte Vista.

4. Hunters drawn will be placed on the list and the top 10 hunters on the list will be notified of their placement no later than August 15 annually. When elk are available to be hunted, up to 4 hunters will be called. Hunters may decline one opportunity to hunt and hold their place on the list. Hunts will be conducted on an as-needed basis to alleviate game damage.

C. Units 80, 82, and 83 – San Luis Valley US Fish and Wildlife Refuge Permits

1. Starting in 2016, the United States Fish and Wildlife Service (USFWS) will allow a limited number of elk hunters access to hunt on the Alamosa, Baca, and Monte Vista National Wildlife Refuges. To be eligible for an access permit, hunters must hold one of the following elk licenses in either GMU 80, 82, or 83:
 - a. Either-sex archery;
 - b. Antlered muzzleloader;
 - c. Antlered or either-sex first rifle;
 - d. Antlered or either-sex fourth rifle;
 - e. Any limited antlerless license.
2. To be entered into the drawing for the 2016 hunting seasons, eligible hunters must email the following address starting the day after left-over license day: montevista.wildlife@state.co.us. Emailed entries will only be accepted for five days after left-over license day. Permits for these three refuges will then be issued at the Monte Vista Service Center via a random drawing on August 17, 2016, held under the direct supervision of the area wildlife manager.

ARTICLE X - PRONGHORN

#261 - ARCHERY PRONGHORN SEASONS ONLY LAWFUL HAND HELD BOWS MAY BE USED TO HUNT OR TAKE PRONGHORN DURING THE FOLLOWING SEASONS:

A. Regular Archery Pronghorn Seasons

1. Archery Season Dates, Units (as described in Chapter 0 of these regulations), Limited licenses.						
Unit	Hunt Code	Date Open	Date Closed	License Types and Numbers (2016)		
				Unlimited Buck or Either Sex	Limited Buck Only	Limited Doe Only
1, 7, 8, 9, 14, 15, 19, 20, 22, 23, 24, 25, 26, 29, 31, 32, 33, 34, 35, 36, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 51, 52, 53, 54, 55, 56, 59, 60, 61, 63, 64, 65, 69, 71, 72, 73, 74, 75, 76, 77, 78, 84, 85, 86, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 104, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 191, 231, 361, 371, 421, 444, 461, 471, 481, 511, 521, 561, 591, 691, 711, 741, 751, 771, 851 except Bosque del Oso SWA, 861, 951	AE000U1A	08/15/2017 and 09/01/2017	08/31/2017 and 09/20/2017	Unlimited Buck and Either Sex		
3, 301	AM003O1A	08/15/2017	09/20/2017		110	
3, 301	AF003O1A	09/01/2017	09/20/2017			25
4, 5	AM004O1A	08/15/2017	09/20/2017		40	
4, 5	AF004O1A	09/01/2017	09/20/2017			10
6, 16, 17, 161, 171	AM006O1A	08/15/2017	09/20/2017		70	
6, 16, 17, 161, 171	AF006O1A	09/01/2017	09/20/2017			20
11	AM011O1A	08/15/2017	09/20/2017		15	
11	AF011O1A	09/01/2017	09/20/2017			10
12, 211	AM012O1A	08/15/2017	09/20/2017		5	
12, 211	AF012O1A	09/01/2017	09/20/2017			5
13	AM013O1A	08/15/2017	09/20/2017		35	
13	AF013O1A	09/01/2017	09/20/2017			10
18, 27, 28, 37, 181	AM018O1A	08/15/2017	09/20/2017		25	
18, 27, 28, 37, 181	AF018O1A	09/01/2017	09/20/2017			30
49, 50, 500, 501	AM049O1A	08/15/2017	08/31/2017		30	
49, 50, 500, 501	AF049O1A	09/01/2017	09/20/2017			10
57, 58, 581	AM057O1A	08/15/2017	08/31/2017		25	
57, 58, 581	AF057O1A	09/01/2017	09/20/2017			10

1. Archery Season Dates, Units (as described in Chapter 0 of these regulations), Limited licenses.						
Unit	Hunt Code	Date Open	Date Closed	License Types and Numbers (2016)		
				Unlimited Buck or Either Sex	Limited Buck Only	Limited Doe Only
66	AM066O1A	08/15/2017	09/20/2017		1	
67	AM067O1A	08/15/2017	09/20/2017		10	
68, 681 - West of Co Rd 46AA and west of the divide between the Saguache Creek drainage and Kerber Creek drainage, 682	AM068O1A	08/15/2017	09/20/2017		5	
79, 791	AM079O1A	08/15/2017	09/20/2017		5	
80	AM080O1A	08/15/2017	09/20/2017		5	
81	AM081O1A	08/15/2017	09/20/2017		6	
82, 681 - East of Co Rd 46AA and east of the divide between the Saguache Creek drainage and Kerber Creek drainage	AM082O1A	08/15/2017	09/20/2017		20	
82, 681 - East of Co Rd 46AA and east of the divide between the Saguache Creek drainage and Kerber Creek drainage	AF082O1A	09/01/2017	09/20/2017			10
87	AM087O1A	08/15/2017	09/20/2017		95	
87	AF087O1A	09/01/2017	09/20/2017			20
88	AM088O1A	08/15/2017	09/20/2017		45	
88	AF088O1A	09/01/2017	09/20/2017			20
131	AM131O1A	08/15/2017	09/20/2017		5	
131	AF131O1A	09/01/2017	09/20/2017			5
201, 2	AM201O1A	08/15/2017	09/20/2017		5	
201	AF201O1A	09/01/2017	09/20/2017			5
214, 441	AM214O1A	08/15/2017	09/20/2017		10	
214, 441	AF214O1A	09/01/2017	09/20/2017			10
551	AM551O1A	08/15/2017	09/20/2017		3	
			TOTALS		570	200

B. Private Land Only Pronghorn Season

1. Archery - Pronghorn, Dates, Units (as described in Chapter 0 of these regulations), Limited Licenses.

Unit	Hunt Code	Date Open	Date Closed	License Types and Numbers (2016)		
				Buck	Doe	Either Sex
83	AM083P1A	08/15/2017	09/20/2017	5		
			TOTALS	5		

**#261.5 - MUZZLE-LOADING FIREARMS (RIFLE AND SMOOTHBORE MUSKET) PRONGHORN
SEASON - ONLY LAWFUL MUZZLE-LOADING FIREARMS MAY BE USED DURING THIS
FOLLOWING SEASON:**

A. Regular Seasons

1. Muzzle-loading, Pronghorn, Dates, Units (as described in Chapter 0 of these regulations), and Licenses.

Unit(s)	Hunt Code	Date Open	Date Closed	Licenses Types and Numbers (2016)	
				Buck	Doe
1, 2, 201	AM001O1M	09/21/2017	09/29/2017	5	
1, 201	AF001O1M	09/21/2017	09/29/2017		5
3, 4, 5, 13, 131, 214, 301, 441	AM003O1M	09/21/2017	09/29/2017	15	
3, 4, 5, 13, 131, 214, 301, 441	AF003O1M	09/21/2017	09/29/2017		10
6, 16, 17, 161, 171	AM006O1M	09/21/2017	09/29/2017	20	
6, 16, 17, 161, 171	AF006O1M	09/21/2017	09/29/2017		10
7, 8	AM007O1M	09/21/2017	09/29/2017	10	
7, 8	AF007O1M	09/21/2017	09/29/2017		5
9, 191	AM009O1M	09/21/2017	09/29/2017	10	
9, 191	AF009O1M	09/21/2017	09/29/2017		5
11	AM011O1M	09/21/2017	09/29/2017	10	
11	AF011O1M	09/21/2017	09/29/2017		10
12, 211	AM012O1M	09/21/2017	09/29/2017	5	
12, 211	AF012O1M	09/21/2017	09/29/2017		5
18, 27, 28, 37, 181	AM018O1M	09/21/2017	09/29/2017	30	
18, 27, 28, 37, 181	AF018O1M	09/21/2017	09/29/2017		30
48, 56, 481	AM048O1M	09/21/2017	09/29/2017	10	
48, 56, 481	AF048O1M	09/21/2017	09/29/2017		5
50, 57, 58, 501, 581	AM050O1M	09/21/2017	09/29/2017	10	
50, 57, 58, 501, 581	AF050O1M	09/21/2017	09/29/2017		10
59, 591	AM059O1M	09/21/2017	09/29/2017	5	
59, 591	AF059O1M	09/21/2017	09/29/2017		5
66	AM066O1M	09/21/2017	09/29/2017	1	
67	AM067O1M	09/21/2017	09/29/2017	5	
68, 79, 80, 81, 82, 83, 681, 682, 791	AM068O1M	09/21/2017	09/29/2017	10	
69, 84, 85, 86, 691, 861	AM069O1M	09/21/2017	09/29/2017	90	
69, 84, 85, 86, 691, 861	AF069O1M	09/21/2017	09/29/2017		90
87, 88, 89, 90, 95, 951	AM087O1M	09/21/2017	09/29/2017	40	
87, 88, 89, 90, 95, 951	AF087O1M	09/21/2017	09/29/2017		40
93, 97, 98, 101, 102	AM093O1M	09/21/2017	09/29/2017	10	
99, 100	AM099O1M	09/21/2017	09/29/2017	15	
99, 100	AF099O1M	09/21/2017	09/29/2017		15
104, 105	AM104O1M	09/21/2017	09/29/2017	70	
104, 105	AF104O1M	09/21/2017	09/29/2017		90
106, 107, 109	AM106O1M	09/21/2017	09/29/2017	30	
106, 107, 109	AF106O1M	09/21/2017	09/29/2017		30
110, 111, 118, 119, 123, 124	AM110O1M	09/21/2017	09/29/2017	200	

Unit(s)	Hunt Code	Date Open	Date Closed	Licenses Types and Numbers (2016)	
				Buck	Doe
110, 111, 118, 119, 123, 124	AF110O1M	09/21/2017	09/29/2017		200
112, 113, 114, 115	AM112O1M	09/21/2017	09/29/2017	60	
112, 113, 114, 115	AF112O1M	09/21/2017	09/29/2017		40
116, 117, 122, 127	AM116O1M	09/21/2017	09/29/2017	50	
116, 117, 122, 127	AF116O1M	09/21/2017	09/29/2017		50
120, 121, 125, 126	AM120O1M	09/21/2017	09/29/2017	50	
120, 121, 125, 126	AF120O1M	09/21/2017	09/29/2017		50
128, 129, 133, 134, 135, 140, 141, 142, 147	AM128O1M	09/21/2017	09/29/2017	100	
128, 129, 133, 134, 135, 140, 141, 142, 147	AF128O1M	09/21/2017	09/29/2017		100
130, 136, 137, 138, 143, 144, 146	AM130O1M	09/21/2017	09/29/2017	50	
130, 136, 137, 138, 143, 144, 146	AF130O1M	09/21/2017	09/29/2017		50
132, 139, 145	AM132O1M	09/21/2017	09/29/2017	20	
132, 139, 145	AF132O1M	09/21/2017	09/29/2017		20
551	AM551O1M	09/21/2017	09/29/2017	3	
			TOTALS	934	875

#262 - RIFLE AND ASSOCIATED METHODS PRONGHORN SEASONS

A. Regular Rifle Pronghorn Seasons

1. Regular Rifle Season Dates, Units (as described in Chapter 0 of these regulations), Licenses.

Unit(s)	Hunt Code	Date Open	Date Closed	License Type and #'s (2016)	
				Buck	Doe
3, 301	AM003O1R	10/07/2017	10/13/2017	255	
3, 301	AF003O1R	10/07/2017	10/13/2017		70
4, 5	AM004O1R	10/07/2017	10/13/2017	80	
4, 5	AF004O1R	10/07/2017	10/13/2017		55
6	AM006O1R	10/07/2017	10/13/2017	18	
6	AF006O1R	10/07/2017	10/13/2017		10
7	AM007O1R	10/07/2017	10/13/2017	10	
7	AF007O1R	10/07/2017	10/13/2017		5
8	AM008O1R	10/07/2017	10/13/2017	10	
8	AF008O1R	10/07/2017	10/13/2017		5
11	AM011O1R	10/07/2017	10/13/2017	60	
11	AF011O1R	10/07/2017	10/13/2017		80
12, 211	AM012O1R	10/07/2017	10/13/2017	5	
12, 211	AF012O1R	10/07/2017	10/13/2017		5
13	AM013O1R	10/07/2017	10/13/2017	30	
13	AF013O1R	10/07/2017	10/13/2017		25
16, 17, 171	AM016O1R	10/07/2017	10/13/2017	40	
16, 17, 171	AF016O1R	10/07/2017	10/13/2017		10
18, 27, 28, 37, 181	AM018O1R	10/07/2017	10/13/2017	95	
18, 27, 28, 37, 181	AF018O1R	10/07/2017	10/13/2017		125
48, 56, 481	AM048O1R	10/07/2017	10/13/2017	10	

Unit(s)	Hunt Code	Date Open	Date Closed	License Type and #'s (2016)	
				Buck	Doe
48, 56, 481	AF048O1R	10/07/2017	10/13/2017		5
50, 501	AM050O1R	10/07/2017	10/13/2017	25	
50, 501	AF050O1R	10/07/2017	10/13/2017		20
57, 58, 581	AM057O1R	10/07/2017	10/13/2017	45	
57, 58, 581	AF057O1R	10/07/2017	10/13/2017		75
59, 591	AM059O1R	10/07/2017	10/13/2017	15	
59, 591	AF059O1R	10/07/2017	10/13/2017		10
66	AM066O1R	10/07/2017	10/13/2017	2	
67	AM067O1R	10/07/2017	10/13/2017	20	
68, 681 - West of Co Rd 46AA and west of the divide between the Saguache Creek drainage and Kerber Creek drainage, 682	AM068O1R	10/07/2017	10/13/2017	10	
69, 84, 85, 86, 691, 861	AM069O1R	10/07/2017	10/13/2017	200	
69, 84, 85, 86, 691, 861	AF069O1R	10/07/2017	10/13/2017		360
79, 791	AM079O1R	10/07/2017	10/13/2017	20	
80	AM080O1R	10/07/2017	10/13/2017	10	
81	AM081O1R	10/07/2017	10/13/2017	30	
82, 681 - East of Co Rd 46AA and east of the divide between the Saguache Creek drainage and Kerber Creek drainage	AM082O1R	10/07/2017	10/13/2017	100	
82, 681 - East of Co Rd 46AA and east of the divide between the Saguache Creek drainage and Kerber Creek drainage	AF082O1R	10/07/2017	10/13/2017		30
87	AM087O1R	10/07/2017	10/13/2017	390	
87	AF087O1R	10/07/2017	10/13/2017		170
88	AM088O1R	10/07/2017	10/13/2017	90	
88	AF088O1R	10/07/2017	10/13/2017		85
89	AM089O1R	10/07/2017	10/13/2017	95	
89	AF089O1R	10/07/2017	10/13/2017		110
90	AM090O1R	10/07/2017	10/13/2017	25	
90	AF090O1R	10/07/2017	10/13/2017		20
93	AM093O1R	10/07/2017	10/13/2017	10	
95	AM095O1R	10/07/2017	10/13/2017	55	
95	AF095O1R	10/07/2017	10/13/2017		70
97	AM097O1R	10/07/2017	10/13/2017	15	

Unit(s)	Hunt Code	Date Open	Date Closed	License Type and #'s (2016)	
				Buck	Doe
98	AM098O1R	10/07/2017	10/13/2017	10	
99	AM099O1R	10/07/2017	10/13/2017	100	
99	AF099O1R	10/07/2017	10/13/2017		100
100	AM100O1R	10/07/2017	10/13/2017	40	
100	AF100O1R	10/07/2017	10/13/2017		40
101	AM101O1R	10/07/2017	10/13/2017	15	
102	AM102O1R	10/07/2017	10/13/2017	15	
104	AM104O1R	10/07/2017	10/13/2017	85	
104	AF104O1R	10/07/2017	10/13/2017		100
105	AM105O1R	10/07/2017	10/13/2017	310	
105	AF105O1R	10/07/2017	10/13/2017		330
106	AM106O1R	10/07/2017	10/13/2017	175	
106	AF106O1R	10/07/2017	10/13/2017		150
107	AM107O1R	10/07/2017	10/13/2017	100	
107	AF107O1R	10/07/2017	10/13/2017		50
109	AM109O1R	10/07/2017	10/13/2017	20	
109	AF109O1R	10/07/2017	10/13/2017		20
110	AM110O1R	10/07/2017	10/13/2017	100	
110	AF110O1R	10/07/2017	10/13/2017		125
111	AM111O1R	10/07/2017	10/13/2017	150	
111	AF111O1R	10/07/2017	10/13/2017		200
112, 113, 114, 115	AM112O1R	10/07/2017	10/13/2017	600	
112, 113, 114, 115	AF112O1R	10/07/2017	10/13/2017		600
116, 117, 122, 127	AM116O1R	10/07/2017	10/13/2017	400	
116, 117, 122, 127	AF116O1R	10/07/2017	10/13/2017		450
118	AM118O1R	10/07/2017	10/13/2017	210	
118	AF118O1R	10/07/2017	10/13/2017		200
119	AM119O1R	10/07/2017	10/13/2017	245	
119	AF119O1R	10/07/2017	10/13/2017		200
120, 121, 125, 126	AM120O1R	10/07/2017	10/13/2017	600	
120, 121, 125, 126	AF120O1R	10/07/2017	10/13/2017		500
123	AM123O1R	10/07/2017	10/13/2017	100	
123	AF123O1R	10/07/2017	10/13/2017		100
124	AM124O1R	10/07/2017	10/13/2017	220	
124	AF124O1R	10/07/2017	10/13/2017		200
128	AM128O1R	10/07/2017	10/13/2017	185	
128	AF128O1R	10/07/2017	10/13/2017		150
130, 146	AM130O1R	10/07/2017	10/13/2017	20	
130, 146	AF130O1R	10/07/2017	10/13/2017		25
132, 139, 145	AM132O1R	10/07/2017	10/13/2017	200	
132, 139, 145	AF132O1R	10/07/2017	10/13/2017		400
133	AM133O1R	10/07/2017	10/13/2017	120	
133	AF133O1R	10/07/2017	10/13/2017		150
134	AM134O1R	10/07/2017	10/13/2017	110	
134	AF134O1R	10/07/2017	10/13/2017		135
135	AM135O1R	10/07/2017	10/13/2017	140	
135	AF135O1R	10/07/2017	10/13/2017		130
136, 143	AM136O1R	10/07/2017	10/13/2017	100	
136, 143	AF136O1R	10/07/2017	10/13/2017		80
137, 138, 144	AM137O1R	10/07/2017	10/13/2017	150	
137, 138, 144	AF137O1R	10/07/2017	10/13/2017		200

Unit(s)	Hunt Code	Date Open	Date Closed	License Type and #'s (2016)	
				Buck	Doe
140, 147	AM140O1R	10/07/2017	10/13/2017	100	
140, 147	AF140O1R	10/07/2017	10/13/2017		135
142	AM142O1R	10/07/2017	10/13/2017	20	
142	AF142O1R	10/07/2017	10/13/2017		10
161	AM161O1R	10/07/2017	10/13/2017	25	
161	AF161O1R	10/07/2017	10/13/2017		10
201, 2	AM201O1R	10/07/2017	10/13/2017	40	
201	AF201O1R	10/07/2017	10/13/2017		25
214, 441	AM214O1R	10/07/2017	10/13/2017	15	
214, 441	AF214O1R	10/07/2017	10/13/2017		10
551	AM551O1R	10/07/2017	10/13/2017	3	
951	AM951O1R	10/07/2017	10/13/2017	40	
951	AF951O1R	10/07/2017	10/13/2017		60
TOTALS				6533	6230

B. Late Rifle Pronghorn Seasons

1. Late Rifle Season Dates, Units (as described in Chapter 0 of these regulations), Licenses.

Unit(s)	Hunt Code	Date Open	Date Closed	Licenses (2016)	
				Buck	Doe
9, 191	AF009L1R	11/01/2017	12/31/2017		150
97	AF097L1R	12/01/2017	12/14/2017		10
105	AF105L1R	12/01/2017	12/31/2017		90
110, 111, 118, 119, 123, 124	AF110L1R	12/01/2017	12/31/2017		1000
112, 113, 114, 115	AF112L1R	12/02/2017	12/10/2017		300
116, 117, 122, 127	AF116L1R	12/01/2017	12/31/2017		500
120, 121, 125, 126	AF120L1R	12/02/2017	12/10/2017		400
130, 146	AF130L1R	12/01/2017	12/31/2017		25
136, 143	AF136L1R	12/01/2017	12/31/2017		200
137, 138, 144	AF137L1R	12/01/2017	12/31/2017		400
TOTALS					3075

C. Private Land Only Pronghorn Seasons

1. Private Land Only, Pronghorn, Dates, Units (as described in Chapter 0 of these regulations), Licenses.

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)	
				Male	Female
3, 301	AM003P5R	09/30/2017	10/15/2017	340	
3, 301	AF003P5R	09/30/2017	10/15/2017		190
4, 5	AM004P5R	09/30/2017	10/15/2017	35	
4, 5	AF004P5R	09/30/2017	10/15/2017		70
7	AM007P1R	10/07/2017	10/13/2017	10	
7	AF007P1R	10/07/2017	10/13/2017		15
8	AM008P1R	10/07/2017	10/13/2017	15	
8	AF008P1R	10/07/2017	10/13/2017		15
9, 191	AM009P1R	10/07/2017	10/13/2017	90	
9, 191	AF009P1R	10/07/2017	10/13/2017		70

Unit	Hunt Code	Date Open	Date Closed	Licenses (2016)	
				Male	Female
13	AM013P5R	09/30/2017	10/15/2017	40	
13	AF013P5R	09/30/2017	10/15/2017		60
23	AM023P5R	09/30/2017	10/15/2017	25	
23	AF023P5R	09/30/2017	10/15/2017		35
79 - East of Rio Grande Canal, 791	AF079P5R	08/15/2017	12/31/2017		20
80	AM080P1R	10/07/2017	10/13/2017	5	
82, 681 - East of Co Rd 46AA and east of the divide between the Saguache Creek drainage and Kerber Creek drainage	AF082P5R	09/13/2017	09/27/2017		35
83	AM083P1R	10/07/2017	10/13/2017	6	
87	AF087P1R	10/07/2017	10/13/2017		90
87	AF087P5R	11/01/2017	12/31/2017		250
88	AF088P1R	10/07/2017	10/13/2017		50
88	AF088P5R	11/01/2017	12/31/2017		80
128, 129, 133, 134, 135, 140, 141, 147	AF128P5R	12/01/2017	12/05/2017		450
129	AM129P1R	10/07/2017	10/13/2017	35	
129	AF129P1R	10/07/2017	10/13/2017		45
130, 146	AM130P1R	10/07/2017	10/13/2017	200	
130, 146	AF130P1R	10/07/2017	10/13/2017		175
130, 146	AF130P5R	12/01/2017	12/31/2017		175
131	AM131P1R	10/07/2017	10/13/2017	5	
131	AF131P1R	10/07/2017	10/13/2017		5
132, 139, 145	AF132P5R	12/01/2017	12/31/2017		400
135	AM135P1R	10/07/2017	10/13/2017		
135	AF135P1R	10/07/2017	10/13/2017		
136, 143	AM136P1R	10/07/2017	10/13/2017	170	
136, 143	AF136P1R	10/07/2017	10/13/2017		140
137, 138, 144	AM137P1R	10/07/2017	10/13/2017	210	
137, 138, 144	AF137P1R	10/07/2017	10/13/2017		170
141	AM141P1R	10/07/2017	10/13/2017	55	
141	AF141P1R	10/07/2017	10/13/2017		50
214, 441	AM214P5R	09/30/2017	10/15/2017	25	
214, 441	AF214P5R	09/30/2017	10/15/2017		25
951	AF951P5R	11/01/2017	12/31/2017		
			TOTALS	1266	2615

#263 - 269 VACANT

ARTICLE XI - MOOSE

#270 - MOOSE SEASONS, LICENSES, AND SPECIAL RESTRICTIONS

A. Archery Moose Season

1. Archery Season Dates, Units, and Limited Licenses

Unit(s)	Hunt Code	Open Date	Close Date
1, 201	ME001O1A	09/09/2017	09/24/2017
6 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MM006O1A	09/09/2017	09/24/2017
6 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MF006O1A	09/09/2017	09/24/2017
7, 8, 191 except within 1/4 mile of Hwy 14	MM007O1A	09/09/2017	09/24/2017
7, 8, 191 except within 1/4 mile of Hwy 14	MF007O1A	09/09/2017	09/24/2017
12, 23, 24	MM012O1A	09/09/2017	09/24/2017
12, 23, 24	MF012O1A	09/09/2017	09/24/2017
14	MM014O1A	09/09/2017	09/24/2017
14	MF014O1A	09/09/2017	09/24/2017
15, 27	MM015O1A	09/09/2017	09/24/2017
15, 27	MF015O1A	09/09/2017	09/24/2017
16	MM016O1A	09/09/2017	09/24/2017
16	MF016O1A	09/09/2017	09/24/2017
17	MM017O1A	09/09/2017	09/24/2017
17	MF017O1A	09/09/2017	09/24/2017
18, 181	MM018O1A	09/09/2017	09/24/2017
18, 181	MF018O1A	09/09/2017	09/24/2017
18 - Those portions bounded on the north by the Continental Divide; on the east by the divide between Willow Creek and East Fork of Troublesome drainages and the divide between Corral Creek and Troublesome Creek drainages; on the south by Round Gulch; and on the west by the main fork of Troublesome Creek and Sheep Creek	MM018S1A	09/09/2017	09/24/2017
19 except within 1/4 mile of Hwy 14	MM019O1A	09/09/2017	09/24/2017
19 except within 1/4 mile of Hwy 14	MF019O1A	09/09/2017	09/24/2017
20, 29 except within 1/4 mile of the high waterline of Brainard Lake from the beginning of archery season until the US Forest Service gate closes on Brainard Lake Road.	MM020O1A	09/09/2017	09/24/2017
20, 29 except within 1/4 mile of the high waterline of Brainard Lake from the beginning of archery season until the US Forest Service gate closes on Brainard Lake Road.	MF020O1A	09/09/2017	09/24/2017
28	MM028O1A	09/09/2017	09/24/2017
28	MF028O1A	09/09/2017	09/24/2017
36, 361	MM036O1A	09/09/2017	09/24/2017
37, 371	MM037O1A	09/09/2017	09/24/2017

Unit(s)	Hunt Code	Open Date	Close Date
37, 371	MF037O1A	09/09/2017	09/24/2017
38	MM038O1A	09/09/2017	09/24/2017
38	MF038O1A	09/09/2017	09/24/2017
39, 46	MM039O1A	09/09/2017	09/24/2017
39, 46	MF039O1A	09/09/2017	09/24/2017
41, 42, 52, 411, 421, 521	MM041O1A	09/09/2017	09/24/2017
41, 42, 421	MF041O1A	09/09/2017	09/24/2017
43	MM043O1A	09/09/2017	09/24/2017
44, 45	MM044O1A	09/09/2017	09/24/2017
48, 55, 56, 481, 551, 561	MM048O1A	09/09/2017	09/24/2017
49, 50, 500, 501	MM049O1A	09/09/2017	09/24/2017
49, 50, 500, 501	MF049O1A	09/09/2017	09/24/2017
52, 411, 521	MF052O1A	09/09/2017	09/24/2017
65	MM065O1A	09/09/2017	09/24/2017
66	MM066O1A	09/09/2017	09/24/2017
66	MF066O1A	09/09/2017	09/24/2017
67	MM067O1A	09/09/2017	09/24/2017
67	MF067O1A	09/09/2017	09/24/2017
68, 79, 681	MM068O1A	09/09/2017	09/24/2017
74, 75	MM074O1A	09/09/2017	09/24/2017
76	MM076O1A	09/09/2017	09/24/2017
76, 77, 751 Weminuche Wilderness Only	MM076S1A	09/09/2017	09/24/2017
161	MM161O1A	09/09/2017	09/24/2017
161	MF161O1A	09/09/2017	09/24/2017
171 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MM171O1A	09/09/2017	09/24/2017
171 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MF171O1A	09/09/2017	09/24/2017
191 except within 1/4 mile of Hwy 14	MF191O1A	09/09/2017	09/24/2017

B. Muzzle-loading firearms (rifle and smoothbore musket) seasons.

1. Muzzle-loading, Moose, Dates, Units, Licenses

Unit	Hunt Code	Open Date	Close Date
1, 201	ME001O1M	09/09/2017	09/17/2017
6 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MM006O1M	09/09/2017	09/17/2017
6 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MF006O1M	09/09/2017	09/17/2017
7, 8, 191 except within 1/4 mile of Hwy 14	MM007O1M	09/09/2017	09/17/2017
7, 8, 191 except within 1/4 mile of Hwy 14	MF007O1M	09/09/2017	09/17/2017
12, 23, 24	MM012O1M	09/09/2017	09/17/2017
12, 23, 24	MF012O1M	09/09/2017	09/17/2017
14	MM014O1M	09/09/2017	09/17/2017
14	MF014O1M	09/09/2017	09/17/2017
15, 27	MM015O1M	09/09/2017	09/17/2017
15, 27	MF015O1M	09/09/2017	09/17/2017

Unit	Hunt Code	Open Date	Close Date
16	MM016O1M	09/09/2017	09/17/2017
16	MF016O1M	09/09/2017	09/17/2017
17	MM017O1M	09/09/2017	09/17/2017
17	MF017O1M	09/09/2017	09/17/2017
18, 181	MM018O1M	09/09/2017	09/17/2017
18, 181	MF018O1M	09/09/2017	09/17/2017
18 - Those portions bounded on the north by the Continental Divide; on the east by the divide between Willow Creek and East Fork of Troublesome drainages and the divide between Corral Creek and Troublesome Creek drainages; on the south by Round Gulch; and on the west by the main fork of Troublesome Creek and Sheep Creek	MM018S1M	09/09/2017	09/17/2017
19 except within 1/4 mile of Hwy 14	MM019O1M	09/09/2017	09/17/2017
19 except within 1/4 mile of Hwy 14	MF019O1M	09/09/2017	09/17/2017
20, 29 except within 1/4 mile of the high waterline of Brainard Lake from the beginning of archery season until the US Forest Service gate closes on Brainard Lake Road.	MM020O1M	09/09/2017	09/17/2017
20, 29 except within 1/4 mile of the high waterline of Brainard Lake from the beginning of archery season until the US Forest Service gate closes on Brainard Lake Road.	MF020O1M	09/09/2017	09/17/2017
28	MM028O1M	09/09/2017	09/17/2017
28	MF028O1M	09/09/2017	09/17/2017
36, 361	MM036O1M	09/09/2017	09/17/2017
37, 371	MM037O1M	09/09/2017	09/17/2017
37, 371	MF037O1M	09/09/2017	09/17/2017
38	MM038O1M	09/09/2017	09/17/2017
38	MF038O1M	09/09/2017	09/17/2017
39, 46	MM039O1M	09/09/2017	09/17/2017
39, 46	MF039O1M	09/09/2017	09/17/2017
41, 42, 52, 411, 421, 521	MM041O1M	09/09/2017	09/17/2017
41, 42, 421	MF041O1M	09/09/2017	09/17/2017
43	MM043O1M	09/09/2017	09/17/2017
44, 45	MM044O1M	09/09/2017	09/17/2017
48, 55, 56, 481, 551, 561	MM048O1M	09/09/2017	09/17/2017
49, 50, 500, 501	MM049O1M	09/09/2017	09/17/2017
49, 50, 500, 501	MF049O1M	09/09/2017	09/17/2017
52, 411, 521	MF052O1M	09/09/2017	09/17/2017
65	MM065O1M	09/09/2017	09/17/2017
66	MM066O1M	09/09/2017	09/17/2017
66	MF066O1M	09/09/2017	09/17/2017
67	MM067O1M	09/09/2017	09/17/2017
67	MF067O1M	09/09/2017	09/17/2017
68, 79, 681	MM068O1M	09/09/2017	09/17/2017
74, 75	MM074O1M	09/09/2017	09/17/2017
76	MM076O1M	09/09/2017	09/17/2017
76, 77, 751 Weminuche Wilderness Only	MM076S1M	09/09/2017	09/17/2017
161	MM161O1M	09/09/2017	09/17/2017

Unit	Hunt Code	Open Date	Close Date
161	MF161O1M	09/09/2017	09/17/2017
171 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MM171O1M	09/09/2017	09/17/2017
171 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MF171O1M	09/09/2017	09/17/2017
191 except within 1/4 mile of Hwy 14	MF191O1M	09/09/2017	09/17/2017

C. Regular Rifle Seasons

Unit	Hunt Code	Open Date	Close Date
1, 201	ME001O1R	10/01/2017	10/14/2017
6 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MM006O1R	10/01/2017	10/14/2017
6 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MF006O1R	10/01/2017	10/14/2017
7, 8, 191 except within 1/4 mile of Hwy 14	MM007O1R	10/01/2017	10/14/2017
7, 8, 191 except within 1/4 mile of Hwy 14	MF007O1R	10/01/2017	10/14/2017
12, 23, 24	MM012O1R	10/01/2017	10/14/2017
12, 23, 24	MF012O1R	10/01/2017	10/14/2017
14	MM014O1R	10/01/2017	10/14/2017
14	MF014O1R	10/01/2017	10/14/2017
15, 27	MM015O1R	10/01/2017	10/14/2017
15, 27	MF015O1R	10/01/2017	10/14/2017
16	MM016O1R	10/01/2017	10/14/2017
16	MF016O1R	10/01/2017	10/14/2017
17	MM017O1R	10/01/2017	10/14/2017
17	MF017O1R	10/01/2017	10/14/2017
18, 181	MM018O1R	10/01/2017	10/14/2017
18, 181	MF018O1R	10/01/2017	10/14/2017
18 - Those portions bounded on the north by the Continental Divide; on the east by the divide between Willow Creek and East Fork of Troublesome drainages and the divide between Corral Creek and Troublesome Creek drainages; on the south by Round Gulch; and on the west by the main fork of Troublesome Creek and Sheep Creek	MM018S1R	10/01/2017	10/14/2017
19 except within 1/4 mile of Hwy 14	MM019O1R	10/01/2017	10/14/2017
19 except within 1/4 mile of Hwy 14	MF019O1R	10/01/2017	10/14/2017
20, 29 except within 1/4 mile of the high waterline of Brainard Lake from the beginning of archery season until the US Forest Service gate closes on Brainard Lake Road.	MM020O1R	10/01/2017	10/14/2017
20, 29 except within 1/4 mile of the high waterline of Brainard Lake from the beginning of archery season until the US Forest Service gate closes on Brainard Lake Road.	MF020O1R	10/01/2017	10/14/2017
28	MM028O1R	10/01/2017	10/14/2017

Unit	Hunt Code	Open Date	Close Date
28	MF028O1R	10/01/2017	10/14/2017
36, 361	MM036O1R	10/01/2017	10/14/2017
37, 371	MM037O1R	10/01/2017	10/14/2017
37, 371	MF037O1R	10/01/2017	10/14/2017
38	MM038O1R	10/01/2017	10/14/2017
38	MF038O1R	10/01/2017	10/14/2017
39, 46	MM039O1R	10/01/2017	10/14/2017
39, 46	MF039O1R	10/01/2017	10/14/2017
41, 42, 52, 411, 421, 521	MM041O1R	10/01/2017	10/14/2017
41, 42, 421	MF041O1R	10/01/2017	10/14/2017
43	MM043O1R	10/01/2017	10/14/2017
44, 45	MM044O1R	10/01/2017	10/14/2017
48, 55, 56, 481, 551, 561	MM048O1R	10/01/2017	10/14/2017
49, 50, 500, 501	MM049O1R	10/01/2017	10/14/2017
49, 50, 500, 501	MF049O1R	10/01/2017	10/14/2017
52, 411, 521	MF052O1R	10/01/2017	10/14/2017
65	MM065O1R	10/01/2017	10/14/2017
66	MM066O1R	10/01/2017	10/14/2017
66	MF066O1R	10/01/2017	10/14/2017
67	MM067O1R	10/01/2017	10/14/2017
67	MF067O1R	10/01/2017	10/14/2017
68, 79, 681	MM068O1R	10/01/2017	10/14/2017
74, 75	MM074O1R	10/01/2017	10/14/2017
76	MM076O1R	10/01/2017	10/14/2017
76, 77, 751 Weminuche Wilderness Only	MM076S1R	10/01/2017	10/14/2017
161	MM161O1R	10/01/2017	10/14/2017
161	MF161O1R	10/01/2017	10/14/2017
171 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MM171O1R	10/01/2017	10/14/2017
171 except within 1/4 mile of Hwy 14 in Jackson County from Cameron Pass west to USFS Road 740 at Gould	MF171O1R	10/01/2017	10/14/2017
191 except within 1/4 mile of Hwy 14	MF191O1R	10/01/2017	10/14/2017

D. Moose License Numbers

1. Moose license numbers will be set as resident and nonresident antlered and antlerless licenses by Game Management Unit. For the Moose Seasons the following numbers of resident and nonresident licenses will be issued:

Units	2016 Resident Antlered Licenses	2016 Resident Antlerless Licenses	2016 Nonresident Antlered Licenses	2016 Nonresident Antlerless Licenses	2016 Resident Either Sex Licenses
1, 201	0	0	0	0	1
6	11	16	3	2	
7, 8, 191 except within 1/4 mile of Hwy 14	9	20	1	5	
12, 23, 24	3	4	0	0	

Units	2016 Resident Antlered Licenses	2016 Resident Antlerless Licenses	2016 Nonresident Antlered Licenses	2016 Nonresident Antlerless Licenses	2016 Resident Either Sex Licenses
14	4	7	0	0	
15, 27	2	2	1	1	
16	7	4	0	0	
17	4	10	1	2	
18, 181	11	12	1	1	
18 (Those portions bounded on the north by the Continental Divide; on the east by the divide between Willow Creek and East Fork of Troublesome drainages and the divide between Corral Creek and Troublesome Creek drainages; on the south by Round Gulch; and on the west by the main fork of Troublesome Creek and Sheep Creek	1	0	0	0	
19 except within 1/4 mile of Hwy 14	5	15	0	0	
20, 29 except within 1/4 mile of the high waterline of Brainard Lake from the beginning of archery season until the US Forest Service gate closes on Brainard Lake Road.	3	6	0	1	
28	12	12	1	1	
36, 361	2	0	0	0	
37, 371	5	5	1	1	
38	2	4	0	0	
39, 46	2	2	0	0	
41, 42, 52, 411, 421, 521	11	0	1	0	
41, 42, 421	0	18	0	3	
43	1	0	0	0	
44, 45	1	0	0	0	
49, 50, 500, 501	3	7	1	0	
48, 55, 56, 481, 551, 561	1	0	0	0	

Units	2016 Resident Antlered Licenses	2016 Resident Antlerless Licenses	2016 Nonresident Antlered Licenses	2016 Nonresident Antlerless Licenses	2016 Resident Either Sex Licenses
52, 411, 521	0	9	0	0	
65	1	0	0	0	
66	2	1	0	0	
67	2	1	0	0	
68, 79, 681	1	0	0	0	
74, 75	1	0	0	0	
76	2	0	2	0	
76, 77, 751 Weminuche Wilderness Only	4	0	0	0	
161	7	5	0	0	
171	6	12	1	2	
191 except within 1/4 mile of Hwy 14	0	2	0	0	
TOTALS	126	174	14	19	1

E. Allocation of Licenses Between Seasons

1. Allocation of these licenses will float between the moose seasons in accordance with the hunt code chosen by successful applicants.

F. Special Restrictions

1. All moose licensees shall complete and return a harvest questionnaire provided by the Division within 30 days after the close of their hunting season. Any moose licensee who does not complete and return the mandatory questionnaire as required shall not be considered for any future moose license.
2. All moose harvested through hunting shall be submitted for inspection to an employee of the Division on or before the 5th working day after the taking thereof. Any licensee who takes an antlered moose shall personally present the head, with antlers attached, to any Division office. Any licensee who takes an antlerless moose shall personally present the head to any Division office. Moose heads must be unfrozen when presented for inspection. If not unfrozen, the Division may retain heads as necessary for thawing sufficient to extract the incisor teeth. A mandatory check report shall be completed at the time of inspection.
3. At the time of the mandatory check, the Division shall be authorized to extract and retain the incisor teeth.

Special Seasons

ARTICLE XII - SPECIAL HUNTING SEASONS/LICENSES FOR BIG GAME

#271 - BIG GAME ANIMALS CAUSING DAMAGE AND BIG GAME POPULATIONS OVER OBJECTIVE

A. Special Population Management Seasons for Big Game Ungulates

1. The Director shall have the authority to establish special management seasons for antlerless or female big game ungulates in specific game management units or portions

thereof which significantly exceed the population objective, when the anticipated harvest from the current year's archery, muzzle-loading and regular rifle seasons did not occur. Provided further that the Director shall have the authority to establish these hunts between November 16 and February 28, to specify a time period for each of these hunts but not to exceed ten days each, and shall authorize hunters to use designated unfilled big game licenses for these hunts and units.

2. The Director shall have the authority to allocate antlerless deer and/or elk licenses on existing Ranching for Wildlife properties located in game management units where deer or elk populations significantly exceed the population objective. These licenses shall be in addition to the number of licenses allocated to each ranch pursuant to the Cooperative Agreement established in #210(A)(2). The additional allocation and use of the antlerless licenses provided for in this section shall be in the same proportion, by species (not sex), as established in the ranch's respective Cooperative Agreement and subject to the following provisions:
 - a. No ranch shall be required to accept any additional antlerless licenses.
 - b. The public allocation of such additional antlerless licenses shall only be offered to hunters who have successfully drawn antlered, either-sex or antlerless licenses for the same species on the ranch. Public hunters who choose to purchase one additional antlerless license from the Division shall be required to use the additional license during the season established for the license for which they drew. No more than one additional antlerless license will be available to any public hunter.

B. Special Game Damage Seasons for Big Game Ungulates

1. The Director shall have the authority to establish special hunting seasons for big game ungulates, between August 15 and February 28, when necessary to control damage to property. Seasons shall be for the taking of antlerless or female animals unless the Director has determined that the taking of antlered animals is necessary in order to alleviate the damage.
 - a. Game damage hunts are limited to a maximum of 50 licenses per species per Game Management Unit or 30 percent of the antlerless, either-sex, or doe licenses issued for the DAU (whichever is greater), unless a distribution management plan establishing a different percentage has been approved by the Parks and Wildlife Commission or additional permits are approved by the Director or his designee.
 - b. On private lands and Russell Lakes, Rio Grande and Higel State Wildlife Areas, the Area Wildlife Manager (AWM) is authorized to conduct these seasons based upon the following criteria:
 1. The AWM finds that such a season would be consistent with the distribution management plan approved by the Parks and Wildlife Commission.
 2. When there is no approved distribution management plan, the AWM finds that a season will reduce or eliminate damage for which the Division is liable, and that holding a season would be desirable considering
 - aa. The species and number of animals involved.

- bb. The number of animals that would have to be removed to reduce or eliminate damage.
 - cc. The location of the damage problem.
 - dd. The type and extent of damage.
 - ee. The time of year and its relationship to the life history of the animals.
 - ff. The length of time such damage will continue without big game removal.
 - gg. Management closures, hunting seasons and other public use.
 - hh. The effect on population objectives for the GMU and DAU.
 - ii. Whether landowner operations (e.g., harvesting) or critical wildlife biological activities (e.g., fawning) would be interrupted.
 - jj. Safety risks.
 - kk. Any other pertinent factors.
- 3. The Area Wildlife Manager shall provide the landowner with special application forms for distribution to individuals of their choice. Participants shall submit the completed application form with payment to the Division office indicated on the application.
 - 4. In the event the landowner cannot secure enough people to effect an adequate harvest the Division can assist in locating individuals.
- c. The Division shall
 - 1. Verify that damage or conflicts are occurring or can reasonably be anticipated to occur.
 - 2. Designate what area shall be open to hunting.
 - 3. Determine the manner of hunting that will be permitted.
 - 4. Determine the number of hunters allowed to hunt in each designated area.
 - d. Hunting will be done under the direction of a District Wildlife Manager, following approval by the owner of land where such damage is occurring.
 - e. Hunters shall hunt in designated areas and on the dates indicated on the license.
 - 1. A map or a written description of the designated area open to hunting (which would include, but would not be limited to landowner(s) name, game management unit, township, range and section(s) and/or identification of landmarks such as roads, rivers, or fence lines which coincide with boundaries), will be provided to each licensed hunter by the Division.

- f. Any person who purchases a license for a game damage season shall be required to complete a Division harvest survey form and return it to the Area office that is nearest the location of the hunt no later than 5 days after the season ends.

C. Special Game Damage Licenses for Bear and Mountain Lion

- 1. The Director shall have the authority to establish special hunting licenses for mountain lion and bear, which allow for take in excess of the otherwise applicable limited license numbers or quotas, when necessary to control damage to private property.
 - a. AWMs are authorized to issue these bear and mountain lion licenses to address specific animals determined after an investigation to be causing damage to private property.
 - 1. Bear or mountain lion licenses above the established limited license numbers or quota for the area may be issued only where necessary to take specific animals determined after an investigation to be causing damage to private property.
 - 2. Bear hunting authorized under this provision will be conducted between September 2 and the end of the fourth regular rifle season annually.
 - 3. Mountain lion hunting authorized under this provision will be conducted during established lion seasons.
 - 4. Licenses will be issued only if licenses are not otherwise available for purchase under standard license distribution methods or where mountain lion quotas have been reached in the area.
 - 5. License will be restricted by manner of take, period of time within the dates specified above, and location within the GMU(s) or DAU(s) in question as necessary to ensure the offending animal is appropriately targeted.
 - 6. Hunting will be conducted under the direction of a District Wildlife Manager.
 - b. Any person who purchases a license shall be required to complete a Division harvest survey form and return it to the Area office that is nearest the location of the hunt no later than 5 days after the end of the hunting period authorized by the license.
 - c. Bear and mountain lion taken pursuant to a license issued under this provision shall not be counted against the annual bag and possession limit for the species in question.

D. Special Hunting Season In Game Management Unit 20 For Cow Elk Normally Not Available For Harvest During Regular Or Late Big Game Seasons:

- 1. Season dates, license types, permit numbers will be established by the Director or his designee.
- 2. The Division will designate the area open to hunting, manner of take, and season dates which are necessary to achieve its population management objective for this population

of elk. Hunting shall occur only during the designated time periods indicated on the hunter's license and only in those areas specifically designated on the map provided by the Division. Special Unit 20 cow elk hunts shall be established based on the following criteria: (a) the hunt does not fall within the criteria established for game damage hunts; (b) snow ground cover and/or other conditions favor are expected to favor successful hunting; (c) elk must be available to hunters in portions of Unit 20 which are open to hunter access; and (d) no special season will be created under this regulation which would extend beyond February 15th.

3. Eligible hunters will be selected in the following priority: a) from the list of hunters who applied for a Unit 20 limited elk license and were unsuccessful; and b) from a new list of hunters established by the Division Northeast Regional office pursuant to notice in local newspapers. Such list will be established on a first-come, first-served basis.
4. Individuals who participate in this special hunt may also participate in any other season for elk if otherwise eligible to do so.

E. Special Hunting Licenses and Seasons For Deer and Elk in Urbanized Areas:

1. The Division Director (or designee) shall have the authority to establish special deer and elk hunting seasons between August 15 and February 28 annually to achieve population management objectives as specified in Division approved county or municipality management plans. Seasons shall be for the taking of antlerless animals unless the Director determines that the taking of antlered animals is necessary per the issues and goals brought forth in the Division approved management plan.
2. Counties or municipalities must submit a proposed management plan to the Division, which includes the following:
 - a. Explanation of the need and scope of the issues (i.e. habitat degradation, human conflicts, human health and safety issues, etc);
 - b. Estimated population of deer or elk creating the issue and a target population number being sought post removal;
 - c. Season dates;
 - d. Manner of take;
 - e. Numbers of licenses and projected harvest;
 - f. Geographic location and description of hunting area(s); and
 - g. Method for selecting eligible hunters.
3. Management plans will be evaluated on the merits of furthering goals for suburban deer or elk management and in relation to the appropriate Division Big Game Herd (DAU) Management Plan. The Director (or designee) shall provide the county or municipality with special application forms for distribution to individuals as specified within the submitted and approved management plan. Participants shall submit the completed application to the Division to obtain the appropriate hunting license.
4. The participating county or municipality will assume full responsibility for the plans and elements therein. The Division will be available to provide technical assistance to the county or municipality in preparing the management plan.
5. The county or municipality may not charge hunters a fee beyond what is required to cover their administrative costs to run the program.

6. All participating counties, municipalities and individuals are required to follow all applicable state statutes and regulations. No county or municipality will allow, encourage, or otherwise promote violations thereof.
7. The Division can unilaterally, without prior notification, terminate or void any applications given to a county or municipality prior to their redemption for a license for issues related to human health, safety, or any wildlife related violations associated with the management plan implementation, or documented deviation from the management plan as it was submitted to the Division. Management plans may be amended with Division approval.
8. Individuals who participate in these special hunts may also participate in any other season for deer or elk if otherwise eligible to do so.
9. Any county or municipality receiving licenses for a special hunting season for deer and elk in urbanized areas shall be required to complete a Division harvest survey form and return it to the Area office that is nearest to the location of the hunt no later than 5 days after the season ends.

#272 BIG GAME DISEASE/ANIMAL HEALTH SEASONS

1. Special Hunting Seasons for Disease Management in Big Game
 - a. The Director shall have the authority to establish special hunting seasons for big game, when hunting harvest has not been adequate to reduce the incidence of disease, to reduce emigration of infected animals, or to otherwise control expansion of the disease.
 1. No more than 200 licenses per species shall be issued annually per Game Management Unit (GMU) unless authorized by the Director
 2. Seasons shall be for the taking of antlerless or female animals unless the Director has authorized the issuance of male (antlered) licenses. No more than 10% of the licenses shall be issued for male (antlered) animals unless authorized by the Director.
 3. Licenses will be valid only in the unit(s) specified on the license. Licenses may be restricted to specific properties or areas as determined by the Area Wildlife Manager.
 4. License fees may be reduced when authorized by the Director, when necessary to ensure sufficient hunter participation, provided that no license is to be sold for less than \$5.00. License fees shall be set to ensure recovery of the cost of the retail and system agent commissions.
 5. Multiple carcass tags may be issued with each license, as authorized by the Director. Provided further that the payment of separate license fees shall be required if licenses for more than one species are to be sold.
 6. Any licensee who takes deer or elk during any such season for the purpose of Chronic Wasting Disease (CWD) management shall submit the head from all animals taken when required to do so as a condition of the license, to the testing site specified at the time the license is issued, within 5 days after harvest. Hunters must complete the special survey tag available at any head collection site and attach it to the animal's

head. Antlers and capes from harvested deer may be removed by hunters before submitting heads for sampling.

ARTICLE XIII - VACANT

ARTICLE XIV - VACANT

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Tracking number: 2016-00620

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (406 Series, Wildlife)

on 01/11/2017

2 CCR 406-2

CHAPTER W-2 - BIG GAME

The above-referenced rules were submitted to this office on 01/19/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 11:48:36

Cynthia H. Coffman
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by Frederick R. Yarger
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Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-3

Rule title

2 CCR 406-3 CHAPTER W-3 - FURBEARERS AND SMALL GAME EXCEPT
MIGRATORY BIRDS 1 - eff 03/02/2017

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03/02/2017

**FINAL REGULATIONS - CHAPTER W-3 - FURBEARERS and SMALL GAME, EXCEPT
MIGRATORY BIRDS**

ARTICLE I - GENERAL PROVISIONS

#304 - License Requirements

Except as provided in 33-6-107(9) C.R.S., the following license requirements shall apply:

- A. A small game license is required to take those species defined in #300(A) as small game, except wild turkey.
- B. A small game or a furbearer license is required to take those species defined in #300(B) as furbearers. Coyotes may be taken without a license during any big game season provided that the hunter has an unfilled big game license for that season and unit. Manner of take must be the same as that of the big game license.
- C. A turkey license is required to take wild turkey.
- D. Common snapping turtles may be taken with either a small game license or a fishing license.
- E. A relocation permit is required to relocate small game and furbearers, in accordance with special conditions listed in #303(A)(3).
- F. Each hunter must call 1-866-COLOHIP (1-866-265-6447) or register online (www.colohip.com) prior to their first hunting trip of the season to register their intent to hunt small game or furbearers. For the purposes of this regulation, "season" means the period September 1 through March 15.

#305 - Evidence of Sex/Species

Refer to General Provisions #003.

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on 01/11/2017

2 CCR 406-3

CHAPTER W-3 - FURBEARERS AND SMALL GAME EXCEPT MIGRATORY BIRDS

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Cynthia H. Coffman
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2 CCR 406-5 CHAPTER W-5 - MIGRATORY BIRDS 1 - eff 03/02/2017

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FINAL REGULATIONS - CHAPTER W-5 - MIGRATORY BIRDS

ARTICLE I – GENERAL PROVISIONS

#503 – LICENSE AND STAMP REQUIREMENTS

A. License required

1. A small game license is required to take all migratory game birds listed in #500(B) for which an open season exists.
2. Each hunter must call 1-866-COLOHIP (1-866-265-6447) or register online (www.colohip.com) prior to their first hunting trip of the season to register their intent to hunt migratory birds, and to obtain permit numbers if hunting sandhill cranes, and to provide harvest information for the previous season. "Season" means the period September 1 through March 15.

B. Federal Migratory Bird Hunting and Conservation Stamp

Except as otherwise provided in this chapter, no person who has attained the age of sixteen (16) years shall take any migratory waterfowl (ducks, geese and swans) unless at the time of such taking they have on their person an unexpired Federal Migratory Bird Hunting and Conservation Stamp (commonly called duck stamp), validated by their signature written across the face of the stamp in ink, or an electronic stamp issued through the Total Licensing System that provides a receipt as proof of purchase. This proof of purchase contains a unique code given to the purchaser instantly, and constitutes valid proof of purchase of a Federal Migratory Bird Hunting and Conservation Stamp for a period not to exceed 45 days from the date of purchase.

C. Colorado State Waterfowl Hunting Stamp

In addition to the Federal Migratory Bird Hunting and Conservation Stamp, no person who has attained the age of sixteen (16) years shall take any migratory waterfowl (ducks and geese) unless they possess and carry on their person a valid Colorado State Waterfowl Hunting Stamp, validated by their signature written, in ink, across the face of the stamp.

1. A Colorado State Waterfowl Stamp may be obtained for collection or personal purposes, but shall not serve as the required state stamp for waterfowl hunting purposes.

D. Band-Tailed Pigeon Permit

Beginning with the 2016 band-tailed pigeon hunting season, no hunter shall take any band-tailed pigeons unless at the time of such taking they have on their person an annual band-tailed pigeon permit in addition to a small game license. An annual band-tailed pigeon permit can be purchased for \$5.00.

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CHAPTER W-5 - MIGRATORY BIRDS

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Cynthia H. Coffman
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Department of Natural Resources

Agency

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2 CCR 406-15 CHAPTER W-15 - LICENSE AGENTS 1 - eff 03/02/2017

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03/02/2017

FINAL REGULATIONS - CHAPTER W-15 - DIVISION AGENTS

See also § 33-4-101, C.R.S. and §33-12-104(1) C.R.S., for statutory provisions applicable to Division agents.

ARTICLE I - GENERAL PROVISIONS

#1500 – DEFINITIONS

- A. **"Division Product"** means any license, pass, permit, or registration which is sold through the Division of Parks and Wildlife integrated system.
- B. **"Accountable Inventory"** means equipment or stock which are assigned to agents and which they are responsible to return to the Division or the system agent upon request. Types of accountable inventory include, but are not limited to:
1. **"Division Product Stock"** means the specialized paper stock used for the printing of Division products by a Division agent.
 2. **"Receipt Stock"** means the specialized paper stock used for the printing of receipts or affidavits by a license agent.
 3. **"Point of Sale (POS) Terminal"** means all machine components which license agents use to access the Division's electronic licensing system and conduct license transactions.
- C. **"Automatic Cash Handling" ("ACH")** means the direct electronic transfer of funds from one bank account to another.
- D. **"Division Agent"** means a business (sole proprietorship, partnership, or corporation) which is authorized to sell Division products from a specific location as an agent of the Division of Parks and Wildlife. Types of agencies are defined as follows:
1. **"Retail Agent"** means a business which sells Division products for the Division from its retail store or other location of record.
 2. **"Consolidated Agent"** means a retail agent which sells Division products for the Division from two or more stores or other locations of record and which is licensed to conduct all business with the Division as a single entity.
 3. **"System Agent"** means the company contracted by the Division to operate its integrated parks and wildlife system, including, but not limited to, the provision of any accountable inventory or other necessary materials to retail agents; the maintenance of the electronic system and provision of electronic reports to the Division; the sale of Division products by telephone and through an internet site; the acceptance of applications through the internet site for the limited license drawings; and the printing and distribution of such licenses to the recipients (license fulfillment).
- E. **"Location of Record"** means the street address of the retail store or other specified business location(s) from which an agent sells Division products, as specified in the agent agreement or system agent contract.

ARTICLE II - DIVISION AGENT ESTABLISHMENT - AGENT REQUIREMENTS AND APPLICATION PROCESSING

#1501 - AGENT REQUIREMENTS AND FUNCTIONS

A. Division Agent Establishment

1. Division agents will be established and authorized to sell Division products from a permanent location of record.
2. Prior to the sale of electronic Division products, all retail agents must enter into a written contract (agent agreement) with the Division which specifies the terms of operation of such Division agent and the services to be provided by the agent and the Division, in accordance with applicable statutes, regulations, or policies of the Commission or Division.
3. No Division products may be sold within the same portion of any business, building, or establishment where liquor is sold by the drink.
4. Retail agents open for business must sell all license types available. Seasonal agents may restrict their hours of operation depending on the nature of their business according to their agent agreement.

B. Division Product Sales

1. Retail agents must sell Division products from a location of record within the state of Colorado.
2. The system agent may operate from a location of record within or outside of the state of Colorado.
3. Retail agents who provide regular, established business hours will be provided with a minimum of one POS terminal. Consolidated agents who sell licenses to the general public during regular business hours will be provided with a minimum of one terminal per store.

#1502 - Application Processing

A. New applicants for a Division agent must apply to the Division at least 60 days prior to the desired opening date. Provided further, however, that new agent applications are not processed between August 15 and December 31 without demonstration of immediate need. In such cases, applications for transfer of an agency from one owner to another shall have priority.

B. Prior to the processing of any license agent application, the applicant is required to submit the following:

1. A completed application, on forms provided by the Division.
2. Proof of the required financial surety.
3. Proof of property insurance.
4. Verification that neither the applicant, nor any partner, officer, director or substantial shareholder thereof was the individual holder of any company, business, corporation or other entity which was a Division agent and which designation was either suspended or canceled for cause within the two year period preceding the application date.
5. Except in the case of corporations, proof of lawful presence in the United States.

ARTICLE III - FINANCIAL GUARANTY (SURETY)

See also §§ 11-35-101 - 101.5, CRS for general requirements concerning forms of surety.

#1503 - Amount and Proof of Surety

- A. Prior to the establishment of any Division agent, the applicant shall provide proof of financial surety, on forms provided by the Division, for a minimum period of twelve months. The initiation and expiration dates of the coverage must be stated on the surety certificate. A continuation certificate issued by the bonding company or financial institution or proof of other acceptable financial surety shall be required for renewal of the Division agent for each twelve month period, and must be provided to the Division no later than thirty days prior to expiration. All surety certificates must be originals and signed by both the surety (or their legal designee) and the Division agent.
- B. Agents shall be bonded in the amount necessary to ensure remittance of all funds due the Division. New license agents shall be required to be bonded for a minimum of \$2000. After the first twelve months for a new agency, or considering the historical sales records for existing agents, the amount of financial surety required of each agent shall be sufficient to ensure payment for licenses sold for the highest ten consecutive days sales in the current bonding period. Consolidated agents shall be responsible for the remittance of funds collected by their outlets, and shall be required to bond in the amount necessary to cover each outlet in the agency as if they were licensed individually.
- C. Agents shall not sell Division products in amounts that would exceed their bond level. Agents shall be responsible for payment of revenues at more frequent intervals, via ACH, if necessary to restore available bond.
- D. Agents shall have the option to adjust their surety level on a quarterly basis as determined by the highest ten consecutive days in the quarter. Quarters shall begin on the first days of January, April, July, and October. Proof of such adjustment must be posted before sales can be made against the higher bond amount.

ARTICLE IV - DIVISION AGENT OPERATION AND PERFORMANCE STANDARDS

#1504 - Agent Operation and Performance Standards

- A. Division agents are required to meet the following standards at all times:
 - 1. Maintain the required surety bond level.
 - 2. Display and distribute all public information, such as brochures and placards, as provided by the Division.
 - 3. Maintain a file of receipts, affidavits, or any other document required in the agent agreement.
 - 4. Keep all paper stock, POS terminals, and any other Division product equipment in a safe place and in good condition at the location of record, as specified in the agent agreement.
 - 5. Obtain insurance adequate to cover replacement of any POS terminals or other Division product-related equipment leased from the system agent.
 - 6. Sell all Division products and collect all donations specified in the agent agreement, and only at the location of record.

7. Sell Division products only at face value, and only to those who are eligible to purchase them, in compliance with all applicable statutes and regulations.
8. Establish an agent bank account with ACH capability which is electronically accessible to the Division.
9. Deposit the state share of all Division product revenues in the agent bank account in the total amount due, in accordance with the schedule in the agent agreement.
10. Immediately report the theft or loss of any accountable inventory.
11. Attend any training required by the Division concerning applicable statutes and regulations and performance of agent duties, at the location specified by the Division.
12. Comply with all statutory and regulatory requirements, all provisions of the agent agreement, and all directives of the Division, including, but not limited to, those provided via direct correspondence or in the Division Agent Manual.
13. Provide reasonable access to any Division officer or other peace officer upon request during normal business hours for the purpose of inspection of equipment, materials, records, or other applicable license agent documents or information.
14. Read and comply by any correspondence sent to the agent by the Division, including, but not limited to: electronic bulletins; monthly agent bulletins; special communications by mail, email, or through the system; and non-compliance letters.
15. Train all staff in the issuing of Division products as well as applicable policies and procedures prior to their use of the system.

ARTICLE V - DIVISION AGENT STATUS

#1506 - TERMINATION OF AGENCIES

A. Division Agent Termination

Division agents who wish to terminate their agency shall notify the Division in advance of such termination and the effective date; and shall reconcile their agency with the Division as follows:

1. All revenues due must be deposited in the agent account and all accountable inventory shall be returned to the Division, to the location or in the manner designated, within 10 business days after the termination date.
2. Agents which have purchased their POS terminal must allow the Division or its system agent to remove the integrated system software from the POS terminal within 3 business days after notification of the effective date of the termination.

#1507 - TRANSFER OF AGENCIES

A. Division Agent Transfer

1. Whenever a Division agent is to be sold, leased, or transferred in any manner, the new owner or person having control of the business may file an application for a new Division agent. The new agent must qualify to be an agent and independently comply with all other provisions of the statutes and these regulations.

#1508 - SUSPENSION AND CANCELLATION OF AGENCIES

See also §§ 24-4-104 C.R.S. for applicable statutes concerning appeals process

A. Failure to Comply with Performance Standards

1. General Performance Standards

- a. Failure of a Division agent to comply with applicable rules and regulations of the Parks and Wildlife Commission or any lawful directives of the Director of Colorado Parks and Wildlife shall be grounds for an agent being declared delinquent, or for the suspension or cancellation of the Division agent.
- b. When an agent does not comply with performance standards other than surety bond and payment of revenue, the agent shall be notified of the problem and the steps required to correct it. Any failure to correct the problem is grounds for revocation suspension, annulment, limitation, or modification of a Division agent.

2. Performance Standards for Surety and Monies Due the Division

- a. When, through agent error, the Division does not receive ACH revenues due to it, the following actions shall be taken:
 1. For the first failed ACH transaction within a twelve-month period, the agent shall be notified of a new date for an ACH transaction and shall deposit the required amount of funds in the agent account by that date.
 2. For a second failed ACH transaction within the same twelve-month period, the agent's POS terminal shall be disabled until the funds, including any interest due, have been received. The agent shall be notified of the date for another ACH transaction and shall deposit the required amount of funds in the agent account by that date.
 3. For a third failed ACH transaction within the same twelve-month period, the agent's POS terminal shall be disabled and the agent may be revoked. All funds due the Division must be immediately remitted to the Division in certified funds.
- b. When an agent's surety bond is not current, the agent shall be notified of the need to provide a current certificate and shall have fifteen business days to provide the required proof. The agent's POS terminal shall be disabled until the certificate is received. If no bond certificate is received, the agent may be revoked.

3. Consolidated Agent Suspension or Revocation

- a. One or more outlets (stores) of a consolidated agency may be suspended or revoked without suspension or revocation of the entire agency.

ARTICLE VI - AGENT COMMISSION RATES

#1510 - Agent Commission Rates

See also §33-4-101 C.R.S. relative to Division agents and §33-4-102(1.6)(b) C.R.S. for price indexing information for nonresident big game licenses.

A. Commission Rates for Retail Agents:

1. Division agents shall be paid a 4.75% commission for each license sold electronically, except for those licenses with fixed commissions as shown below.
2. Division agents shall be paid a 5% commission for each pass sold electronically.
3. Division agents who sell registrations shall be paid a flat rate of \$1.00 per registration issued.

4. Fixed Commissions: Division Product Type	2016 License Fee	2016 Commission	2017 License Fee	2017 Commission
Second Rod Stamp	\$5.00	\$.31	\$5.00	\$.31
Fishing - 1 day	\$8.00	\$.62	\$8.00	\$.62
Fishing - 5 day	\$20.00	\$1.23	\$20.00	\$1.23
Small Game - 1 day	\$10.00	\$.62	\$10.00	\$.62
Nonresident Deer	\$375.00	\$13.10	\$385.00	\$13.50
Nonresident Pronghorn	\$375.00	\$13.10	\$385.00	\$13.50
Nonresident Bear	\$350.00	\$12.95	\$350.00	\$12.95
Nonresident Mountain Lion	\$350.00	\$12.95	\$350.00	\$12.95
Nonresident Antlerless Elk	\$465.00	\$13.10	\$480.00	\$13.50
Nonresident Either-sex Elk	\$625.00	\$22.05	\$640.00	\$22.70
Nonresident Antlered Elk	\$625.00	\$22.05	\$640.00	\$22.70
Nonresident Rocky Mtn Bighorn Sheep	\$2,080.00	\$72.80	\$2,145.00	\$74.95
Nonresident Desert Bighorn Sheep	\$1,385.00	\$48.60	\$1,430.00	\$50.05
Nonresident Goat	\$2,080.00	\$72.80	\$2,145.00	\$74.95
Nonresident Moose	\$2,080.00	\$72.80	\$2,145.00	\$74.95

All 2016 licenses sold through March 2017 shall be sold at the 2016 license fee and commission rates.

B. Commission Rates for the System Agent: The system agent shall be paid the commissions shown in the table below for each license sold through the system:

1. Fixed Commissions:

Division Product Sale Type	Commission			
	07/01/2008 - 06/30/2010	07/01/2010 - 06/30/2011	07/01/2011 - 06/30/2012	07/01/2012 -12/31/2016*
Division products sold through point of sale terminals	\$1.29	\$1.32	\$1.34	\$1.35
Division products sold through the Internet	\$2.00	\$2.00	\$2.00	\$2.00
Division products sold by telephone	\$2.37	\$2.37	\$2.37	\$2.37
Limited Licenses fulfillment	\$1.00	\$1.00	\$1.00	\$1.00

*The Commission rates for 2017 will remain as listed until the new IPAWS system goes live.

- a. For Internet and telephone sales, the system agent shall receive an additional 2.2 percent of the cost of any wildlife product.

The Commission rates for the licensing system agent after the IPAWS system goes live will be:

2. Commission pricing for any CPW Commissionable Product sold through IPAWS

Commission Rates	Wildlife Products
a. Contractor Commission Fee percent commission rate to cover AWO System operation and maintenance cost for those products less than \$100 and not listed below in c.	3.7%

b. Contractor Commission Fee flat fee commission rate to cover AWO System operation and maintenance cost for those products \$100 or greater and not listed below in c.	\$4.25
c.1. All Wildlife Applications, regardless of Product Cost.	\$4.25
c.2. Parks variable cost products, regardless of actual Product Cost.	n/a
Breakout Costs	
Contractor credit card fee	2.2%
Contractor fulfillment fee	\$1.45

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CHAPTER W-15 - LICENSE AGENTS

The above-referenced rules were submitted to this office on 01/19/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

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Cynthia H. Coffman
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by Frederick R. Yarger
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Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (406 Series, Wildlife)

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2 CCR 406-16 CHAPTER W-16 - PROCEDURAL RULES 1 - eff 03/02/2017

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FINAL REGULATIONS - CHAPTER W-16 - PROCEDURAL RULES

ARTICLE IV – REFUNDS, REIMBURSEMENT AND RESTORATION OF PREFERENCE POINTS

#1670 Refunds and Restoration of Preference Points

See also §§ 33-4-102 (6) for statutory provisions related to refunds

- A. General Refund Procedures** – Except as provided herein, anyone may request and be given a refund for a license no later than fourteen (14) days prior to the opening day of the applicable turkey season for turkey licenses or thirty (30) days prior to the opening day of the season for which the license was issued for all other licenses, minus a \$15.00 processing fee. The \$15.00 processing fee will not be charged for refunds requested on youth licenses or due to extreme medical circumstances involving the license holder, death of the license holder, death of the license holder's immediate family member, military deployment, or for Division error. Requests must have a valid U.S. postmark, or be submitted at a Division office at least fourteen (14) days prior to the opening day of the applicable turkey season or thirty (30) days prior to the opening day of any other season for which the license was issued.
1. All refunds shall be requested on a form provided by or in the format requested by the Division.
 2. All requests for license refunds must be accompanied by the entire license and carcass tag when applicable.
 3. Refunds may be requested by mail or in person at any Division office.
 4. Refunds shall only be issued to the person whose name appears on the license.
 5. Licenses purchased through non-Division license agents will be refunded at cost less license agent fee.
 6. No refunds shall be made on any special licenses listed in 33-4-102(2), C.R.S., or any auction or raffle licenses as provided for in 33-4-116 or 33-4-116.5, C.R.S., or on any exchanged license, or on any license that costs less than \$15.00 with the exceptions of resident youth turkey and resident youth big game licenses, or to any person whose license privileges have been suspended by the Commission.
 7. When the \$15.00 processing fee exceeds the original refund amount, no refund shall be issued and the remainder of the processing fee shall be waived.
 8. Except for deer, elk, pronghorn, and bear hunt codes which required 5 or more resident preference points to draw as determined by the current year's limited license draw, as well as bighorn sheep, mountain goat, moose, public Ranching for Wildlife antlered and either-sex deer and elk, and buck and either-sex pronghorn, all other limited licenses that are returned for refund or preference point restoration will be available for reissue after the refund request has been processed using the current leftover license list and following all license purchase regulations.
 9. Deer, elk, pronghorn, and bear hunt code licenses which required 5 or more resident preference points to draw as determined by the current year's limited license draw, as well as bighorn sheep, mountain goat, moose, public Ranching for Wildlife antlered and either-sex deer and elk, and buck and either-sex pronghorn licenses returned for refund or preference point restoration will be reissued by the Division manually. If the next in line regular draw list applicant accepts one of the aforementioned first choice licenses that has been returned and reissued, all accumulated preference points for that species become void. If a license cannot be manually reissued to one

of the first five people on the regular draw list, the license will become available for reissue using the current leftover license list. Public Ranching for Wildlife licenses will not be reissued within thirty (30) days of the start date for the respective hunt code.

10. Requests for refunds after the opening of the season will be accompanied by sufficient evidence demonstrating that the license has not been used and circumstances precluded the licensee from being able to use the license. In addition, to be eligible for a refund the failure to apply for a refund less than thirty (30) days prior to the opening day of the season for which the license was issued cannot be due to a lack of diligence on the part of the licensee. The Division's License Administration Manager will render a decision on the refund request on behalf of the Division and the Commission and such decision shall constitute final agency action. Circumstances for which reimbursement will be considered shall be limited to:

- a. Extreme medical circumstances involving the license holder.
- b. Death of the license holder or death of a license holder's immediate family member.

B. Other Refunds

1. Refunds or antlerless licenses may be issued in any unit approved by the Division for the same species in the same year to hunters who harvest a deer, elk or moose in which Chronic Wasting Disease (CWD) is detected through the Division's CWD monitoring or testing programs. Where there is no open season or insufficient time remains to reasonably exercise the benefits of a license granted in the same year, the Division may issue the licensee an antlerless license for the same species in the following year in the same Game Management Unit where the CWD detected animal was harvested, or if antlerless hunting is not permitted in the applicable GMU, the Division may designate a substitute GMU. If the season closes prior to October 31 in the unit, the license will be valid through October 31. The provisions of this regulation shall apply to any hunter who harvests a moose after January 1, 2006 in which CWD is detected. Licenses issued pursuant to this provision shall not be considered part of the quota otherwise established by the Commission for that GMU.

C. Restoration of Preference Points

1. License preference points used to obtain the license will not be restored except as follows:
 - a. No later than fourteen (14) days prior to the opening day of the applicable turkey season for turkey licenses or thirty (30) days prior to the opening day of the season for all other licenses, preference points may be restored to the pre-drawing level in lieu of a refund at the licensee's request.
 - b. Less than fourteen (14) days prior to the opening day of the applicable turkey season for turkey licenses or thirty (30) days prior to the opening of the season for all other licenses, the License Administration Manager may restore preference points to the pre-drawing level in lieu of a refund for:
 1. Extreme medical circumstances involving the license holder; or
 2. Death of a license holder's immediate family member.

D. Time Restriction

1. In no event shall a refund or preference point restoration be made where the request is submitted more than thirty (30) days after the opening of the season for which the license was issued. Provided further that all time limits will be extended for active members of the United

States armed forces whose military service requirements precluded their application for a refund or preference point restoration within said periods.

E. Director Disaster Relief Authority

1. When, in the determination of the Director, existing Parks and Wildlife regulations will have a significant negative impact following a natural disaster that displaces persons from their homes, or closes areas to public access and results in a time-critical demand for use of park resources or a complete (or near complete) loss of hunting opportunity, the Director is authorized to take emergency administrative actions, including, but not limited to:
 - a. Issuance of license fee refunds.
 - b. Restoration of preference points.
 - c. Exchange of big game hunting licenses for leftover or over-the-counter licenses.
 - d. Suspension of length of stay camping limits on Division-owned or controlled properties.
 - e. Imposition of administrative requirements associated with the application for relief granted under this section.

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CHAPTER W-16 - PROCEDURAL RULES

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Permanent Rules Adopted

Department

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DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-3

FINANCIAL ISSUES

Repeal of Amended Regulation 3-5-1

TITLE INSURANCE

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Section 1 — Authority

This regulation is promulgated pursuant to the authority of §§ 10-1-109, 10-2-104, 10-3-1110, 10-4-404(1), 10-11-118, and 10-11-124 (2), C.R.S.

Section 2 — Scope and Purpose

The purposes of this regulation are: to interpret and implement the title insurance code found in article 11 of title 10 of the Colorado Revised Statutes; to promote the public welfare by proscribing practices which, if not proscribed, could result in excessive, inadequate, or unfairly discriminatory rates for title insurance, and which practices, if not proscribed, could allow unlawful inducements, deceptive trade practices, and discriminatory acts, all of which are detrimental to the consumer and, in the aggregate, may threaten the solvency of title insurance companies and title insurance agents; and to ensure to the consumers the benefits of competition in the area of title insurance.

In Colorado, the majority of real estate transactions require a policy of title insurance. In most instances, a consumer makes the selection of a title entity not through comparison shopping, but rather through a referral or recommendation from a real estate broker, lawyer, developer, lender, or mortgage broker. Thus, the competition for title insurance business is not at the level of the ultimate consumer, but rather at the level of the referring parties — the settlement producers.

Further, increasing consumer understanding of title insurance is difficult. Since most consumers will only need to purchase title insurance a few times in their lives, there is little economic incentive for the average consumer to learn about title insurance. These factors may cause a consumer to be vulnerable to excessive rates, deceptive trade practices, and/or discriminatory acts.

This regulation addresses the issues above. Its purpose is to protect the consumer, to ensure that the title industry is freely and fairly competitive, and to provide valuable products and services to consumers at reasonable rates.

Section 3 — Applicability

This regulation governs title entities and does not extend the regulatory authority of the Colorado Division of Insurance ("Division") to any person other than title entities or persons transacting the business of title insurance.

Section 4 — Definitions

- A. "Affiliate" means, for the purpose of this regulation, a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with a title entity.
- B. "Affiliated business arrangements" shall have the same meaning as found at § 10-11-102 (1), C.R.S. Affiliated business arrangements are distinct from controlled business arrangements, which are defined by § 10-2-401(4), C.R.S.
- C. "Associate" shall have the same meaning as found at § 10-11-102 (2.5), C.R.S.
- D. "Closing agent" means, for the purpose of this regulation, any and all persons contracted to perform closing and settlement services on behalf of a title entity.
- E. "Closing instructions" or "written instructions" shall mean, for the purpose of this regulation, a document, signed by all necessary parties to a transaction, which purports to direct a title entity in the completion of settlement services.
- F. "Commitment" or "title commitment" shall mean, for the purpose of this regulation, a report furnished in connection with an application for title insurance, which is a statement of the requirements, terms, and conditions upon which the title insurance company is willing to insure an interest in subject property.
- G. "Core title services" shall have the same meaning as found at the United States Department of Housing and Urban Development (HUD) RESPA Statement of Policy 1996-4.
- H. "Farm package" means, for the purpose of this regulation, a compilation of information pertaining to ownership and characteristics of property within a specific geographic area provided in any format, e.g., labels, envelopes, postcards and/or electronic media. Farm package materials generally include, but are not limited to, names and addresses, profiles, property characteristics, demographic information, and/or census information.
- I. "Fee" means, for purposes of this regulation, the price other than the rates assessed to a consumer by a title entity in rendering services pursuant to the business of title insurance as defined in § 10-11-102, C.R.S.
- J. "Financial institution" has the same meaning as found at § 38-35-125, C.R.S.
- K. "Ownership and encumbrance report" ("O&E") means, for the purpose of this regulation, information identifying the last recorded owner, legal description and recorded deeds of trust or mortgages of a particular real property address available from public records.
- L. "Person" has the same meaning as found at § 10-2-103(8), C.R.S.

M. — “Settlement producer” shall have the same meaning as found at § 10-11-102 (6.5), C.R.S., and does not include insurance producers as defined in § 10-2-103 (6), C.R.S.

N. — “Settlement services” shall have the same meaning as found at §10-11-102(6.7), C.R.S.

O. — “TBD commitment” shall mean, for the purpose of this regulation, a commitment furnished prior to a full application for title insurance, in which all parties and/or details concerning a transaction are not yet known (e.g. buyer, seller, sales amount, loan amount, etc.)

P. — “Title insurance agent” shall have the same meaning as found at § 10-11-102(9), C.R.S.

Q. — “Title insurance company” shall have the same meaning as found at § 10-11-102(10), C.R.S.

R. — “Title entity” shall mean, for the purpose of this regulation, title insurance agents, title insurance agencies and title insurance companies.

Section 5 — Repealed (October 1, 2015)

The requirements of this section are now found in Colorado Insurance Regulation 8-1-1.

Section 6 — Repealed (August 15, 2016)

The requirements of this section are now found in Colorado Insurance Regulation 8-1-3.

Section 7 — Repealed (October 1, 2015)

The requirements of this section are now found in Colorado Insurance Regulation 8-1-2.

Section 8 — Rules Regarding Agent Licensing

A. — To demonstrate compliance with § 10-11-116(2), C.R.S., the title entity seeking licensure shall submit a notarized letter from an accountant verifying that upon a limited review of the title entity's books and records performed for this purpose, the accountant reasonably believes the title entity has a net worth at least equal to the minimum amount set forth in § 10-11-116 (2), C.R.S., or the title entity possesses actual paid-in cash capital of at least the amount set forth in § 10-11-116 (2), C.R.S.

B. — Every title entity shall disclose every affiliated business arrangement in a form acceptable to the Commissioner. Such disclosure shall be completed with every new or renewal license application and within thirty (30) days of any changes of the disclosed information.

Section 9 — Rules Regarding Fiduciary Duties

A. — All title entities and their authorized agents in possession of funds received and belonging to others shall maintain the funds in a fiduciary capacity in a separate fiduciary fund account or accounts supported by books and records sufficient to identify such funds. The fiduciary fund account(s) shall be identified as “fiduciary fund”, “trust account” or “escrow account”, or identified similarly. These funds include but are not limited to underwriter portions of title insurance premiums, earnest money deposits, loan proceeds, sellers' proceeds, and homeowners' association dues.

B. — All fiduciary funds shall be maintained in an account separate from other monies and assets of the title entity. Commingling of other monies and assets of the title entity with fiduciary funds is

prohibited. Notwithstanding the foregoing, nothing herein shall prohibit the advancement of funds authorized pursuant to § 38-35-125 (2), C.R.S.

- C. All fiduciary funds shall be deposited within three (3) business days with a state or federal bank, or a savings and loan association whose depositors are insured by an instrumentality of the United States Government, unless otherwise directed in writing by all parties to the transaction that established the need for the fiduciary funds to be deposited with the title entity.
- D. Except as otherwise consented to in writing by the parties to a transaction establishing the need for fiduciary funds, a title entity or its authorized agent shall not use such fiduciary funds for any purpose other than the purpose or purposes set forth in the written agreement for which the fiduciary funds were deposited with the title entity.
- E. Fiduciary funds shall not be deposited by a title entity into a treasury management account, sweep account, or any other type of investment account unless and until prior, written authorization has been obtained from all necessary parties for whom said funds are being held by the title entity.
- F. A title entity shall not earn interest on fiduciary funds unless disclosure is made to all necessary parties to a transaction that interest is or has been earned. Said disclosure must offer the opportunity to receive payment of any interest earned on such funds beyond any administrative fees as may be on file with the Division. Said disclosure must be clear and conspicuous, and may be made at any time up to and including closing.
- G. Until a title entity receives written instructions pertaining to the holding of fiduciary funds, in a form agreeable to the title entity, it shall comply with the following:
 - 1. The title entity shall deposit funds into an escrow, trust, or other fiduciary account and hold them in a fiduciary capacity.
 - 2. The title entity shall use any funds designated as "earnest money" for the consummation of the transaction as evidenced by the contract to buy and sell real estate applicable to said transaction, except as otherwise provided in this section. If the transaction does not close, the title entity shall:
 - a. Release the earnest money funds as directed by written instructions signed by both the buyer and seller; or
 - b. If acceptable written instructions are not received, uncontested funds shall be held by the title entity for 180 days from the scheduled date of closing, after which the title entity shall return said funds to the payor.
 - 3. In the event of any controversy regarding the funds held by the title entity (notwithstanding any termination of the contract), the title entity shall not be required to take any action unless and until such controversy is resolved. At its option and discretion, the title entity may:
 - a. Await any proceeding;
 - b. Interplead all parties and deposit such funds into a court of competent jurisdiction, and recover court costs and reasonable attorney and legal fees; or
 - c. Deliver written notice to the buyer and seller that unless the title entity receives a copy of a summons and complaint or claim (between buyer and seller),

containing the case number of the lawsuit or lawsuits, within 120 days of the title entity's written notice delivered to the parties, title entity shall return the funds to the depositing party.

4. Nothing herein shall be read as relieving the responsibilities, if any, of any title entity in complying with the Colorado unclaimed property act, § 38-13-101, et seq., C.R.S.

Section 10 — Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 11 — Incorporated Materials

The HUD Statement of Policy 1996-2, which is the Policy Statement on Sham Controlled Business Arrangements, published by the United States Department of Housing and Urban Development shall mean the HUD Statement of Policy 1996-2 as published on the effective date of this regulation and does not include later amendments to or editions of the HUD Statement of Policy 1996-2. A copy of the HUD Statement of Policy 1996-2 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202, or by visiting the United States Department of Housing and Urban Development website at <http://www.hud.gov/offices/hsg/ramh/res/res0607c.cfm>. A certified copy of the HUD Statement of Policy 1996-2 may be requested from the Colorado Division of Insurance for a fee.

The HUD Statement of Policy 1996-4, which is the Statement of Enforcement Standards: Title Insurance Practices in Florida; Final Rule, published by the United States Department of Housing and Urban Development shall mean the HUD Statement of Policy 1996-4 as published on the effective date of this regulation and does not include later amendments to or editions of the HUD Statement of Policy 1996-4. A copy of the HUD Statement of Policy 1996-4 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202m or by visiting the United States Department of Housing and Urban Development website at <http://www.hud.gov/offices/hsg/ramh/res/respapol.cfm>. A certified copy of the HUD Statement of Policy 1996-4 may be requested from the Colorado Division of Insurance for a fee.

The federal Real Estate Settlement Procedures Act, 12 U.S.C. sec. 2601 et seq., published by the United States Government Printing Office, shall mean the federal Real Estate Settlement Procedures Act, 12 U.S.C. sec. 2601 et seq. as published on the effective date of this regulation and does not include later amendments to or editions of federal Real Estate Settlement Procedures Act, 12 U.S.C. sec. 2601 et seq.. A copy of the federal Real Estate Settlement Procedures Act, 12 U.S.C. sec. 2601 et seq. may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202, or by visiting the United States Government Printing Office website at <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title12/html/USCODE-2011-title12-chap27.htm>. A certified copy of the federal Real Estate Settlement Procedures Act, 12 U.S.C. sec. 2601 et seq. may be requested from the Colorado Division of Insurance for a fee.

The American Land Title Association (ALTA) Closing Protection Letter & Explanation (revised 01-01-2008); the ALTA Closing Protection Letter — Limitations (revised 01-01-2008); and the ALTA Closing Protection Letter — Single Transaction Limited Liability (revised 01-01-2008), published by American Land Title Association, shall mean the American Land Title Association (ALTA) Closing Protection Letter & Explanation (revised 01-01-2008); the ALTA Closing Protection Letter — Limitations (revised 01-01-2008); and the ALTA Closing Protection Letter — Single Transaction Limited Liability (revised 01-01-2008), as published on the effective date of this regulation and does not include later amendments to or editions of American Land Title Association (ALTA) Closing Protection Letter & Explanation (revised 01-01-2008); the ALTA Closing Protection Letter — Limitations (revised 01-01-2008); and the ALTA Closing Protection

Letter—Single Transaction Limited Liability (revised 01-01-2008). A copy of the American Land Title Association (ALTA) Closing Protection Letter & Explanation (revised 01-01-2008); the ALTA Closing Protection Letter—Limitations (revised 01-01-2008); and the ALTA Closing Protection Letter—Single Transaction Limited Liability (revised 01-01-2008) may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of the American Land Title Association (ALTA) Closing Protection Letter & Explanation (revised 01-01-2008); the ALTA Closing Protection Letter—Limitations (revised 01-01-2008); and the ALTA Closing Protection Letter—Single Transaction Limited Liability (revised 01-01-2008) may be requested from the Colorado Division of Insurance for a fee.

Section 12 — Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 13 — Effective Date

This regulation is effective August 15, 2016.

Section 14 — History

Originally promulgated in 1972 as 72-3.

Amended regulation in 1988 as 88-5.

Amended regulation in 1989 as 89-2.

Amended regulation in 1992 as 3-5-1.

Amended regulation in 1996.

Amended regulation, effective January 1, 2002.

Amended regulation effective August 31, 2005.

Regulation 3-5-1 repealed and repromulgated in full effective January 1, 2007.

Regulation 3-5-1 repealed and repromulgated in full effective May 1, 2010.

Amended regulation effective October 1, 2015.

Amended regulation effective August 15, 2016.

Repeal effective March 15, 2017.

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Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 01/11/2017

3 CCR 702-3

FINANCIAL ISSUES

The above-referenced rules were submitted to this office on 01/12/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 11:46:12

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Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

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DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Repealed and Repromulgated Regulation 4-2-27

PROCEDURES FOR REASONABLE MODIFICATIONS TO INDIVIDUAL AND SMALL GROUP HEALTH BENEFIT PLANS AND PEDIATRIC STAND ALONE DENTAL PLANS COMPLIANT WITH THE AFFORDABLE CARE ACT

Section 1	Authority
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Appendix A	Cover Letter Template
Appendix B	HIOS Plan ID Listing
Appendix C	Side – by – Side Comparison
Appendix D	Individual Policyholder Letter Template
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Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-109, and 10-16-105.1(6), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish procedures for the submission of reasonable modifications to grandfathered individual and small group health benefit plans, to non-grandfathered individual and small group health benefit plans, as outlined in § 10-16-105.1(5), C.R.S., and to pediatric stand alone dental plans.

Section 3 Applicability

This regulation applies to all carriers seeking to make reasonable modifications to any individual or small group health benefit plan and/or a pediatric stand alone dental plan compliant with the Affordable Care Act.

Section 4 Definitions

A. “Carrier” means, for the purposes of this regulation, a carrier as defined in § 10-16-102(8), C.R.S.

- B. "Pediatric stand alone dental plans" means, for the purposes of this regulation, a plan that provides the required pediatric dental benefits as a part of the Essential Health Benefits (EHB) package, separate from the medical plan.
- C. "Plan" means, for the purposes of this regulation, the pairing of the health insurance coverage benefits under the product with a particular cost-sharing structure, specific cost-sharing amounts, provider network, and service area.
- D. "PPACA" or "ACA" means, for the purposes of this regulation, The Patient Protection and Affordable Care Act, Pub. L. 111-148 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152.
- E. "Product" means, for the purposes of this regulation, a package of health insurance coverage benefits with a discrete set of rating and pricing methodologies that a carrier offers in a state.
- F. "Reasonable modification" means, for the purpose of this regulation, a modification to the benefits of a plan that is fair and reasonable, as determined by the Division of Insurance (Division), and do not necessitate the filing of a new plan.
- G. "SERFF" means, for the purposes of this regulation, System for Electronic Rate and Form Filings.

Section 5 Rules

A. Non-Grandfathered Plans

- 1. Federal or State Requirement Changes
 - a. A carrier may reasonably modify the benefits of a plan in accordance with a change in federal or state requirements if the reasonable modification is applied uniformly to all individual or small groups covered by the plan; and
 - b. The reasonable modification is made within a reasonable time period and is directly related to the change in federal or state requirement(s).
- 2. Other Types of Reasonable Modifications
 - a. Reasonable modifications are allowable if applied uniformly to all individual or small groups covered by the plan and if they meet all of the following criteria:
 - (1) The plan is offered by the same carrier;
 - (2) The plan is offered as the same network type (for example: health maintenance organization, preferred provider organization, exclusive provider organization, point of service, or indemnity);
 - (3) The plan continues to cover at least a majority of the same service area which must include a majority of the current counties, taking into consideration the population density of the counties that remain in the carriers' service area;
 - (4) The plan has the same cost-sharing structure as before the reasonable modification, except for any variation in cost-sharing solely related to changes in cost and utilization of medical care, or to maintain the same metal tier level described in § 10-16-103.4, C.R.S. A cost-share structure change includes the following and will not be allowed:

- (a) Changing from copays to coinsurance when copays apply to the majority of services; or
 - (b) Changing from coinsurance to copays when coinsurance applies to the majority of services.
 - (4) Actuarial justification will be accepted if changes are made to maintain the plan's metal tier.
- b. Potential reasonable modifications include, but are not limited to:
 - (1) Adding a benefit;
 - (2) Increasing out-of-pocket maximum to match federal limits; and/or
 - (3) Increasing or reducing deductibles or copays.
- c. Potential unreasonable modifications may include, but are not limited to:
 - (1) Metal level changes;
 - (2) Removing a benefit; or
 - (3) Removing the availability to participate in a HSA.
- d. If a carrier is changing a service area, or discontinuing plans in certain areas, a discontinuance filing must be submitted to the Division in accordance with the requirements found at § 10-16-105.1(2)(g), C.R.S., and notification must be given to policyholders in accordance with the requirements in Colorado Insurance Regulation 4-2-51.

B. Pediatric Stand Alone Dental Plans

- 1. Federal or State Requirement Changes
 - a. A carrier may reasonably modify the benefits of a plan in accordance with a change to federal or state requirements if the reasonable modification is applied uniformly to all individual or small groups covered by the plan; and
 - b. The reasonable modification is made within a reasonable time period and is directly related to the change in federal or state requirement(s).
- 2. Other Types of Reasonable Modifications
 - a. Reasonable modification must be applied uniformly to all individuals and small groups covered by the plan and must meet all of the following criteria:
 - (1) The plan is offered by the same dental insurance carrier;
 - (2) The plan is offered as the same network type (for example, health maintenance organization, preferred provider organization, exclusive provider organization, point of service, or indemnity);
 - (3) The plan continues to cover at least a majority of the same service area which must include a majority of the current counties, taking into

consideration the population density of the counties that remain in the carriers' service area; and

- (4) The plan has the same cost-sharing structure as before the reasonable modification, except for any variation in cost-sharing solely related to changes in cost and utilization of medical care, or to maintain the same metal tier level described in § 10-16-103.4, C.R.S. A cost-share structure change includes the following and will not be allowed:

- (a) Changing from copays to coinsurance when copays apply to the majority of services; or
- (b) Changing from coinsurance to copays when coinsurance applies to the majority of services.

- b. Potential reasonable modifications include, but are not limited to:

- (1) Adding a benefit;
- (2) Increasing out-of-pocket maximum to match federal limits; and/or
- (3) Increasing or reducing deductibles or copays.

- c. Potential unreasonable modifications may include, but are not limited to:

- (1) Actuarial Value change from high to low;
- (2) Actuarial Value change from low to high; or
- (3) Removing a benefit.

- d. If a carrier is changing a service area, or discontinuing plans in certain areas, a discontinuance filing must be submitted to the Division via SERFF.

C. Grandfathered Plans

- 1. Potential reasonable modifications may include, but are not limited to adding a benefit to comply with state or federal law.
- 2. Potential unreasonable modifications may include, but are not limited to:
 - a. Elimination of all or substantially all benefits to diagnose or treat a particular condition;
 - b. Increase in coinsurance percent requirement;
 - c. Increase in deductible or out-of-pocket requirements other than a copayment;
 - d. Increase in copayment requirements;
 - e. Decrease in contribution rate by employers and employee organizations, or decreases in contribution rate based on cost of coverage towards the cost of any tier of coverage for any similarly situated individuals by more than five (5) percentage points below the contribution rate for the coverage period that included March 23, 2010.

- f. Changes in annual limits;
 - g. Addition of an annual limit;
 - h. Health plan that did not impose an overall annual or lifetime limit on the dollar value of all benefits then imposes an overall annual limit on the dollar value of benefits;
 - i. Adding a policy year, calendar year or lifetime limit to a benefit or plan that did not have a previous limit;
 - j. Decrease in limit for a plan or coverage with an annual limit;
 - k. Change in the cost-share structure. A cost-share structure change includes the following:
 - (1) Changing from copays to coinsurance when copays apply to the majority of services; or
 - (2) Changing from coinsurance to copays when coinsurance applies to the majority of services.
3. If any of the above potential unreasonable modifications are made to the plan it may lose its status as a grandfathered plan.
 4. The removal of a benefit will be considered an unreasonable modification and that plan will no longer be considered a Grandfathered Plan.
 5. If a carrier is changing a service area, or discontinuing plans in certain areas, a discontinuance filing must be submitted to the Division in accordance with the requirements found at § 10-16-105.1(2)(g), C.R.S., and notification must be given to policyholders in accordance with the requirements in Colorado Insurance Regulation 4-2-51.

Section 6 Requirements

- A. Timing of reasonable modification request submissions.
 1. The proposed reasonable modification request for non-grandfathered health benefit plans must be submitted at a date to be specified by the Division through instructions published annually;
 2. The proposed reasonable modification request for pediatric stand alone dental plans must be submitted at a date to be specified by the Division through instructions published annually.
 3. The proposed reasonable modification request for grandfathered plans must be submitted annually at least 180 days before the implementation date.
- B. All reasonable modification requests must be submitted electronically through SERFF.
- C. A separate filing must be submitted for each carrier. A single filing, which is made for more than one (1) carrier or for a group of carriers, is not permitted. This applies even if a product is comprised of components from more than one carrier, such as an HMO, indemnity, point-of-service plan, exclusive provider organization or preferred provider organization.

D. Required Documentation

1. A carrier must submit a cover letter addressed to the Commissioner in the format specified in Appendix A of this regulation. The cover letter must include:
 - a. The market type of the plan (i.e. individual or small group), and whether it is a medical plan or a dental plan;
 - b. The grandfathered or non-grandfathered status of the plan;
 - c. The effective date;
 - d. The total number of Colorado groups and members affected; and
 - e. The reason the plan(s) is/are being modified.
2. A carrier must submit the relevant HIOS plan ID listings in the format specified in Appendix B of this regulation. The listings must be provided in an Excel spreadsheet and must include the following:
 - a. The first column must contain the HIOS plan ID;
 - b. The second column must contain the plan marketing name;
 - c. The third column must contain the form number; and
 - d. The fourth column must contain the status of the HIOS plan ID, using only one of the following terms:
 - (1) "Modifying";
 - (2) "Continuing without Modification"; or
 - (3) "Discontinuing".
 - e. All HIOS plan IDs from the previous year must be identified in this spreadsheet which must not include any zero cost-share variant or silver cost-share variants.
 - f. Plans identified as being continued without modifications or discontinued must not be modified.
3. A carrier must submit a "Side-by-Side Comparison" document, in the format specified in Appendix C of this regulation. This comparison document must be provided in an Excel spreadsheet and include the following column names:
 - a. HIOS Plan ID;
 - b. Plan Name;
 - c. Form Number;
 - d. Current Benefit;
 - e. Proposed Benefit;

- f. Benefit Impact to AV
 - g. Total Actuarial Value before the Changes;
 - h. Total Actuarial Value after the Changes;
 - i. Total Rate Impact of all Modified Benefits; and
 - j. Comments (Optional).
4. Policyholder notifications must include the following:
- a. The template for the letter that must be sent to individual policyholders is contained in Appendix D of this regulation. The template for the letter that must be sent to small group policyholders is contained in Appendix E of this regulation. Carriers must not alter the sections of the letter but may modify language with Division approval.
 - b. A side-by-side comparison concerning only the modified benefits which must contain:
 - (1) A first column identifying the "Benefit Name";
 - (2) A second column identifying the "Current Benefit"; and
 - (3) A third column identifying the "New Benefit".
 - c. The required notification must include the various options available to the policyholder, which include:
 - (1) Continuing the current plan;
 - (2) Purchasing another plan with the same carrier;
 - (3) Purchasing a new plan with another carrier; and
 - (4) Purchasing a new plan through Connect for Health Colorado.
 - d. The required notification must be sent to:
 - (1) Individual policyholders no less than ninety (90) days prior to January 1.
 - (2) Small group policyholders no less than ninety (90) days prior to renewal.
5. If a requested modification is not approved by the Division and the carrier elects to discontinue the plan, the carrier must file a discontinuance, in accordance with § 10-16-105.1, C.R.S., and Colorado Insurance Regulation 4-2-51. Carriers are not permitted to auto-enroll a policyholder in another plan offered either by the same carrier or an associated carrier.
6. A reasonable modification filing does not fulfill the requirements to file rates and forms in accordance with Colorado insurance laws and regulations.

Section 7 Severability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation shall not be affected.

Section 8 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 9 Effective Date

This regulation shall become effective on March 15, 2017.

Section 10 History

Regulation effective January 1, 2005.

Amended regulation effective May 1, 2010.

Amended regulation effective January 1, 2014.

Repealed and repromulgated regulation effective March 15, 2017.

Appendix A: Cover Letter Template

Date

Commissioner [Name]
Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, CO 80202

RE: Proposed Reasonable Modifications to [Non-grandfathered][Grandfathered] Plans in the
[Individual][Small Group] [ACA-Compliant Pediatric Dental] Market

Dear Commissioner [Name]:

Please accept this letter and its attachments as [Carrier name]'s reasonable modification submission for plans renewing effective [January 1, April 1, July 1, October 1], [Plan year] pursuant to § 10-16-105.1(5), C.R.S, Colorado Insurance Regulation 4-2-27 and the "Colorado PPACA Reasonable Modification Filing Procedures" for [plan year].

These plan modifications will affect [XX Colorado individuals] [XX individuals covered under XX Colorado small groups].

We are proposing to make the following changes:

[Enter either plan specific changes or range changes].

Attached please find:

- Exhibit of all [Year] plans;
- Side-by-side comparison;
- Policyholder letter.

Thank you for your consideration of this request.

Sincerely,

Appendix B: HIOS Plan ID Listings

HIOS Plan ID	Plan Marketing Name	Form Number	Status of Plan
[12345CO00100009]	[Sample Plan]	[CO16]	[Modifying]
[12345CO00100010]	[Sample Plan]	[CO16]	[Continuing without modification]
[12345CO00100011]	[Sample Plan]	[CO16]	[Discontinuing]

APPENDIX C: SIDE – BY – SIDE COMPARISON

HIOS Plan ID	Plan Name	Form Number	Benefit Name	Current Benefit	Proposed Benefit	Benefit Impact to AV	Total AV before Changes	AV after Change	Total Rate Impact of all Benefits	Comments
[12345CO00100009]	[Sample Plan]	[CO16]	[Office Visit Copay]	[\$20 per visit]	[\$30 per visit]	[-.14]	[81.39]	[80.98]	[-3.1%]	[Applicable comments]
[12345CO00100009]	[Sample Plan]	[CO16]	[In-Network Deductible]	[\$6500.00]	[\$6850.00]	[+.24]				[Applicable comments]
[12345CO00100009]	[Sample Plan]	[CO16]	[In-Network Out-of-Pocket]	[\$6850.00]	[\$7150.00]	[-.51]				[Applicable comments]

Appendix D: Individual Policyholder Letter Template

Dear [Policyholder Name or Covered Person Name],

Your health insurance coverage is coming up for renewal. Your current plan [Plan Name] will continue to be offered in the upcoming [Upcoming Year] plan year, **with changes**. If you want to keep your plan, you don't have to do anything. Your plan will automatically be renewed on January 1st and you just have to pay the new monthly premium.

You should review the changes to your benefits, confirm that your health care providers are still in the plan's network and confirm any prescriptions you take are still covered.

You can change plans by enrolling in a new plan by visiting [Carrier Website Address], ConnectforHealthCO.com, or by speaking with your broker or a Health Coverage Guide.

Changes that are being made to your current health plan:

Plan Name		
Benefit Name	Current Benefit	New Benefit
[PCP Office Visit Copay]	[\$20.00]	[\$25.00]

What if I want to change plans?

- The [Upcoming Year] Open Enrollment period is from [Date] to [Date]. If you would like to switch to a different plan with coverage that starts on January 1, [Upcoming Year], the deadline to enroll is December 15, [Current Year].
- You can choose a new plan from us, another insurance carrier or through Connect for Health Colorado. You or your family may also qualify for Health First Colorado (Colorado's Medicaid Program) or the Children's Health Insurance Program (CHP+), both of which are public programs that offer low cost health coverage.
- If you qualify for financial assistance and/or lower costs, you can get those savings only if you enroll through Connect for Health Colorado.
- You can always contact us, a broker, a Health Coverage Guide, or a Connect for Health Colorado customer service representative for any help you may need.

What else should I look at before deciding to keep or change my plan?

Call us or visit [Website Address] to make sure your doctor and other health care providers are currently listed in the network for the [Upcoming Year] plan year, as this may have changed. Also check to make sure any prescription medications you take will be covered.

Questions?

- For plan or benefits questions, please call [Carrier Name, Contact Information and Hours of Operation] or visit [Website Address].
- For premium tax credit and eligibility questions or to learn more about qualifying for financial assistance, please call a Connect for Health Colorado customer service representative at 1-855-752-6749 (TTY: 1- 855-346-3432) or visit ConnectforHealthCO.com.

Getting Help in Other Languages

[Include the tagline below for the top languages spoken by 10% or more of the population in the state.
Spanish (Español): Para obtener asistencia en Español, llame al [Carrier Contact Information.]

Thank you,
[Carrier Logo]

Appendix E: Small Group Policyholder Letter Template

Dear [Policyholder Name],

Your health insurance coverage is coming up for renewal. Your current plan [Plan Name] will continue to be offered in the upcoming [Upcoming Year] plan year with changes. If you want to keep your plan, you don't have to do anything. Your plan will automatically renewed on [Renewal Date] and you just have to pay the new monthly premium. You should review the changes being made to this group policy to determine if you want to renew it or change to a new plan. You can change plans by enrolling in a new plan by visiting [Carrier Website Address], ConnectforHealthCO.com, or by speaking with your broker.

Changes that are being made to your current health plan(s):

Plan Name		
Benefit Name	Current Benefit	New Benefit
[PCP Office Visit Copay]	[\$20.00]	[\$25.00]

What if I want to change plans?

- You can choose a new plan from us, another insurance carrier or through Connect for Health Colorado.
- You can always contact us, a broker, a Health Coverage Guide, or a Connect for Health Colorado customer service representative for any help you may need.

Questions?

- For plan or benefits questions, please call [Carrier Name, Contact Information and Hours of Operation] or visit [Website Address].
- Please contact your broker or, if you purchased the plan through Connect for Health Colorado, contact Connect for Health CO at 1-855-752-6749 or visit www.connectforHealthCO.com.

Getting Help in Other Languages

[Include the tagline below for the top languages spoken by 10% or more of the population in the state.
Spanish (Español): Para obtener asistencia en Español, llame al [Carrier Contact Information.]

Thank you,
[Carrier Logo]

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
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Denver, Colorado 80203
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Office of the Attorney General

Tracking number: 2016-00606

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 01/11/2017

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2

The above-referenced rules were submitted to this office on 01/23/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 11:45:21

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 1 - eff 03/15/2017

Effective date

03/15/2017

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-20

CONCERNING THE SUMMARY OF BENEFITS AND COVERAGE FORM AND THE COLORADO SUPPLEMENT TO THE SUMMARY OF BENEFITS AND COVERAGE FORM

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Rules
Section 6	Severability
Section 7	Incorporated Materials
Section 8	Enforcement
Section 9	Effective Date
Section 10	History
Appendix A	Colorado Supplement to the Summary of Benefits and Coverage Form
Appendix B	Instructions for Completing the Colorado Supplement to the Summary of Benefits and Coverage Form

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-108.5(11)(b), and 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to coordinate the requirements of § 10-16-108.5(11), C.R.S. and certain provisions of the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119 (2010) and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), together referred to as the "Affordable Care Act" (ACA). This regulation also sets out procedures for carriers to make available the required Summary of Benefits and Coverage (SBC) and a Colorado Supplement to the Summary of Benefits and Coverage (COSSBC) Form for each policy, contract, and plan of health benefits that either covers a Colorado resident or is marketed to a Colorado resident or such resident's employer.

Section 3 Applicability

This regulation shall apply to all carriers offering or providing health benefit plans. This regulation excludes certain limited benefit plans, credit, health policies, preneed funeral contracts, excess loss insurance forms, and sickness and accident insurance other than health benefit plans.

Section 4 Definitions

A. "Carrier" shall have the same meaning as found § 10-16-102(8), C.R.S.

- B. "Conspicuously-visible font size" means, for the purposes of this regulation, a font of no less than twelve (12) points in size.
- C. "Glossary" means, for the purposes of this regulation, the form required by the ACA as described in the final rule published on June 16, 2015 in Volume 80, No. 115 of the Federal Register (80 FR 34292), Summary of Benefits and Coverage and Uniform Glossary).
- D. "Health benefit plan" shall have the same meaning as found at § 10-16-102(32), C.R.S.
- E. "Summary of Benefits and Coverage" or "SBC" means, for the purposes of this regulation, the form required by the ACA as described in the final rule published on June 16, 2015 in Volume 80, No. 115 of the Federal Register (80 FR 34292).

Section 5 Rules

- A. All carriers offering or providing health benefit plan coverage shall make available to a producer or consumer through electronic means or paper copy, a Summary of Benefits and Coverage form, and a completed copy of the COSSBC Form shown in Appendix A, for each policy or contract for a health benefit plan that either covers a Colorado resident or is selected by a Colorado resident or such resident's employer for which the employee or participant is eligible.
- B. The carrier shall maintain documentation that the requirements of Section 5.A. have been met.
- C. For the SBC form, carriers must use the exact format found in the U.S. Department of Labor's April 2017 edition of the SBC template. Carriers must follow the instructions found in the SBC "Instruction Guide for Individual Health Insurance Coverage" or "Instruction Guide for Group Coverage".
- D. For the COSSBC form, the carrier must use the exact format in Appendix A. Carriers must follow the instructions for completing the COSSBC form found in Appendix B of this regulation. All boxes must be filled in. Carriers may modify box dimensions, reduce margins, or use a portrait rather than a landscape page layout format. A carrier may also add its logo and form number to the form and print the form in color or black and white. Pursuant to § 10-3-1104(1), C.R.S., in completing the form, carriers shall not misrepresent the benefits, advantages, conditions, or terms of the policy.
- E. Carriers shall provide a SBC form and a COSSBC form that is specific with respect to the particular policy provisions of the policy or contract within seven (7) business days of a potential policyholder expressing interest in a particular plan or such plan being selected as a finalist from which the ultimate selection will be made. Carriers shall also provide:
 - 1. Along with a SBC form and a COSSBC form, other health benefit plan description materials, or enrollment application given to employees or members of a group, association or health care cooperative who have the option of selecting such an employer-sponsored, group-sponsored, association-sponsored, or cooperative-sponsored plan when they initially become eligible for coverage and thereafter during any open enrollment period;
 - 2. The glossary, within seven (7) business days, if requested by any person or producer on behalf of any person, group, association, or health care cooperative, who is interested in coverage under or who is covered by a health benefit plan of the carrier. The request may be made orally or in writing to the carrier;

3. If written application materials are not distributed, the SBC form and the COSSBC form shall be provided no later than the first date on which the employee is eligible to enroll for coverage for the employee or dependent;
 4. If there is any change in the information required to be on the SBC form and/or the COSSBC form between the time the application for coverage is received and the first day of coverage, the carrier shall update and provide a current form to the individual, employee and/or dependent no later than the first day of coverage.
 5. The notices, forms and information required in Section 5 D shall be provided No later than thirty (30) calendar days prior to the first day of coverage under the new plan year when the policy has an automatic renewal. Or if the policy has not been issued or renewed before such 30-day period, no later than seven (7) business days after issuance of the new policy or the receipt of written confirmation of intent to renew, whichever is earlier; and
 6. The notices, forms and information required by this subsection shall be provided as soon as practicable, but in no event later than seven (7) business days following receipt of the application.
- F. A carrier may avoid sending a duplicate SBC form and COSSBC form required in Section 5.A., if;
1. For group plans, the employer, plan administrator, association, health care cooperative or producer, has provided the required forms to the employee, dependent or member.
 2. For individual policies, the SBC form and COSSBC form may be provided to one address provided on the application for coverage, unless any dependents are known to reside at a different address.
 3. The carrier shall maintain documentation that the requirements of Section 5.A. have been met.
- G. A carrier shall develop a separate SBC form and COSSBC form for each of its health benefit plans.
- H. Each carrier shall include, in a conspicuously-visible font size, the English-language notice and the taglines required pursuant to 45 CFR § 92.8, paragraphs (a), (b), and (d).
- I. The COSSBC form should not include attachments, except that a carrier may include:
1. A list of exclusions developed pursuant to section 5.K. of this regulation;
 2. Information on premiums;
 3. Information on riders; and
 4. Information that is statutorily required of marketing materials (e.g., for managed care plans, disclosure of the existence and availability of an access plan, as required pursuant to § 10-16-704(9), C.R.S.).
- J. If a list of exclusions has not been attached to the COSSBC form pursuant to paragraph 5.H.1. a carrier shall make a list of policy exclusions available immediately upon request, but in no event more than seven (7) business days after the request, for each of its health benefit plans.

- K. The COSSBC form developed for each health benefit plan shall be in a conspicuously-visible font size. Carriers are encouraged to utilize one of the following font types:
1. Arial Narrow;
 2. Arial; or
 3. Garamond.
- L. Carriers with service areas which include a county where ten percent (10%) or more of the population are only literate in the same non-English language must meet the following requirements for both the SBC form and the COSSBC form:
1. Include on each English version of the forms, a statement, in the non-English language, in a conspicuously-visible font size, an offer to provide, upon request, a fully-translated version of these notices in the non-English language and which clearly indicates how to access the alternate language services provided by the carrier; and
 2. Once a request has been made by an individual, provide all subsequent forms to the policyholder in the non-English language.

Section 6 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 7 Incorporated Materials

Volume 80, No. 115 of the Federal Register (80 FR 34292) published by the United States Government Printing Office shall mean Volume 80, No. 115 of the Federal Register (80 FR 34292) as published on the effective date of this regulation and does not include later amendments to or editions of Volume 80, No. 115 of the Federal Register (80 FR 34292). A copy of Volume 80, No. 115 of the Federal Register (80 FR 34292) may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202, or by visiting the United States Government Printing Office website at <https://www.gpo.gov/fdsys/pkg/FR-2015-06-16/pdf/2015-14559.pdf>. A certified copy of Volume 80, No. 115 of the Federal Register (80 FR 34292) may be requested from the Colorado Division of Insurance for a fee.

The April 2017 edition of the Summary of Benefits and Coverage template published by the United States Department of Labor shall mean the April 2017 edition of the Summary of Benefits and Coverage template as published on the effective date of this regulation and does not include later amendments to or editions of the April 2017 edition of the Summary of Benefits and Coverage template. A copy of the April 2017 edition of the Summary of Benefits and Coverage template may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202, or by visiting the United States Department of Labor website at <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/summary-of-benefits>. A certified copy of the April 2017 edition of the Summary of Benefits and Coverage template may be requested from the Colorado Division of Insurance for a fee.

Section 8 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of a civil penalty, issuance of a cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 9 Effective Date

This regulation is effective on March 15, 2017.

Section 10 History

New regulation effective November 15, 1997.

Amended Sections 1, 2, 3, 4, 7, Appendix A, and Appendix B effective September 30, 1998.

Amended regulation effective January 1, 2004.

Amended regulation effective: January 1, 2005.

Amended regulation effective July 1, 2007.

Repealed and repromulgated effective September 1, 2012.

Amended regulation effective November 1, 2013.

Amended regulation effective March 15, 2017.

Appendix A
Colorado Supplement to the Summary of Benefits and Coverage Form

INSURANCE COMPANY NAME	
NAME OF PLAN	
1. Type of Policy	
2. Type of plan	
3. Areas of Colorado where plan is available.	

SUPPLEMENTAL INFORMATION REGARDING BENEFITS

Important Note: The contents of this form are subject to the provisions of the policy, which contains all terms, covenants and conditions of coverage. It provides additional information meant to supplement the Summary of Benefits of Coverage you have received for this plan. This plan may exclude coverage for certain treatments, diagnoses, or services not specifically noted. Consult the actual policy to determine the exact terms and conditions of coverage.

	Description
4. Annual Deductible Type	<p>[EMBEDDED DEDUCTIBLE</p> <p>INDIVIDUAL – The amount that each member of the family must meet prior to claims being paid. Claims will not be paid for any other individual until their individual deductible or the family deductible has been met.</p> <p>FAMILY – The maximum amount that the family will pay for the year. The family deductible can be met by [2] or more individuals.</p> <p>AGGREGATE DEDUCTIBLE</p> <p>INDIVIDUAL – The amount that a single person without any family members on the plan will have to pay each year prior to claims being paid.</p> <p>FAMILY – The amount that a family with more than one individual on the plan will have to pay each year prior to claims being paid for any family member. The family deductible can be met by one or more individuals.]</p>

5. Out-of-Pocket Maximum	<p>[(EMBEDDED OUT-OF-POCKET)</p> <p>INDIVIDUAL – The amount that each member of the family must meet prior to claims being paid at 100%. Claims will not be paid at 100% for any other individual until their individual out-of-pocket or the family out-of-pocket has been met.</p> <p>FAMILY – The maximum amount that the family will pay for the year. The family out-of-pocket can be met by [2] or more individuals.]</p> <p>[(AGGREGATE OUT-OF-POCKET)</p> <p>INDIVIDUAL – The amount that a single person without any family members on the plan will have to pay each year prior to claims being paid at 100%.</p> <p>FAMILY – The amount that a family with more than one individual on the plan will have to pay each year prior to claims being paid at 100% for any family member. The family out-of-pocket can be met by one or more individuals.]</p>
6. What is included in the In-Network Out-of-Pocket Maximum?	<p>[Place the major categories that are subject to the network out-of-pocket here]</p>
7. Is pediatric dental covered by this plan?	<p>[Yes, pediatric dental is subject to the medical deductible and out-of-pocket]</p> <p>[Yes, pediatric dental is subject to a separate \$X deductible and \$X/ individual or \$X/ family out-of-pocket]</p> <p>[Yes, pediatric dental is covered at 100% of allowable charges.]</p> <p>[No, the plan does not include pediatric dental]</p>
8. What cancer screenings are covered?	

USING THE PLAN

	IN-NETWORK	OUT-OF-NETWORK
8. If the provider charges more for a covered service than the plan normally pays, does the enrollee have to pay the difference?		

	IN-NETWORK	OUT-OF-NETWORK
9. Does the plan have a binding arbitration clause?		

Questions: Call 1-800-[insert carrier's customer service number] or visit us at [www.\[insert carrier's web address\]](http://www.[insert carrier's web address]).

If you are not satisfied with the resolution of your complaint or grievance, contact:

Colorado Division of Insurance
Consumer Services, Life and Health Section
1560 Broadway, Suite 850, Denver, CO 80202
Call: 303-894-7490 (in-state, toll-free: 800-930-3745)
Email: dora_insurance@state.co.us

Appendix B

Instructions for Completing the Colorado Supplement to the Summary of Benefits and Coverage Form

[Insurance Company Name and Name of Plan]: Fill in the complete insurance company name on the first line and the name of the plan on the second line. Carriers may also include the following information, if they wish to do so, either at the top of the form, at the bottom of the page, or at the end of the document: carrier logo, group identification number, class or division, and effective date.

Question 1: Policy Type: Select one of the following choices only: (1) "Individual Policy", (2) "Small Employer Group Policy", (3) "Large Employer Group Policy", (4) "Association Group Policy".

Question 2: Type of Plan. Enter type of plan. Select one of the following choices only: (1) "Medical expense policy", (2) "Preferred provider organization (PPO)", (3) "Health maintenance organization (HMO)", (4) "Point of service (POS)" (i.e., an HMO plan with some out-of-network benefits), (5) "Limited service licensed provider network (LSLPN) plan", or (6) "Exclusive provider organization (EPO)".

For HMOs that are marketing to small employers or employees of small employers outside of its geographic service area, the following statement must be added in bold, 10 point font caps:

"INTERESTED POLICYHOLDERS, CERTIFICATE HOLDERS, AND ENROLLES ARE HEREBY GIVEN NOTICE THAT THIS SMALL GROUP POLICY REQUIRES THAT AN INSURED TRAVEL OUTSIDE OF THE GEOGRAPHIC AREA TO RECEIVE COVERED HEALTH BENEFITS."

Question 3: Areas of Colorado Where Plan Is Available. Indicate where the plan itself is available. This question does not concern the residence of the potential enrollee. Select one of the following choices only: (1) "Plan is available throughout Colorado"; (2) "Plan is available only in the following areas: [fill in]"; or (3) "Plan is available throughout Colorado except in the following areas: [fill in]." A note should be added if the plan is marketed to employers or employees located across state or county lines.

SUPPLEMENTAL INFORMATION REGARDING BENEFITS

Question 4: Annual Deductible Type. Insert the appropriate language for the type of deductible for the plan.

Question 5: Out-of-Pocket Type. Insert the appropriate language for the type of out-of-pocket for the plan.

Question 6: What is included in the In-Network Out-of-Pocket Maximum? Provide a list of the cost-sharing items, such as deductibles and copayments, that are included in the Out-of-Pocket Maximum.

Question 7: Is pediatric dental coverage included in this plan? Insert the appropriate answer, as specified in the template.

Question 8: What cancer screenings are covered? Provide a list of covered cancer screenings.

USING THE PLAN

Question 9: Provider Charges. In each column, select one of the following choices only: (1) "Yes" or (2) "No." If the answer is "Yes", a carrier may expand on the answer to note exceptions to this requirement.

Question 10: Binding Arbitration. Indicate, with a "Yes" or "No", if the plan has binding arbitration.

QUESTIONS' FOOTER

Questions: Carrier must insert the appropriate telephone number and website information.

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
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RALPH L. CARR
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1300 Broadway, 10th Floor
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Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2016-00586

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 01/19/2017

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2

The above-referenced rules were submitted to this office on 01/20/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 31, 2017 09:35:13

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 1 - eff 03/15/2017

Effective date

03/15/2017

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-31

ANNUAL HEALTH REPORTING AND DATA RETENTION REQUIREMENTS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Hospital Reimbursement Rate Record Retention and Report
Section 6	Annual Cost Report
Section 7	Annual Excess Loss Report
Section 8	Incorporated Materials
Section 9	Severability
Section 10	Enforcement
Section 11	Effective Date
Section 12	History

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-3-109, 10-16-111(4), 10-16-119(3) and 10-16-134, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to define uniform reporting, filing and data retention requirements for the hospital reimbursement rate report and the Annual Cost Report.

Section 3 Applicability

This regulation applies to all carriers, as defined in Section 4.B. of this regulation, operating in the state of Colorado with written health premium in the data year. This includes, but is not limited to carriers operating with the following types of business: comprehensive health insurance, Health Maintenance Organization (HMO) coverage (pursuant to §§ 10-16-119 and 10-16-119.5, C.R.S.).

Reporting of information is waived as shown for each report:

A. Hospital Reimbursement Rate Report

The following types of business are waived: Limited medical-payment plans (including disability income, accident only, specified or dread disease, hospital indemnity, vision only, and dental only), Medicare, Medicaid, long term care, and Medicare supplement insurance.

B. Annual Cost Report

The Division has been granted authority to waive the reporting requirement for carriers responding to the Colorado Health Cost Report so long as at least those representing the top

ninety-two percent (92%) of earned premium market share respond. Companies required to respond will be contacted through email sent to the Market Conduct Contact on file with the National Association of Insurance Commissioners (NAIC).

The calculation determining which carriers are waived from being required to report will utilize Colorado-specific data in exhibits from the most recently-filed NAIC Annual Statement for carriers required to report to the NAIC at the time of each Annual Cost Report. Specific information on the annual waiver methodology can be found in Colorado Insurance Bulletin No. B-4.58.

C. Annual Excess Loss Report

The following types of business are waived: Comprehensive health insurance, Health Maintenance Organization (HMO) coverage, supplemental health, limited service licensed provider network business, long-term care, disability income, accident-only, specified or dread disease, hospital indemnity, vision only, dental only, other limited-medical payment plans, and Medicare supplement insurance.

Section 4 Definitions

- A. "Average reimbursement rate" means, for the purposes of this regulation, is the average of all reimbursement rates that a carrier paid, by MS-DRG code, to only hospitals/facilities reporting to the Colorado Hospital Association during the previous calendar year including both in-network and out-of-network facilities.
- B. "Carrier", for the purposes of this regulation, shall have the same meaning as found at § 10-16-102(8), C.R.S.
- C. "Diagnostic-Related Group" and "Diagnosis-Related Group" means, for purposes of this regulation, the classification assigned to an inpatient hospital service claim based on the patient's age and sex, the principal and secondary diagnoses, the procedures performed, and the discharge status.
- D. "Dividends" means, for purposes of this regulation, both policyholder and stockholder dividends.
- E. "Exchange" shall have the same meaning as found at § 10-16-102(26), C.R.S.
- F. MS-DRG" (Medicare Severity Diagnosis Related Group) is a code within a system developed for Medicare as part of its payment system to classify each hospital case into one of approximately 500 groups that is published by the Centers for Medicare and Medicaid Services in the FY 2017 Final Rule Tables, Table 5.
- G. "Premium" means, for purposes of this regulation, the amount of money paid on behalf of the insured as a condition of receiving health care coverage. The premium paid normally reflects such factors as the carrier's expectation of the insured's future claim costs and the insured's share of the carrier's claims settlement, operational and administrative expenses, and the carrier's cost of capital. This amount is net of any adjustments, discounts, allowances or other inducements permitted by the health care coverage contract.
- H. "Reimbursement rate" means, for the purposes of this regulation, the amount, by MS-DRG code, that a carrier paid for a procedure at a facility or hospital, plus any expected deductible, copayment, and/or coinsurance. It is important that only the entire hospital/facility reimbursement be included in this rate, not just the carrier's portion. Provider reimbursement charges should be excluded from this total. Private room, personal item and other charges that are generally the responsibility of the policyholder should also be excluded.

- I. "Trend," means, for the purposes of this regulation, the rate of increase in costs for the reporting period.
- J. "Excess loss" means, for the purposes of this regulation, individual or group policies providing coverage to a carrier, a self-insured employer plan, or a medical provider providing coverage to insure against the risk that any one claim or an entire plan's losses will exceed a specified dollar amount.

Section 5 Hospital Reimbursement Rate Record Retention and Report

- A. The Division will annually publish on its website or communicate directly to carriers the list of MS-DRG codes associated with the twenty-five (25) most common inpatient procedures performed in Colorado for the previous reporting year. This will include more than twenty-five (25) MS-DRG codes, as there are multiple codes for different levels of severity in many of the identified procedures.
- B. Pursuant to the Health Care Transparency Act, § 10-16-134, C.R.S., each carrier shall report to the Division the average reimbursement rates and number of procedures on a statewide basis for the twenty-five (25) most common inpatient procedures performed in Colorado at hospitals/facilities reporting to the Colorado Hospital Association. This information shall be filed electronically using the Division of Insurance website in a format made available by the Division.
- C. Timing and Submission: The required data shall be filed on or before March 1 of each year. Pursuant to § 10-3-109(2)(a), C.R.S., failure to file this report by March 1 may result in a late penalty not to exceed \$100 per day and any applicable surcharges. Reports not containing all of the information specified in this section may be subject to the assessment of a penalty for an incomplete report.
- D. Each entity subject to the Health Care Transparency Act shall:
 - 1. Maintain its books, records, and documents in a manner that ensures the necessary data can be readily ascertained and reported to the Division.
 - 2. Format records for each Diagnostic-Related Group to be recorded and classified using the MS-DRG coding format and procedures at the time of discharge.
 - 3. Ensure that reimbursement/claim records shall:
 - a. Be maintained to clearly identify the MS-DRG code assigned and reimbursement rate of each procedure;
 - b. Be sufficiently clear and specific so that the pertinent dates, locations, cases and charges of these events can be reconstructed; and
 - c. Include and, if necessary, calculate the complete reimbursement rate, hospital/facility, and MS-DRG Code for each inpatient procedure.

Section 6 Annual Cost Report

- A. Pursuant to § 10-16-111(4)(a), C.R.S., carriers subject to this regulation shall file an Annual Cost Report as described in this section. This report must comply with the requirements of this section and must contain the information specified in subsection C. of this section.
- B. Timing and Submission: All Annual Cost Reports shall be filed electronically in a format made available by the Division of Insurance via the Division's website on or before June 1 of each year.

Pursuant to § 10-3-109(2)(a), C.R.S., failure to file this report by June 1 will result in a late penalty not to exceed \$100 per day. Reports not containing complete and accurate information specified in subsection C. of this section may be subject to the assessment of a penalty for an incomplete report.

- C. Annual Cost Reports filed by carriers identified in Section 3 must contain, where applicable, all of the information in this subsection. For every carrier the report shall include the following information from the previous calendar year unless a specified date is included.
1. The information required in this report identified in paragraph 2 of this subsection C. must be itemized in the following categories by market group size: individual on exchange, individual off exchange, small group on exchange, small group off exchange and large group.
 2. The following information is to be reported from the carrier's annual financial statement or provided using the allocation method detailed in subsection D., or if not available, in the annual financial statement otherwise derived from company records:
 - a. Number of Colorado Covered Lives as of 12-31 in the previous reporting calendar year;
 - b. Number of Colorado Covered Lives as of 12-31 in the reporting calendar year;
 - c. Number of Colorado individual Subscribers/certificateholders/policyholders as of 12-31 in the previous reporting calendar year;
 - d. Number of Colorado individual Subscribers/certificateholders/policyholders as of 12-31 in the reporting calendar year;
 - e. Number of Colorado groups/policies as of 12-31 in the previous reporting calendar year;
 - f. Number of Colorado groups/policies as of 12-31 in the reporting calendar year;
 - g. Number of member months;
 - h. Direct Losses Incurred;
 - i. Colorado Direct Written Premium;
 - j. Colorado Direct Earned Premium;
 - k. Total Administrative Expenses; and
 - l. Healthcare Cost Trend in the following categories:
 - (1) Medical Trend due to provider price changes, utilization changes, medical cost shifting, new medical procedures and technology, and total medical trend; and
 - (2) Prescription Drug Trend due to pharmaceutical price changes, utilization changes, medical cost shifting, introductions of new brand name and generic drugs, and total prescription drug trend.

3. The following information is to be reported from the carrier's annual financial statement or provided using the allocation method detailed in subsection D. or if not available in the annual financial statement otherwise derived from company records:
 - a. Producer Commissions;
 - b. Total Reserves on hand as of the end of December in the reporting calendar year;
 - c. Salaries;
 - d. Expenditures for disease or case management programs or patient education and other cost containment or quality improvement expenses;
 - e. Dividends paid to Colorado Policyholders;
 - f. Advertising and marketing expenditures;
 - g. Payments to legal counsel;
 - h. Paid lobbying expenditures;
 - i. Charitable contributions;
 - j. Investment income and realized capital gains or losses;
 - k. Net income;
 - l. Colorado state taxes, licenses, and fees;
 - m. Federal taxes;
 - n. Dividends paid to stockholders;
 - o. Surplus;
 - p. Capital;
 - q. Authorized control level risk based capital; and
 - r. Intermediaries: A list of each intermediary with whom the carrier has a contractual relationship, or a statement that the carrier does not have any intermediaries, including entity/individual name, business address, and business phone number.
4. Executive salaries as reported on the carriers Supplemental Compensation Exhibit of the annual financial statement are to be reported. Carriers must provide data from the Supplemental Compensation Exhibit of the carrier's annual financial statement including but not limited to, base salary, bonuses, stock awards, option awards, sign on payments, and severance payments.
5. National premium information including:
 - a. Major Medical Premium Earned;

- b. Accident and Health Premium Earned;
 - c. Property and Casualty Premium Earned; and
 - d. Life Premium Earned
- D. The information provided in subsection C. of this section shall be provided on a Colorado-only basis, with the exception of executive salaries as defined in subparagraph C.4.a. of this section. A carrier licensed in multiple jurisdictions may satisfy the requirements of subsection C. of this section by filing the Colorado-allocated portion of national data if the actual Colorado-only data is not otherwise available. The methods of allocation that should be used, if necessary, will be provided by the Division prior to the release of the report for completion.
- E. If any of the items listed in subsection C. of this section are not applicable to the carrier, the carrier shall indicate in the filing which items are not applicable and the reason why such items are not applicable.
- F. The information provided to the Division of Insurance in subsection C. of this section will be aggregated for all carriers and will be published on the Division of Insurance's website, www.dora.colorado.gov/insurance.

Section 7 Annual Excess Loss Report

- A. Pursuant to § 10-16-119(3), C.R.S., carriers subject to this regulation shall file an Annual Excess Loss Report as described in this section for each calendar year through 2018. This report must comply with the requirements of this section and must contain the information specified in subsection C. of this section and shall be filed electronically via a form provided on the Division of Insurance website, www.dora.colorado.gov/insurance.
- B. Timing and Submission: All Annual Excess Loss Reports shall be filed electronically in a format made available by the Division of Insurance via the Division's website on or before March 1 of each year. Pursuant to § 10-3-109(2)(a), C.R.S., failure to file this report by March 1 will result in a late penalty not to exceed \$100 per day. Reports not containing complete and accurate information specified in subsection C. of this section may be subject to the assessment of a penalty for an incomplete report.
- C. Annual Excess Loss Reports filed by carriers identified in Section 3 must contain, where applicable, all of the information required by this subsection. For every carrier the report shall include the following information from the previous calendar year.
 - 1. The information required in this report identified in paragraph 2 of this subsection must be categorized by the number of full-time equivalent employees: 10 or fewer, 11-25, 26-50, and 51-100.
 - 2. The following information referred to below is to be reported for the groups specified in paragraph 1 of this subsection:
 - a. The total number of groups;
 - b. The average group size;
 - c. The number of lives covered in Colorado;
 - d. The mean and median attachment points; and

- e. The source of prior coverage for the groups including:
 - (1) Employers previously self-insured with excess loss coverage;
 - (2) Employers previously self-insured without excess loss coverage;
 - (3) Employers previously not offering coverage;
 - (4) Groups previously fully insured outside the Exchange; and
 - (5) Groups previously fully insured inside the Exchange.
- 3. The smallest group size covered and the carrier's minimum group size requirements.

Section 8 Incorporated Materials

FY 2017 Final Rule Tables, Table 5 published by the Centers for Medicare & Medicaid Services organization shall mean FY 2017 Final Rule Tables, Table 5 as published on the effective date of this regulation and does not include later amendments to or editions of FY 2017 Final Rule Tables, Table 5. A copy of FY 2017 Final Rule Tables, Table 5 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202, or by visiting the Centers for Medicare & Medicaid Services website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/FY2017-IPPS-Final-Rule-Home-Page-Items/FY2017-IPPS-Final-Rule-Tables.html>. A certified copy of FY 2017 Final Rule Tables, Table 5 may be requested from the Colorado Division of Insurance for a fee.

Section 9 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the regulation shall not be affected.

Section 10 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 11 Effective Date

This regulation shall become effective on March 15, 2017.

Section 12 History

New Regulation 4-2-31, Effective January 1, 2010.
Amended Regulation, Effective August 1, 2011.
Amended Regulation, Effective December 1, 2012.
Amended Regulation, Effective November 15, 2013.
Amended Regulation, Effective August 1, 2015.
Amended Regulation, Effective March 15, 2017.

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Tracking number: 2016-00587

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 01/19/2017

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2

The above-referenced rules were submitted to this office on 01/20/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 31, 2017 09:37:16

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-8

Rule title

3 CCR 702-8 TITLE INSURANCE 1 - eff 03/15/2017

Effective date

03/15/2017

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-8

CONCERNING TITLE INSURANCE

Regulation 8-1-4

TITLE INSURANCE – FIDUCIARY DUTIES

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Rules Regarding Fiduciary Duties
Section 6	Reporting Requirements for the Prevention of Defalcations
Section 7	Safe Harbor
Section 8	Unfair or Deceptive Act or Practice
Section 9	Severability
Section 10	Enforcement
Section 11	Effective Date
Section 12	History

Section 1 Authority

This regulation is promulgated, and adopted by the Commissioner, pursuant to the authority of §§ 10-1-108(7), 10-1-109, 10-2-104, 10-2-704, 10-2-801, 10-3-131, and 10-3-1110, C.R.S.

Section 2 Scope and Purpose

The purposes of this regulation are to set forth the fiduciary duties of title entities and to create reporting requirements to assist the Division of Insurance (Division) with identifying and mitigating certain risk factors which may have an immediate and direct impact on the solvency of title insurance entities.

Numerous defalcations have occurred in Colorado resulting in losses to Colorado consumers and insurers. As a result, the Commissioner finds that the provisions of this regulation are necessary in order to protect the title insurance industry, its policyholders and members of the general public that may not directly be title insurance policyholders.

Section 3 Applicability

This regulation governs title entities and any other persons transacting the business of title insurance.

Section 4 Definitions

A. "Affiliate" means a person who directly, or indirectly through one or more intermediaries:

1. controls a title entity;
2. is controlled by a title entity; or
3. is under common control with a title entity.

- B. "Closing and settlement services" shall have the same meaning as § 10-11-102(3.5), C.R.S.
- C. "Person" has the same meaning as that in § 10-2-103(8), C.R.S.
- D. "Reconcile" means, for the purpose of this regulation, the accounting process of comparing transactions and activity in order to balance accounts and resolve any discrepancies in an amount that exceeds five hundred dollars (\$500.00).
- E. "Sweep account" means, for the purposes of this regulation, a banking arrangement in which a bank account balance is automatically transferred to and from another account.
- F. "Title insurance agency" shall mean a corporation, partnership, association, or foreign or domestic entity as defined in § 7-90-102, C.R.S., or other legal entity that transacts the business of title insurance.
- G. "Title insurance agent" shall have the same meaning as in § 10-11-102(9), C.R.S.
- H. "Title insurance company" shall have the same meaning as in § 10-11-102(10), C.R.S.
- I. "Title entity" shall mean title insurance agents, title insurance agencies and title insurance companies, unless otherwise stated in the regulation.

Section 5 Rules Regarding Fiduciary Duties

- A. All title entities, their authorized agents, and affiliates in possession of funds received and belonging to others shall maintain the funds in a fiduciary capacity in a separate fiduciary fund account or accounts supported by books and records sufficient to identify such funds. Any such fiduciary fund account shall be identified as "fiduciary fund account", "trust account" or "escrow account", or identified similarly.
- B. Funds that must be maintained as fiduciary funds include, but are not limited to, underwriter portions of title insurance premiums, earnest money deposits, loan proceeds, seller proceeds, homeowner association dues, and any other funds received as part of a title entity conducting closing and settlement services.
- C. All fiduciary funds shall be maintained in an account separate from other monies and assets of the title entity. Commingling of other monies and assets of the title entity with fiduciary funds is prohibited. Notwithstanding the foregoing, nothing herein shall prohibit the advancement of funds authorized pursuant to § 38-35-125(2), C.R.S.
- D. All fiduciary funds shall be deposited within three business days of receipt with a state or federal bank, or a savings and loan association whose depositors are insured by an instrumentality of the United States Government, unless otherwise directed in writing by all necessary parties to the transaction.
- E. Except as otherwise consented to in writing by the parties to a transaction establishing the need for fiduciary funds, a title entity or its authorized agent shall not use such fiduciary funds for any purpose other than the purpose or purposes set forth in the written agreement for which the fiduciary funds were deposited with the title entity.
- F. Unless otherwise consented to in writing by all necessary parties, fiduciary funds, other than earnest money, held by a title entity shall either be disbursed for the purpose that the funds were collected or returned to the party that deposited the funds with the title entity within 120 days of the closing of the transaction.

- G. Unless prior written authorization has been received by all necessary parties, fiduciary funds shall not be deposited by a title entity into a treasury management account or any other type of investment account.
- H. Fiduciary funds may only be deposited into a sweep account by a title entity if the funds are segregated and held in a fiduciary capacity in the account the funds are swept into.
- I. A title entity shall not earn interest on fiduciary funds unless disclosure is made to any parties to a transaction, for who said funds are being held, that interest is or has been earned. Said disclosure must offer the opportunity to receive payment of any interest earned on such funds beyond any administrative fees as may be on file with the Division. Said disclosure must be clear and conspicuous, and may be made at any time up to and including closing.
- J. Until a title entity receives written instructions pertaining to the holding of fiduciary funds, in a form agreeable to the title entity, it shall comply with the following:
 - 1. The title entity shall deposit funds into an escrow, trust, or other fiduciary account and hold them in a fiduciary capacity.
 - 2. The title entity shall use any funds designated as “earnest money” for the consummation of the transaction as evidenced by the contract to buy and sell real estate applicable to said transaction. Except, if the transaction does not close, the title entity shall:
 - a. Release the earnest money funds as directed by written instructions signed by both the buyer and seller; or
 - b. If acceptable written instructions are not received, uncontested funds shall be held by the title entity for 120 days from the scheduled date of closing, after which the title entity shall return said funds to the depositing party.
 - 3. In the event of any controversy regarding the funds held by the title entity (not withstanding any termination of the contract), the title entity shall not be required to take any action unless and until such controversy is resolved. At its option and discretion, the title entity may:
 - a. Await any proceeding; or
 - b. Interplead all parties and deposit such funds into a court of competent jurisdiction, and recover court costs and reasonable attorney and legal fees; or
 - c. Deliver written notice to the buyer and seller that unless the title entity receives a copy of a summons and complaint or claim (between buyer and seller), containing the case number of the lawsuit or lawsuits, within 120 days of the title entity's written notice delivered to the parties, title entity shall return the funds to the depositing party.
 - 4. Nothing herein shall be read as relieving the responsibilities, if any, of any title entity in complying with the Colorado unclaimed property act, § 38-13-101, et seq., C.R.S.
 - 5. Every title insurance agent or title insurance agency shall reconcile all fiduciary accounts, or similarly identified accounts, at least every forty-five (45) days.

Section 6 Reporting Requirements for the Prevention of Defalcations

- A. A title insurance company shall notify the Division within thirty (30) days if:

1. At any point a title insurance company becomes aware that a title insurance agent or title insurance agency fails to remit premium to the insurer, on the later of, forty-five (45) days after the contractual due date, or if there is no contractual due date, ninety (90) days after receipt;
 2. At any point a title insurance company becomes aware that a title insurance agent or title insurance agency fails to reconcile the title insurance agent's or title insurance agency's fiduciary bank accounts, or similarly identified accounts, at least every forty-five (45) days;
 3. At any point a title insurance company becomes aware that a title insurance agent or title insurance agency has an account shortage or file shortage of more than \$10,000 in a title insurance agent's or title insurance agency's fiduciary account;
 4. The title insurance company enters into any repayment agreement with a title insurance agent or a title insurance agency; or
 5. The title insurance company becomes aware of any commingling of other monies or assets with fiduciary funds held by the title insurance agent or title insurance agency.
- B A title insurance company shall provide the Division with a comprehensive list of all title insurance agencies that are authorized in the state of Colorado to issue title insurance products of the title insurance company within thirty (30) days of the effective date of this regulation.
- C. A title insurance company shall notify the Division in writing within thirty (30) days if the title insurance company:
1. Authorizes a new title insurance agent or title insurance agency to issue its title insurance products;
 2. Suspends the authority of a title insurance agent or title insurance agency to issue its title insurance products; or
 3. Cancels the authority of a title insurance agent or title insurance agency to issue its title insurance products.

Section 7 Safe Harbor

If a title insurance company properly complies with the requirements of Section 6 of this regulation, the Division shall not take any regulatory action against the title insurance company for a shortage in a title insurance agent's or title insurance agency's fiduciary account, with the exception of any necessary regulatory actions to order that restitution be paid by the title insurance company.

Section 8 Unfair or Deceptive Act or Practice

Knowingly violating Section 6 of this regulation shall be an unfair or deceptive act or practice prohibited by § 10-3-1104, C.R.S.

Section 9 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 10 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 11 Effective Date

This regulation is effective March 15, 2017.

Section 12 History

Regulation promulgated on March 15, 2017.

CYNTHIA H. COFFMAN
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Tracking number: 2016-00607

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 01/11/2017

3 CCR 702-8

TITLE INSURANCE

The above-referenced rules were submitted to this office on 01/23/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 11:45:45

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-8

Rule title

3 CCR 702-8 TITLE INSURANCE 1 - eff 03/15/2017

Effective date

03/15/2017

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-8

CONCERNING TITLE INSURANCE

Regulation 8-1-5

TITLE INSURANCE AGENT LICENSING

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Rules Regarding Agent Licensing
Section 6	Severability
Section 7	Enforcement
Section 8	Effective Date
Section 9	History

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-108(7), 10-1-109, 10-2-104, 10-2-406, 10-11-116, and 10-11-119, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to set forth the title insurance agent licensing requirements.

Section 3 Applicability

This regulation governs title entities and does not extend the regulatory authority of the Colorado Division of Insurance ("Division") to any person other than title entities or persons transacting the business of title insurance.

Section 4 Definitions

- A. "Affiliated business arrangements" shall have the same meaning as found at § 10-11-102 (1), C.R.S. Affiliated business arrangements are distinct from controlled business arrangements, which are defined by § 10-2-401(4), C.R.S.
- B. "Title insurance agent" shall have the same meaning as found at § 10-11-102(9), C.R.S.

Section 5 Rules Regarding Agent Licensing

- A. To demonstrate compliance with § 10-11-116(2), C.R.S., the title agent or agency seeking licensure shall submit a notarized letter from an certified public accountant verifying that upon a limited review of the title entity's books and records performed for this purpose, the accountant reasonably believes the title agent or agency has a net worth at least equal to the minimum

amount set forth in § 10-11-116(2), C.R.S., or the title agent or agency possesses actual paid-in cash capital of at least the amount set forth in § 10-11-116 (2), C.R.S.

- B. Every title agent and agency shall disclose every affiliated business arrangement in a form acceptable to the Commissioner. Such disclosure shall be completed with every new or renewal license application and within thirty (30) days of any changes of the disclosed information.

Section 6 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 7 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 8 Effective Date

This regulation is effective March 15, 2017.

Section 9 History

New regulation effective March 15, 2017.

CYNTHIA H. COFFMAN
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Tracking number: 2016-00608

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Division of Insurance

on 01/11/2017

3 CCR 702-8

TITLE INSURANCE

The above-referenced rules were submitted to this office on 01/23/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 11:46:00

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

CCR number

4 CCR 730-1

Rule title

4 CCR 730-1 BYLAWS AND RULES OF THE STATE BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS 1 - eff 03/17/2017

Effective date

03/17/2017

4.0 Rules of Administrative Procedure.

All of the rules in Section 4.0 apply to all architecture, engineering, and land surveying applicants, examinees and licensees unless noted otherwise.

4.9 Licenses.

4.9.1 Reinstatement of Expired or Retired Licenses.

4.9.1.1 Reinstatement of Expired or Retired LICENSES Two Years or Less. An expired or retired license may be reinstated by submitting a reinstatement application and fee.

4.9.1.1.1 Reinstatement of Expired OR RETIRED LICENSES Two Years or Less for Architects ONLY. In addition to the requirements set forth in Board Rule 4.9.1.1, an expired OR RETIRED architect license may be reinstated by obtaining 24 CEHs as set forth in Board Rule 4.9.3.1, acquired within the two years immediately preceding the date the application was received.

4.9.1.1.1.1 REPEALED.

4.9.1.2 Reinstatement of Expired or Retired LICENSES More Than Two Years. Pursuant to Sections 12-25-115(4), 12-25-215(4), and 12-25-315(3), C.R.S., a licensee whose license has expired or been retired for more than two years must prove to the Board that he/she has maintained an active license in another jurisdiction or otherwise is still competent to practice architecture, engineering and/or land surveying. The licensee must complete and submit a reinstatement application that includes reference forms for the period the license has been expired or retired, that verify his or her work experience during that time, and pay a fee. The Board will then determine whether or not the licensee has remained competent to practice in the profession and should be reinstated. The Board has the discretion to require further examination and/or education of licensees who do not otherwise demonstrate active practice or competence.

4.9.1.2.1 Reinstatement of Expired OR RETIRED LICENSES More Than Two Years for Architects ONLY. In addition to the requirements set forth in Board Rule 4.9.1.2, an expired OR RETIRED architect license may be reinstated by obtaining 24 CEHs, as set forth in Board Rule 4.9.3.1, acquired within the two years immediately preceding the date the application was received.

4.9.1.2.1.1 REPEALED.

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Tracking number: 2016-00584

Opinion of the Attorney General rendered in connection with the rules adopted by the
Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

on 01/13/2017

4 CCR 730-1

**BYLAWS AND RULES OF THE STATE BOARD OF LICENSURE FOR ARCHITECTS,
PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS**

The above-referenced rules were submitted to this office on 01/13/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 31, 2017 09:55:37

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Physical Therapy Board

CCR number

4 CCR 732-1

Rule title

4 CCR 732-1 PHYSICAL THERAPIST LICENSURE AND PHYSICAL THERAPIST
ASSISTANT CERTIFICATION 1 - eff 03/02/2017

Effective date

03/02/2017

DEPARTMENT OF REGULATORY AGENCIES

STATE PHYSICAL THERAPY BOARD

PHYSICAL THERAPIST LICENSURE & PHYSICAL THERAPIST ASSISTANT CERTIFICATION

4 CCR 732-1

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

GENERAL RULE PROVISIONS

101. Definitions

The purpose of this rule is to address the requirement under section 12-41-113(1), C.R.S., regarding supervision of persons not licensed as a physical therapist, and to clarify the types/levels of supervision utilized throughout the Physical Therapy Practice Act and these Board rules.

- A. "General supervision" means the physical therapist is not required to be on site for direction and supervision, but must be available at least by telecommunications.
- B. "Direct supervision" means the physical therapist is physically present in the same physical building.
- C. "Immediate supervision" means the physical therapist is physically present or immediately available in the same physical building to support the individual being supervised.

102. Licensure & Certification Requirements: Credit for Military Experience

The purpose of this rule is to outline the conditions and procedures governing the evaluation of an applicant's military training and experience under section 24-34-102(8.5), C.R.S.

- A. Education, training, or service gained in military services outlined in section 24-34-102(8.5), C.R.S., that is to be accepted and applied towards receiving either a physical therapist license or a physical therapist assistant certification must be substantially equivalent, as determined by the Board, to the qualifications otherwise applicable at the time of the receipt of the application. It is the applicant's responsibility to provide timely and complete evidence of the education, training and/or service gained in the military for review and consideration. Satisfactory evidence of such education, training or service will be assessed on a case-by-case basis.

103. Recognized Accrediting Agency

The purpose of this rule is to designate a nationally recognized accrediting agency for accrediting physical therapy and physical therapist assistant programs pursuant to sections 12-41-103(1), 12-41-107, 12-41-109, 12-41-111, 12-41-114, 12-41-205, 12-41-206, and 12-41-207, C.R.S.

- A. The Commission on Accreditation in Physical Therapy Education (CAPTE) is recognized as the accrediting agency for accrediting both physical therapy and physical therapist assistant programs.

104. Approved Examinations for Licensing

The purpose of this rule is to designate a nationally-recognized examination approved by the Board pursuant to sections 12-41-107, 12-41-109, 12-41-111, 12-41-205, 12-41-206, and 12-41-207, C.R.S.

- A. The examination developed by the Federation of State Boards of Physical Therapy (FSBPT) entitled the National Physical Therapy Examination (NPTE) for physical therapists is approved as the required examination in the licensure process. An applicant must achieve a passing score as determined by FSBPT in order to be eligible for licensure as a physical therapist.
- B. The examination developed by FSBPT entitled the National Physical Therapy Examination (NPTE) for physical therapist assistants is approved as the required examination in the certification process. An applicant must achieve a passing score as determined by FSBPT in order to be eligible for certification as a physical therapist assistant.

105. Declaratory Orders

The purpose of this rule is to establish procedures for the handling of requests for declaratory orders filed pursuant to the Colorado Administrative Procedures Act at section 24-4-105(11), C.R.S.

- A. Any person or entity may petition the Board for a declaratory order to terminate controversies or remove uncertainties as to the applicability of any statutory provision or of any rule or order of the Board.
- B. The Board will determine, at its discretion and without notice to petitioner, whether to rule upon such petition. If the Board determines that it will not rule upon such a petition, the Board shall promptly notify the petitioner of its action and state the reasons for such decision.
- C. In determining whether to rule upon a petition filed pursuant to this rule, the Board will consider the following matters, among others:
 - 1. Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to petitioner of any statutory provisions or rule or order of the Board;
 - 2. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Board or a court involving one or more petitioners;
 - 3. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Board or a court but not involving any petitioner;
 - 4. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion; and
 - 5. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to CRCP 57, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule, or order in question.
- D. Any petition filed pursuant to this rule shall set forth the following:
 - 1. The name and address of the petitioner and whether the petitioner is licensed or certified pursuant to Title 12, Article 41.
 - 2. The statute, rule, or order to which the petition relates.
 - 3. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner.

E. If the Board determines that it will rule on the petition, the following procedures shall apply:

1. The Board may rule upon the petition based solely upon the facts presented in the petition. In such a case:
 - a. Any ruling of the Board will apply only to the extent of the facts presented in the petition and any amendment to the petition.
 - b. The Board may order the petitioner to file a written brief, memorandum, or statement of position.
 - c. The Board may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
 - d. The Board may dispose of the petition on the sole basis of the matters set forth in the petition.
 - e. The Board may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.
 - f. The Board may take administrative notice of facts pursuant to the Colorado Administrative Procedures Act at section 24-4-105(8), C.R.S., and may utilize its experience, technical competence, and specialized knowledge in the disposition of the petition.
2. If the Board rules upon the petition without a hearing, it shall promptly notify the petitioner of its decision.
3. The Board may, at its discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The hearing notice to the petitioner shall set forth, to the extent known, the factual or other matters that the Board intends to inquire.
4. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all the facts stated in the petition; all of the facts necessary to show the nature of the controversy or uncertainty; and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Board to consider.

F. The parties to any proceeding pursuant to this rule shall be the Board and the petitioner. Any other person may seek leave of the Board to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Board. A petition to intervene shall set forth the same matters as are required by section D of this rule. Any reference to a "petitioner" in this rule also refers to any person who has been granted leave to intervene by the Board.

G. Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute agency action subject to judicial review pursuant to the Colorado Administrative Procedures Act at section 24-4-106, C.R.S.

106. Reporting Criminal Convictions, Judgments, and Administrative Proceedings

The purpose of this rule is to delineate the procedures a licensee or a certificate holder must adhere to when an act enumerated in sections 12-41-115, 12-41-117(2), 12-41-210, or 12-41-212(2), C.R.S., has occurred.

A. A licensee or certificate holder must inform the Board within 90 days of any of the following events:

1. The conviction of a felony under the laws of any state or of the United States, or of any level of crime related to the practice of physical therapy. A guilty verdict, a plea of guilty, a plea of nolo contendere, or the imposition of a deferred sentence accepted by the court is considered a conviction.
2. A disciplinary action imposed by another jurisdiction that licenses, certifies, or registers physical therapists or physical therapist assistants including, but not limited to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license, certification, or registration, whether it is imposed by consent decree, order, or in some other manner, for any cause other than failure to pay a license, certification, or registration fee by the due date.
3. Revocation or suspension by another state board, municipality, federal or state agency of any health services related license, certification, or registration, other than a license, certification, or registration as a physical therapist or physical therapist assistant.

B. Any award, judgment, or settlement of a civil action or arbitration in which there was a final judgment or settlement for malpractice of physical therapy.

C. The notice to the Board must include the following information:

1. If the event is an action by a governmental agency:

- a. The name of the agency;
- b. Its jurisdiction;
- c. The case name;
- d. The docket, proceeding, or case number by which the event is designated; and
- e. A copy of the consent decree, order, or decision.

2. If the event is a conviction of a crime described above:

- a. The court;
- b. Its jurisdiction;
- c. The case name;
- d. The case number;
- e. A description of the matter or a copy of the indictment or charges;
- f. Any plea or verdict accepted or entered by the court; and
- g. A copy of the imposition of sentence related to the conviction and the completion of all terms of the sentence.

3. If the event concerns a civil action or arbitration proceeding:

- a. The court or arbitrator;

- b. The jurisdiction;
 - c. The case name;
 - d. The case number;
 - e. A description of the matter or a copy of the complaint or demand for arbitration; and
 - f. A copy of the verdict, the court decision or arbitration award, or, if settled, the settlement agreement and court's order of dismissal.
4. The licensee or certificate holder notifying the Board may submit a written statement with the notice to be included with the licensee's or certificate holder's records.

107. Reporting Physical or Mental Illness or Condition

The purpose of this rule is to clarify the notification requirements of sections 12-41-118.5 and 12-41-214, C.R.S.

- A. A licensed physical therapist or certified physical therapist assistant must notify the Board if he/she suffers from any of the following:
- 1. A long-term (more than 90 days) physical illness/condition that renders the licensee or certificate holder unable, or limits his/her ability, to practice physical therapy with reasonable skill and patient safety; or
 - 2. A debilitating mental illness/condition that renders the licensee or certificate holder unable, or limits his/her ability, to practice physical therapy with reasonable skill and patient safety.
- B. The physical therapist or physical therapist assistant must notify the Board in writing of the illness or condition within 30 days from the date it impacts his/her ability to perform physical therapy services with reasonable skill and safety; and submit, within 60 days, his/her current strategy for practice modification, limitation, or restriction with consideration of the illness or condition to ensure safe patient care and his/her safety, and a letter from his/her treating medical or mental health provider describing:
- 1. The diagnosis and a description of the illness or condition;
 - 2. The date that the illness or condition was first diagnosed;
 - 3. Treatment plan;
 - 4. The impact on the licensee's or certificate holder's ability to practice safely based on his/her review of a job description for a physical therapist or physical therapist assistant; and
 - 5. Any applicable modifications, limitations, or restrictions to his/her practice.
- C. Pursuant to sections 12-41-118 and 12-41-213, C.R.S., the Board may require the licensee or certificate holder to submit to an examination to evaluate the extent of the illness or condition and its impact on his/her ability to practice with reasonable skill and safety.
- D. Pursuant to sections 12-41-118.5 and 12-41-214, C.R.S., the Board may enter into a non-disciplinary confidential agreement with the physical therapist or physical therapist assistant in which he/she agrees to limit his/her practice based on any restriction(s) imposed by the illness or condition, as determined by the Board. A licensee or certificate holder subject to discipline for habitually

abusing or excessively using or abusing alcohol, a habit-forming drug, or a controlled substance is not eligible to enter into a confidential agreement.

PHYSICAL THERAPIST LICENSURE RULES

201. Supervision and/or Direction of Persons Not Licensed as a Physical Therapist

Pursuant to section 12-41-113(1), C.R.S., the purpose of this rule is to clarify supervision and/or direction provisions for persons not licensed as a physical therapist, which include a physical therapist assistant, certified nurse aide, provisional physical therapist, physical therapy aide, athletic trainer, massage therapist, student physical therapist, or student physical therapist assistant. A therapist of record must be established if physical therapy services are being provided by any of the persons not licensed as a physical therapist listed above. A physical therapist who performs an initial examination and evaluation, and develops an appropriate plan of care, shall be the therapist of record for that patient, unless that physical therapist transfers the responsibility to another licensed physical therapist, or a provisional physical therapist under supervision of a physical therapist or a student physical therapist under supervision of a clinical instructor actively licensed by the State of Colorado as a physical therapist, experienced and skilled enough to take on such responsibility through documentation in the patient records, including the transfer of the procedures and responsibilities provided in this rule.

- A. Delegation of duties is determined by the education and training of the individual being delegated responsibilities as allowed pursuant to Article 41 of Title 12, C.R.S., and these Board rules. If a task cannot be delegated, then a physical therapist must personally attend to the task in-person and not through a patient chart review.
 - 1. A physical therapist shall determine if the individual not licensed as a physical therapist who is being delegated responsibility has the appropriate education, training, and/or experience to perform duties as allowed by statute and/or rule.
 - 2. A physical therapist shall rely on his/her expertise and clinical reasoning when determining the most appropriate utilization of a person not licensed as a physical therapist to provide for the delivery of service that is safe, effective, and efficient.
 - 3. A physical therapist must personally perform and cannot delegate to a person not licensed as a physical therapist the initial clinical contact, interpretation of referrals, initial examinations and evaluations, diagnosis and prognosis, development and modification of plans of care, determination of discharge criteria, and supervision of physical therapy services rendered to the patient/client, except for a provisional physical therapist under supervision of a physical therapist or a student physical therapist under supervision of a clinical instructor actively licensed as a physical therapist, experienced and skilled enough to take on such responsibility.
 - 4. A physical therapist shall not delegate wound debridement to a person not licensed as a physical therapist, except to a provisional physical therapist under supervision of a physical therapist or a student physical therapist under supervision of a clinical instructor actively licensed as a physical therapist, experienced and skilled enough to take on such responsibility, but may delegate non-selective wound care to a physical therapist assistant.
- B. A physical therapist is responsible for providing adequate or proper supervision and/or direction to a person not licensed as a physical therapist pursuant to section 12-41-115(1)(e), C.R.S.
 - 1. A physical therapist may supervise up to 4 individuals at one time who are not physical therapists to assist in the physical therapist's clinical practice. This limit does not include student physical therapists and student physical therapist assistants supervised by a

physical therapist for educational purposes.

2. A physical therapist shall regularly evaluate and observe the performance of any person under his/her supervision and/or direction to ensure that all physical therapy services rendered meet the standard of care for delegation to be continued.

C. Pursuant to the definitions provided in Rule 101, a physical therapist shall provide:

1. General supervision to a physical therapist assistant. However, pursuant to section 12-41-113(2), C.R.S., direct supervision is required if the physical therapist assistant is administering topical and aerosol medications when they are consistent within the scope of physical therapy practice and when any such medication is prescribed by a licensed health care practitioner who is authorized to prescribe such medication. A prescription or order shall be required for each such administration within a plan of care.
2. General supervision to a certified nurse aide in a home health care setting, as part of a physical therapist plan of care.
3. Direct supervision to a provisional physical therapist. In addition, the supervising physical therapist must perform records review and co-signature of notes.
4. Direct supervision to a physical therapy aide.
5. Direct supervision to an athletic trainer providing athletic training within a physical therapist plan of care.
6. Direct supervision to a massage therapist providing massage therapy within a physical therapist plan of care.
7. Immediate supervision to a student physical therapist or a student physical therapist assistant.

202. Supervision of Physical Therapist Assistants and Physical Therapy Aides

The purpose of this rule is to specify supervisory provisions required by section 12-41-113(1), C.R.S., for physical therapist assistants certified in accordance with section 12-41-204, C.R.S., and physical therapy aides. This rule applies to all physical therapists who utilize physical therapist assistants and/or aides in their practice. The physical therapist shall establish a patient relationship with the client prior to any delegation that has been deemed as allowable and appropriate pursuant to Article 41, Title 12, C.R.S., and Board rules.

Physical Therapist Assistants

- A. For the purposes of these rules, physical therapists may supervise physical therapist assistants performing physical therapy services as defined in section 12-41-103(6), C.R.S., and pursuant to Rule 101 and Rule 201 as determined by the physical therapist of record, except for interventions or services that are otherwise prohibited by law.
 1. Physical therapist assistants may perform non-selective wound care, but may not perform wound debridement.
 2. Physical therapist assistants may not perform dry needling.
 3. Physical therapist assistants may not perform joint mobilization, unless the supervising physical therapist has determined that the physical therapist assistant has the necessary degree of education, training and skill for safe patient care. Entry-level education is

inadequate; additional formal continuing education (psychomotor and didactic) is required to perform joint mobilization. Thrust, high-velocity techniques are not within the scope of the physical therapist assistants' practice.

4. Physical therapist assistants may not perform or assist a physical therapist in providing physical therapy of animals.
- B. The following condition must be met before a physical therapist can utilize a physical therapist assistant: a physical therapist must be designated and recorded in the patient/client records as responsible for supervising the care and interventions provided by the physical therapist assistant. The designated physical therapist must consistently provide for the planning, evaluating, and supervising of all care rendered to the patient/client.
- C. The physical therapist is responsible for the performance of all services performed by the physical therapist assistant. This responsibility requires the physical therapist to assure services are performed with a degree of care and skill appropriate to the physical therapist assistant's education and training.
- D. The physical therapist assumes accountability for the acts delegated to or performed by a physical therapist assistant. Before delegating performance of physical therapy services to a physical therapist assistant working under general supervision, as defined in Rule 101(A), the supervising physical therapist shall ensure that the physical therapist assistant is qualified by education and training to perform the physical therapy services in a safe, effective, and efficient manner.
- E. A physical therapist assistant may not supervise other personnel in the provision of physical therapy services to a patient.
- F. A physical therapist assistant under the general supervision, as defined in Rule 101(A), of a physical therapist may act as a clinical instructor for a physical therapist assistant student. However, immediate supervision, as defined in Rule 101(C), of the student physical therapist assistant by the physical therapist is required if the physical therapist assistant student is providing physical therapy services.

Physical Therapy Aides

- G. All individuals not licensed as a physical therapist, not licensed as a provisional physical therapist, not certified as a physical therapist assistant, not authorized to practice as a student physical therapist or physical therapist assistant, and not otherwise regulated as a health care professional, shall be considered an aide for the purposes of this rule.
- H. A physical therapy aide may participate in limited designated tasks, as assigned by a physical therapist. The supervising physical therapist must participate in patient care on each date of service when a physical therapy aide is involved in care. Supervision must also occur in compliance with Rule 101 and Rule 201.
- I. As to recordkeeping, a physical therapy aide may participate only in basic data recording in the medical record.
- J. Wound care/debridement, dry needling, administration of medications, joint mobilization, and treatment on animals shall not be delegated to a physical therapy aide. The supervising physical therapist shall ensure that the physical therapy aide is qualified by education and training to participate in limited designated tasks as assigned by the physical therapist.

203. Authorized Practice of Physical Therapy by a Person Not Licensed In Colorado

The purpose of this rule is to clarify the following conditions under which a physical therapist not licensed in Colorado may practice for a temporary period of time pursuant to section 12-41-114(1)(f), C.R.S., which allows the practice of physical therapy in Colorado for no more than 4 consecutive weeks or more than once in any 12-month period by a physical therapist licensed, certified, or registered in another state or country when providing services in the absence of a physical therapist licensed in Colorado. This provision is not available for a person applying for a license in Colorado whose application is pending review and potential approval. Additional requirements for eligibility including the following:

- A. The entity wishing to employ or engage the services of a visiting, physical therapist who is not otherwise licensed in Colorado must notify the Board at least one week prior to the start date and must document the need for employing or engaging the services of a visiting physical therapist.
- B. The visiting physical therapist must possess a current and active license, certification, or registration in good standing in another state or country and provide a copy of the license, certification, or registration to the Board at least one week prior to practicing in Colorado.
- C. The visiting physical therapist must have been engaged in the active, clinical practice of physical therapy for 2 of the last 5 years in order to be eligible.

204. Licensure by Examination for Physical Therapists

The purpose of this rule is to delineate the requirements for licensure by examination for physical therapists pursuant to section 12-41-107, C.R.S.

- A. An applicant is required to demonstrate that he/she has successfully completed a physical therapy program that is either:
 - 1. Accredited by a nationally recognized accrediting agency pursuant to Rule 103; or
 - 2. Substantially equivalent pursuant to Rule 205.
- B. If applying to take the National Physical Therapy Examination (NPTE), an applicant:
 - 1. Must have successfully completed a physical therapy program or be eligible to graduate within 90 days of a program pursuant to section A of this rule; and
 - 2. Must meet the Federation of State Boards of Physical Therapy's (FSBPT) current eligibility requirements in effect at the time of registering for the NPTE, including any exam retake or low score limit policies.
- C. An applicant for licensure by examination must graduate from a physical therapy program pursuant to section A of this rule and pass the NPTE within the 2 years immediately preceding the date of the application.
- D. An applicant who is unable to meet the requirements under section C of this rule may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a license under this section D, the Board may subject said license to such lawful conditions as the Board finds are necessary to protect the public.

205. Licensing of Foreign-Trained Physical Therapist Graduates of Non-Accredited Programs

The purpose of this rule is to establish procedures for determining whether a foreign-trained physical therapist applicant who has graduated from a non-accredited program has substantially equivalent education and training as required pursuant to section 12-41-111(1)(a), C.R.S.

- A. A foreign-trained applicant who has graduated from a non-accredited program must have education and training in physical therapy substantially equivalent to the entry-level education and training required at accredited physical therapy programs in the United States in effect at the time of the applicant's graduation. This includes an assessment of the applicant's general and professional education, as well as training in wound care and debridement.
- B. Applicants who wish to have their general and professional education considered "substantially equivalent" in order to take the National Physical Therapy Examination (NPTE) through Colorado and qualify for licensure shall submit their credentials to the Foreign Credentialing Commission of Physical Therapy (FCCPT). The applicant must submit a credentials evaluation utilizing the version of the Coursework Evaluation Tool for Foreign-Educated Physical Therapists developed by the Federation of State Boards of Physical Therapy (FSBPT) that applies to the applicant's year of graduation in order to evaluate the applicant's credentials against the requirements at accredited physical therapy programs in place at the time of the applicant's graduation. The Board will not accept a credentials evaluation from an organization not listed in this rule.
- C. A foreign-trained applicant who has graduated from a non-accredited program and already passed the NPTE may submit a credentials evaluation from a credentialing agency other than FCCPT provided that:
 - 1. The credentialing agency utilized the version of the Coursework Evaluation Tool for Foreign-Educated Physical Therapists developed by FSBPT that applies to the applicant's year of graduation in order to evaluate the applicant's credentials against the requirements at accredited physical therapy programs in place at the time of the applicant's graduation; and
 - 2. The applicant has been licensed in good standing and actively engaged in clinical practice as a licensed physical therapist in the United States for 2 out of the 5 years immediately preceding his/her application for licensure.
- D. All expenses associated with the credential evaluation are the responsibility of the applicant.
- E. Failure to have a credentials evaluation pursuant to the terms of this rule will result in the Board denying the application.
- F. In the event a foreign-trained applicant's general education is found to be deficient, the applicant may take and pass subject examinations from the College-Level Examination Program (CLEP) to overcome the deficiency in general education.
- G. In the event a foreign-trained applicant's professional education is found to be deficient, the applicant shall either:
 - 1. Successfully complete a Board-approved plan to overcome deficiencies; or
 - 2. Overcome the deficiency by obtaining a master or doctorate degree at an accredited physical therapy program.
- H. Degrees obtained in a transitional program are not equivalent to a professional entry-level physical therapy degree and will not be accepted for initial licensure.

206. Licensure by Endorsement for Physical Therapists

The purpose of this rule is to delineate the requirements for licensure by endorsement for physical therapists pursuant to section 12-41-109, C.R.S. In order to be qualified for licensure by endorsement, an applicant is required to demonstrate that he/she does not currently have a revoked, suspended, restricted, or conditional license to practice as a physical therapist, or is currently pending disciplinary action against such license in another state or territory of the United States. An applicant must meet one of the following requirements:

- A. Graduated from an accredited physical therapy program within the past 2 years and passed the National Physical Therapy Examination (NPTE).
- B. Practiced in the United States as a licensed physical therapist for at least 2 of the 5 years immediately preceding the date of the application.
- C. If an applicant has not practiced as a licensed physical therapist for at least 2 of the 5 years immediately preceding the date of the application, then he/she is required to have passed the NPTE, or its equivalent, and may demonstrate competency through successful completion of 1 of the following:
 - 1. Complete 60 points of Professional Development Activities (PDA) pursuant to Rule 213(C)(2) (a-c) during the 2 years immediately preceding the application.
 - a. An applicant seeking to demonstrate competency through this pathway shall:
 - i. Complete the Federation of State Boards of Physical Therapy's (FSBPT) online continuing education competence learning and assessment tool (oPTion) or a comparable objective third-party assessment that compares a licensee's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board; and
 - ii. Successfully complete 60 Category I points, directly related to the physical therapist's clinical practice and address any areas of deficiencies identified in the objective third-party assessment.
 - b. The applicant must submit the results of the objective third-party assessment and the corresponding 60 Category I points for Board consideration within 1 year of completing the objective third-party assessment.
 - 2. Successfully complete a Board authorized internship.
 - a. An applicant seeking to demonstrate competency through an internship shall:
 - i. Arrange for a Colorado-licensed, practicing physical therapist (the "supervising physical therapist") to supervise the internship; and
 - ii. Ensure that the supervising physical therapist immediately notifies the Board in writing of the establishment of the internship and submits for the Board's approval a plan for supervision using the most current version of the "Physical Therapist Clinical Performance Instrument" (CPI) or a comparable objective third-party assessment that compares a licensee's knowledge, skills, and abilities to standards for entry-level practice accepted by the Board.
 - b. The internship shall not commence without the Board's written approval of the supervising physical therapist's plan for supervision specified in subparagraph (2) (c) of this rule.

c. The internship shall consist of:

- i. The applicant's actual practice of physical therapy as defined in section 12-41-103(6), C.R.S.;
 - ii. Supervision of the applicant at all times by any Colorado-licensed, practicing physical therapist on the premises where physical therapy services are being rendered; and
 - iii. A minimum of 240 hours clinical practice within a consecutive 6-month period commencing from the Board's written approval of the plan for supervision.
- d. The applicant shall ensure that the supervising physical therapist files a written report at the completion of the internship. This report must indicate whether the applicant demonstrates entry-level performance in all skills assessed by the CPI or comparable objective third-party assessment. Hard copy or electronic copies of the CPI or comparable objective third-party assessment are acceptable.

D. An applicant who is unable to demonstrate competency under sections A, B, or C of this rule may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a license under this section D, the Board may subject said license to such lawful conditions as the Board finds are necessary to protect the public.

207. Reinstatement or Reactivation of an Expired or Inactive Physical Therapist License

The purpose of this rule is to establish the qualifications and procedures for applicants seeking reinstatement of an expired physical therapist license or reactivation of an inactive physical therapist license pursuant to sections 12-41-112 and 12-41-112.5, C.R.S.

A. An applicant seeking reinstatement or reactivation of a physical therapist license shall complete a reinstatement or reactivation application and pay a fee as established by the Director.

B. If the license has been expired or inactive for 2 years or less:

1. Effective November 1, 2016, and if:

- a. The licensee was practicing in Colorado until his/her license expired or was placed on inactive status during the renewal period ending October 31, 2016, the applicant shall demonstrate continuing professional competency pursuant to section 12-41-114.6, C.R.S., and Rule 213; or
- b. The licensee was practicing outside of Colorado until his/her license expired or was placed on inactive status during the renewal period ending October 31, 2016, the applicant may demonstrate continuing professional competency through an option listed in section C below.

2. Effective November 1, 2018, all applicants must demonstrate continuing professional competency pursuant to section 12-41-114.6, C.R.S., and Rule 213 for the 2 years immediately preceding the date the application is received.

C. If the license has been expired or inactive for more than 2 years, an applicant must establish "competency to practice" pursuant to section 24-34-102(8)(d)(II), C.R.S., by submitting 1 of the following:

1. Verification of an active, valid physical therapist license in good standing from another state or jurisdiction, along with proof of clinical physical therapy practice in that state or jurisdiction which includes a minimum of an average of 400 hours per year for the 2 years immediately preceding the date of application. The work experience must be attested as to the number of hours.
2. If an applicant has not practiced as a licensed physical therapist within the last 10 years in another state or jurisdiction, then:
 - a. Evidence of completing the Federation of State Boards of Physical Therapy's (FSBPT) online continuing competence learning and assessment tool (oPTion) or a comparable objective third-party assessment that compares a licensee's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board and an average of 15 points of Professional Development Activities (PDA) pursuant to Rule 213(C)(2)(a-c) for each year the license has been expired or inactive (1.25 points for each month).
 - i. The applicant must submit the results of the objective third-party assessment and the corresponding PDA points for Board consideration within 1 year of completing the objective third-party assessment.
 - ii. All points must be Category I, and directly related to the physical therapist's clinical practice and address any areas of deficiencies identified in the objective third-party assessment.
 - b. Completion of a 240-hour internship within 6 consecutive months using the most current version of the "Physical Therapist Clinical Performance Instrument" (CPI) as the professional standard and measure of continued competency or a comparable objective third-party assessment that compares a licensee's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board as required in Rule 206(C)(2). Satisfactory completion of the internship shall require both 240 hours of internship practice and successful demonstration of entry-level performance on all skills on the CPI or comparable objective third-party assessment on electronic or paper form.
 - c. Practice for 6 months on probationary status with a practice monitor subject to the terms established by the Board.
3. If an applicant has not practiced as a licensed physical therapist for the last 10 or more years in another state or jurisdiction, then he or she is required to re-take and pass the National Physical Therapy Examination (NPTE).__
4. An applicant who is unable to demonstrate competency under paragraphs (1), (2), or (3) of this section may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a license under this paragraph (4), the Board may subject said license to such lawful conditions as the Board finds are necessary to protect the public.

- D. An applicant for reinstatement or reactivation who has actively practiced in Colorado on an expired or inactive license in violation of section 12-41-106, C.R.S., is subject to denial of application, disciplinary action, and/or other penalties as authorized in the Physical Therapy Practice Act at section 12-41-101, *et seq.*, C.R.S., and in accordance with section 24-34-102, *et seq.*, C.R.S.

208. Use of Titles Restricted

The purpose of this rule is to clarify the use of titles and educational degrees pursuant to section 12-41-104, C.R.S.

- A. Obtaining a physical therapy license does not automatically entitle or confer upon the licensee the right to use the title “Dr.” or “Doctor”.
- B. A licensed physical therapist can use the title “Doctor” or “Dr.” only when such licensee has, in fact, been awarded a physical therapy doctorate degree (D.P.T.), or another academic or clinical doctorate degree (e.g., Ph.D., Sc.D.) from an accredited program by a nationally recognized accrediting agency as required pursuant to section 6-1-707, C.R.S., pertaining to the use of titles and degrees.
- C. A physical therapist holding a doctorate degree may include the title “Doctor” or “Dr.” only when accompanied by the words of the conferred degree following his/her legal name and after the title “P.T.”, for example: “Dr. Jane/John Doe, P.T., D.P.T.” or “Dr. Jane/John Doe, P.T., Ph.D.”
- D. A physical therapist not holding a physical therapy doctorate or transitional doctorate degree may not use the title D.P.T.

210. Requirements for Physical Therapists to Perform Physical Therapy of Animals

The purpose of this rule is to implement the requirements of sections 12-41-103.6(2)(b)(II) and 12-41-113(4), C.R.S., regarding the authority of physical therapists to treat animals.

- A. A physical therapist must have the knowledge, skill, ability, and documented competency to perform an act that is within the scope of practice for physical therapists.
- B. The Division of Professions and Occupations shall maintain a data base of all physical therapists that are qualified pursuant to this rule to practice physical therapy of animals in this state.
- C. All physical therapists that choose to practice physical therapy of animals shall provide the Board with such therapist's name, current address, education, and qualifications to perform physical therapy of animals for inclusion in the data base referenced in section B of this rule. Information in the data base shall be open to public inspection at all times. Forms for physical therapists to provide such information shall be provided by the Board.
- D. A physical therapist that desires to perform physical therapy of animals must comply with the following educational requirements:
 - 1. Minimum of 80 contact hours over and above entry-level human physical therapy program course work for non-human animals, to include:
 - a. FOUNDATION/CLINICAL SCIENCES
 - i. Gross and applied non-human animal anatomy/physiology;
 - ii. Wound healing and response of tissues to disuse and remobilization in the non-human animal;

- iii. Animal behavior;
- iv. Animal restraint; and
- v. Zoonotic and infectious diseases.

b. EXAMINATION/EVALUATION/PROGNOSIS/PT DIAGNOSIS

- i. Medical and surgical management of orthopedic, neurological, critically injured, geriatric, arthritic, and obese non-human animals; and
- ii. Gait and other movement analyses.

c. INTERVENTION/PLAN OF CARE/OUTCOME

- i. Therapeutic exercise applied to non-human animals;
- ii. Therapeutic modalities; and
- iii. Outcome assessment and documentation.

d. CLINICAL EXPERIENCE

- i. Documented successful completion of a minimum of 120 hours under the supervision of a licensed physical therapist listed in the data base maintained by the Division of Professions and Occupations to perform physical therapy of animals or a licensed veterinarian.

E. Prior to performing physical therapy of an animal, the physical therapist shall obtain veterinary medical clearance of the animal by a Colorado-licensed veterinarian and must document such clearance in the animal patient's record.

F. Veterinary medical clearance means:

- 1. The veterinarian has previously examined the animal patient and has provided a differential diagnosis, if appropriate; and
- 2. The veterinarian has cleared the animal for physical therapy.

G. It is expected that the physical therapist and the veterinarian will continue professional collaboration as necessary for the well-being of the animal patient.

H. Once veterinary medical clearance has been received; the physical therapist is responsible for developing the plan of care for the animal patient's physical therapy.

I. The animal patient's record must include the verbal or written veterinary medical clearance. If verbal clearance is received, the physical therapist must document the verbal clearance in the animal patient's record, including the name of the veterinarian, date, and time clearance was received.

J. Complaints against physical therapists alleging a violation related to animal physical therapy will be forwarded to the State Board of Veterinary Medicine for its review and advisory recommendation to the State Physical Therapy Board. The State Physical Therapy Board retains the final authority by statute for decisions related to discipline of any physical therapist.

211. Requirements for Physical Therapists to Perform Dry Needling

- A. Dry needling (also known as Trigger Point Dry Needling) is a physical intervention that uses a filiform needle to stimulate trigger points, diagnose and treat neuromuscular pain and functional movement deficits; is based upon Western medical concepts; requires an examination and diagnosis, and treats specific anatomic entities selected according to physical signs. Dry needling does not include the stimulation of auricular or distal points.
- B. Dry needling as defined pursuant to this rule is within the scope of practice of physical therapy.
- C. A Physical Therapist must have the knowledge, skill, ability, and documented competency to perform an act that is within the Physical Therapist's scope of practice. Except as part of a course of study on dry needling pursuant to paragraph D.2 of this Rule, a Physical Therapist shall not perform dry needling unless competent to do so.
- D. To be deemed competent to perform dry needling, a Physical Therapist must:
 - 1. have practiced for at least two years as a licensed Physical Therapist; and
 - 2. have successfully completed a dry needling course of study that consists of a minimum of 46 hours of in-person (i.e. not online) dry needling training.
- E. A provider of a dry needling course of study must meet the educational and clinical prerequisites as defined in this rule, paragraph D above and demonstrate a minimum of two years of dry needling practice techniques. The provider is not required to be a Physical Therapist.
- F. Physical Therapists performing dry needling in their practice must have written informed consent for each patient where this technique is used. The patient must sign and receive a copy of the informed consent form. The consent form must, at a minimum, clearly state the following information:
 - 1. Risks and benefits of dry needling; and
 - 2. Physical Therapist's level of education and training in dry needling; and
 - 3. The Physical Therapist will not stimulate any distal or auricular points during dry needling.
- G. When dry needling is performed, it must be clearly documented in the procedure notes and must indicate how the patient tolerated the technique, as well as the outcome after the procedure.
- H. Dry needling shall not be delegated and must be directly performed by a qualified, licensed Physical Therapist.
- I. Dry needling must be performed in a manner consistent with generally accepted standards of practice, including clean needle techniques, and the guidelines and recommendations of the Centers for Disease Control and Prevention ("CDC").
- J. The Physical Therapist shall supply written documentation, upon request by the Board, which substantiates appropriate training as required by this Rule. Failure to provide written documentation, upon request, is a violation of this Rule, and is prima facie evidence that the Physical Therapist is not competent and not permitted to perform dry needling.

212. Inactive License Status for Physical Therapists

The purpose of this rule is to outline the conditions and procedures governing inactive licensure status pursuant to section 12-41-112.5, C.R.S.

- A. A physical therapist with an inactive license must not engage in any act or conduct that constitutes the practice of physical therapy while the physical therapist's license is inactive.
- B. A physical therapist with an inactive license is exempt from the professional liability insurance requirements of section 12-41-114.5, C.R.S.
- C. A physical therapist with an inactive license is exempt from the continuing professional competency requirements of section 12-41-114.6, C.R.S., and Rule 213.
- D. A physical therapist may apply for reactivation of an inactive license by successfully meeting the requirements of Rule 207.

213. Continuing Professional Competency Requirements for Licensure Renewal

The purpose of this rule is to establish a continuing professional competency program pursuant to section 12-41-114.6, C.R.S., wherein a physical therapist shall maintain and demonstrate continuing professional competency in order to renew a license to practice physical therapy in the state of Colorado.

Furthermore, pursuant to section 12-41-114.6(2), C.R.S., records of assessment or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a physical therapist. A person or the Board shall not use the records or documents unless used by the Board to determine whether a physical therapist is maintaining continuing professional competency to engage in the profession.

A. Definitions

1. Assessment of Knowledge and Skills (AKS): an objective third-party assessment that compares a licensee's knowledge, skills, and abilities to the standards for entry-level practice.
2. Continuing Professional Competency: the ongoing ability of a physical therapist to learn, integrate, and apply the knowledge, skills, and judgment to practice as a physical therapist according to generally accepted standards and professional ethical standards.
3. Continuing Professional Development (CPD): the Board program through which a licensee can satisfy the continuing professional competency requirements in order to renew, reinstate, or reactivate a license.
4. Deemed Status: A method to satisfy continuing professional competency requirements. A licensee who satisfies the continuing professional competency requirements of a Colorado state agency or department, an accrediting body recognized by the Board, or an entity approved by the Board pursuant to section 12-41-114.6(1)(c), C.R.S., may qualify under this method in lieu of completing the Board's CPD program.
5. Learning Plan: a Board approved form through which a licensee documents his/her goals and plans of learning that were developed from his/her Reflective Self-Assessment (RSAT), which is defined below, and AKS (when appropriately applied).
6. Military Exemption: A method to satisfy continuing professional competency requirements. A licensee who has been approved for this exemption will not be required to meet continuing professional competency requirements during the renewal period in which he/she was approved by the Division of Professions and Occupations.
7. Professional Development Activities (PDA): learning activities undertaken to increase

the licensee's knowledge and skill or hone existing knowledge and skill for the purpose of continuing professional development.

8. Reflective Self-Assessment Tool (RSAT): a reflective practice tool in which a licensee can reflect upon his/her knowledge and skills pertaining to the foundational areas of physical therapy practice taking into account the licensee's current level and area of practice.

B. Continuing Professional Competency Requirements

1. Effective after the 2014 license renewal, or upon the completion of the first renewal of a license thereafter, the licensee shall demonstrate continuing professional competency in order to renew a license by:
 - a. Participation in the Continuing Professional Development (CPD) program;
 - b. Participation in a program of continuing professional competency through a Colorado state agency or department, including continuing competency requirements imposed through a contractual arrangement with a provider as set forth in section 12-41-114.6(1)(c), C.R.S. This status is defined as "Deemed Status" in section A(4) of this rule and further described in section D of this rule; or
 - c. Receiving an exemption for military service as defined in section 12-70-102, C.R.S. Military exemptions must be approved by the Division of Professions and Occupations. Licensees seeking a military exemption shall submit a request in writing with evidence that the licensee's military service meets the criteria established in section 12-70-102, C.R.S., and section E of this rule.
2. A licensee shall attest at the time of the renewal of a license to his/her compliance with continuing professional competency requirements.

C. Continuing Professional Development Program

1. The Continuing Professional Development (CPD) program entails the following:
 - a. The licensee shall complete the Reflective Self-Assessment Tool (RSAT) once per 2-year renewal period. A licensee shall use the Board approved form.
 - i. The execution of a Learning Plan once per 2-year renewal period that is based upon the licensee's Reflective Self-Assessment Tool (RSAT) or Assessment of Knowledge and Skills (AKS). A licensee shall use the Board approved form.
 - ii. Accrual of 30 points of Professional Development Activities (PDA) per 2-year renewal period.
2. Professional Development Activities (PDA)
 - a. Professional Development Activities must be relevant to the licensee's practice as a physical therapist and pertinent to his/her Learning Plan. The Board will not pre-approve specific courses or providers. The licensee shall determine which activities and topics will meet his/her Learning Plan, and select an appropriate provider.

- b. Professional Development Activities are separated into Category I, Category II, and Category III activities and each category has a corresponding point value. Points are used in lieu of continuing education units (CEU) or contact hours to allow credit for non-continuing education type activities.
 - c. Points will be accepted if the activity is included in the Board's *Professional Development Activities List*. The Board may accept or reject activities submitted for consideration that are not identified on its list.
 - d. A minimum of 15 of the required 30 points must be Category I activities.
 - e. Professional Development Activities will only apply for one 2-year renewal period.
- 3. The completion of an Assessment of Knowledge and Skills (AKS) will not be accepted more than once every 10 years.
 - a. An AKS must meet the following criteria:
 - i. Be drafted and validated by qualified physical therapists and psychometricians;
 - ii. Be comprised of evidence based practice;
 - iii. Be maintained for relevancy and advancements in and affecting the profession; and
 - iv. Provide feedback to the participant/licensee regarding his/her performance and suggested learning opportunities to enhance his/her knowledge and skills.
 - b. Administrative Approval. The Board finds the following AKSs to have met the criteria established in section C(3)(a) of this rule, and are administratively approved by the Board:
 - i. The online continuing competence learning and assessment tool (oPTion) administered by the Federation of State Boards of Physical Therapy (FSBPT).
 - ii. If the AKS is not listed as administratively approved by the Board in this rule, then additional documentation demonstrating the AKS satisfies the Board criteria will be required prior to registering and completing the AKS.
 - c. The licensee may count the completion of an AKS as a Category I activity toward a mandatory 30 PDA points for the corresponding 2-year renewal period in compliance with the State Physical Therapy Board's *Professional Development Activities List* for assigned point values.
- 4. Audit of Compliance. The following documentation is required for an audit of compliance of a licensee's Continuing Professional Development:
 - a. The Learning Plan that is signed and executed which contains the licensee's goals in the form and manner as approved by the Board.
 - b. A certificate of completion or other report issued by the AKS provider indicating the name of the licensee, AKS title, content, and the licensee's date of completion.

- c. Documentation of 30 points of Professional Development Activities in compliance with the State Physical Therapy Board's *Professional Development Activities List* for documentation requirements for PDAs.
 - d. The Board may accept or reject Professional Development Activities (PDA) that do not meet the criteria established by the Board for PDA or standards of quality as defined in the State Physical Therapy Board's *Professional Development Activities List, Standards of Quality for Category I Continuing Education Activities*, and this rule.
- D. Deemed Status. The following criteria must be met in order to claim this status:
 - 1. In order to renew a license, a licensee shall attest to his/her Deemed Status.
 - 2. To qualify, the licensee must be in full compliance with the requirements of his/her state agency or department during the entire 2-year renewal period of his/her physical therapist license and on track to successfully complete that program or have successfully completed it.
 - 3. Licensees claiming Deemed Status are subject to an audit of compliance. To satisfy an audit of compliance, the licensee shall submit appropriate evidence of participation in a qualifying program through submission of:
 - a. Proof from the Colorado state agency or department or contractual entity verifying that the licensee is in compliance with its continuing professional competency program; and
 - b. A letter from his/her employer certifying dates of employment for the entire 2-year license renewal period, without any break; or
 - c. Other documentation approved by the Board which reflects the licensee's compliance with a program of continuing professional competency.
- E. Military Exemption. Pursuant to section 12-70-102, C.R.S., licensees who have been called to federally funded active duty for more than 120 days for the purpose of serving in a war, emergency, or contingency may request an exemption from the continuing professional competency requirements for the renewal, reinstatement, or reactivation of his/her license for the 2-year renewal period that falls within the period of service or within six months following the completion of service.
 - 1. Military exemptions must be approved by the Division of Professions and Occupations. Licensees seeking a military exemption shall submit a request in writing with evidence that the licensee's military service meets the criteria established in section 12-70-102, C.R.S.
 - 2. After being granted a military exemption, in order to complete the renewal process, a licensee shall attest to his/her military exemption.
- F. Records Retention. A licensee shall retain documentation demonstrating his/her compliance for 2 complete 2-year renewal periods.
- G. Non-Compliance. Falsifying an attestation or other documentation regarding the licensee's compliance with continuing professional competency requirements constitutes the falsification of information in an application and may be grounds for discipline pursuant to sections 12-41-115(1)(k) and (r), C.R.S.

- H. Reinstatement and Reactivation. A licensee seeking to reinstate or reactivate a license which has been expired or inactivated for 2 years or less shall meet the competency requirements outlined in Rule 207(B).

215. Provisional Physical Therapist License

The purpose of this rule is to establish the qualifications and procedures for applicants seeking a provisional license to practice as a physical therapist pursuant to section 12-41-107.5, C.R.S. Refer to Rule 201 for applicable supervision requirements.

- A. A provisional license may be issued only one time and cannot be renewed or reinstated.
- B. An applicant is not eligible to be issued a provisional physical therapist license if he/she has failed or passed the National Physical Therapy Examination (NPTE).
- C. Pursuant to section 12-41-107.5, C.R.S., a provisional physical therapist license expires no later than 120 days after it is issued. If the individual passes the NPTE after the license was issued, then the license will expire no later than the 120 days after the date it was issued, or a regular license to practice as a physical therapist is issued to the licensee. However, if the individual issued a provisional license fails the NPTE after the license was issued, then the license expires within 3 business days of his/her failing results being sent to the candidate.
- D. A provisional physical therapist shall purchase and maintain professional liability insurance, or be insured under a supervising physical therapist, for the amounts specified in section 12-41-114.5(1), C.R.S., unless the provisional physical therapist is exempted pursuant to section 12-41-114.5(3), C.R.S.

PHYSICAL THERAPIST ASSISTANT RULES

301. Supervision Required for Physical Therapist Assistant Practice

The purpose of this rule is to clarify supervision parameters pursuant to section 12-41-203(2), C.R.S.

Physical therapist assistants ("P.T.A.") shall not provide physical therapy services unless the physical therapist assistant works under the general supervision, as defined in Rule 101(A), of a licensed physical therapist.

302. Supervision of Others by Physical Therapist Assistants Prohibited

The purpose of this rule is to clarify supervisory parameters pursuant to section 12-41-103.6(2)(b), C.R.S.

- A. A physical therapist assistant may not supervise other personnel in the provision of physical therapy services to a patient.
- B. A physical therapist assistant under the general supervision, as defined in Rule 101(A), of a physical therapist may act as a clinical instructor for a physical therapist assistant student. However, immediate supervision, as defined in Rule 101(C), of the student physical therapist assistant remains with the physical therapist if the physical therapist assistant student is providing physical therapy services.

303. Certification by Examination for Physical Therapist Assistants

The purpose of this rule is to delineate the requirements for certification by examination for physical therapist assistants pursuant to section 12-41-205, C.R.S.

- A. An applicant is required to demonstrate that he/she has successfully completed a physical therapy program pursuant to Rule 204 or a physical therapist assistant program that is either:
 - 1. Accredited by a nationally recognized accrediting agency pursuant to Rule 103; or
 - 2. Substantially equivalent pursuant to Rule 304.
- B. If applying to take the National Physical Therapy Examination (NPTE), an applicant:
 - 1. Must have successfully completed a physical therapy or physical therapist assistant program, or be eligible to graduate within 90 days of a program pursuant to section A of this rule; and
 - 2. Must meet the Federation of State Boards of Physical Therapy's (FSBPT) current eligibility requirements in effect at the time of registering for the NPTE, including any exam retake or low score limit policies.
- C. An applicant for certification by examination must graduate from a physical therapy or physical therapist assistant program pursuant to section A of this rule and pass the NPTE within the 2 years immediately preceding the date of the application.
- D. An applicant who is unable to meet the requirements under section C of this rule may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a certification under this section D, the Board may subject said certification to such lawful conditions as the Board finds are necessary to protect the public.

304. Certification of Foreign-Trained Physical Therapist Assistant Graduates of Non-Accredited Programs

The purpose of this rule is to establish procedures for determining whether a foreign-trained physical therapist assistant applicant who has graduated from a non-accredited program has substantially equivalent education and training as required pursuant to section 12-41-207(1)(a), C.R.S.

- A. A foreign-trained applicant who has graduated from a non-accredited program must have education and training as a physical therapist assistant substantially equivalent to the entry-level education and training required at accredited physical therapist assistant programs in the United States in effect at the time of the applicant's graduation. This includes but is not limited to an assessment of the applicant's foundational studies and applied and technical education, as well as training in non-selective wound care.
- B. Applicants who wish to have their foundational studies, and applied/technical education considered "substantially equivalent" in order to take the National Physical Therapy Examination (NPTE) through Colorado and qualify for certification shall submit their credentials to the Foreign Credentialing Commission of Physical Therapy (FCCPT). The applicant must submit a credentials evaluation utilizing the version of the Coursework Tool for Foreign Educated Physical Therapist Assistants developed by the Federation of State Boards of Physical Therapy (FSBPT) that applies to the applicant's year of graduation in order to evaluate the applicant's credentials against the requirements at accredited physical therapist assistant programs in place at the time of the applicant's graduation. The Board will not accept a credentials evaluation from an organization not listed in this rule.

- C. A foreign-trained applicant who has graduated from a non-accredited program and already passed the NPTE may submit a credentials evaluation from a credentialing agency other than FCCPT provided that:
 - 1. The credentialing agency utilized the version of the Coursework Evaluation Tool for Foreign-Educated Physical Therapists developed by FSBPT that applies to the applicant's year of graduation in order to evaluate the applicant's credentials against the requirements at accredited physical therapist assistant programs in place at the time of the applicant's graduation; and
 - 2. The applicant has been licensed, certified, or registered in good standing and actively engaged in clinical practice as a physical therapist assistant in the United States for 2 out of the 5 years immediately preceding his or her application for certification.
- D. All expenses associated with the credentials evaluation are the responsibility of the applicant.
- E. Failure to have a credentials evaluation pursuant to the terms of this rule will result in the Board denying the application.
- F. In the event a foreign-trained applicant's foundational studies are found to be deficient, the applicant may take and pass subject examinations from the College-Level Examination Program (CLEP) to overcome the deficiency in general education.
- G. In the event a foreign-trained applicant's applied and technical education is found to be deficient, the applicant shall either:
 - 1. Successfully complete a Board-approved plan to overcome deficiencies; or
 - 2. Overcome the deficiency by obtaining an associate degree from an accredited physical therapist assistant program.

305. Certification by Endorsement for Physical Therapist Assistants

The purpose of this rule is to delineate the requirements for certification by endorsement pursuant to section 12-41-206, C.R.S. In order to be qualified for certification by endorsement, an applicant is required to demonstrate that he/she does not currently have a revoked, suspended, restricted, or conditional license, certification, or registration to practice as a physical therapist assistant, or is currently pending disciplinary action against such license, certification, or registration in another state or territory of the United States. An applicant must meet one of the following requirements:

- A. Graduated from an accredited physical therapy or physical therapist assistant program within the past 2 years and passed the National Physical Therapy Examination (NPTE).
- B. Practiced in the United States as a licensed, certified, or registered physical therapist assistant for at least 2 of the 5 years immediately preceding the date of the application.
- C. If an applicant has not practiced as a licensed, certified, or registered physical therapist assistant for at least 2 of the 5 years immediately preceding the date of the application, then he/she is required to have passed the NPTE, or its equivalent, and may demonstrate competency through successful completion of 1 of the following:
 - 1. Completion of 60 hours of continuing education related to the practice of physical therapy during the 2 years immediately preceding the application.
 - a. An applicant seeking to demonstrate competency through this pathway shall:

- i. Complete an objective third-party assessment that compares a certificate holder's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board; and
 - ii. Successfully complete all hours as Category I in compliance with the "Physical Therapy Board Standards for Continuing Education Activities", directly related to the physical therapist assistant's clinical practice and address any areas of deficiencies identified in the objective third-party assessment.
 - b. The applicant must submit the results of the objective third-party assessment and the corresponding 60 Category I continuing education hours for Board consideration within 1 year of completing the objective third-party assessment.
- 2. Successful completion of a Board authorized internship.
 - a. An applicant seeking to demonstrate competency through an internship shall:
 - i. Arrange for a Colorado-licensed, practicing physical therapist (the "supervising physical therapist") to supervise the internship; and
 - ii. Ensure that the supervising physical therapist immediately notifies the Board in writing of the establishment of the internship and submits for the Board's approval a plan for supervision using the most current version of the "Physical Therapist Assistant Clinical Performance Instrument" (CPI) or a comparable objective third-party assessment that compares a certificate holder's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board.
 - b. The internship shall not commence without the Board's written approval of the supervising physical therapist's plan for supervision specified in subparagraph (2)(c) of this rule.
 - c. The internship shall consist of:
 - i. The applicant's actual practice of physical therapy as defined in section 12-41-103(6), C.R.S.;
 - ii. Direct supervision, as defined in Rule 101(B), of the applicant at all times by the Board approved Colorado-licensed, practicing physical therapist; and
 - iii. A minimum of 240 hours clinical practice within a consecutive 6-month period commencing from the Board's written approval of the plan for supervision.
 - d. The applicant shall ensure that the supervising physical therapist files a written report at the completion of the internship. This report must indicate whether the applicant demonstrates entry-level performance in all skills assessed by the CPI or comparable objective third-party assessment. Hard copy or electronic copies of the CPI or comparable objective third-party assessment are acceptable.
- D. An applicant who is unable to demonstrate competency under sections A, B, or C of this rule may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall

consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a certification under this section D, the Board may subject said certification to such lawful conditions as the Board finds are necessary to protect the public.

306. Reinstatement of an Expired Certification for Physical Therapist Assistants

The purpose of this rule is to establish the qualifications and procedures for applicants seeking reinstatement of an expired physical therapist assistant certification pursuant to section 12-41-208, C.R.S.

- A. An applicant seeking reinstatement of an expired physical therapist assistant certification shall complete a reinstatement application and pay a reinstatement fee as established by the Director.
- B. If the certification has been expired for more than 2 years, an applicant must establish “competency to practice” pursuant to 24-34-102(8)(d)(II)(A) & (D), C.R.S., by submitting 1 of the following:
 - 1. Verification of an active, valid physical therapist assistant license, certification, or registration in good standing from another state or jurisdiction, along with proof of clinical physical therapy practice in that state or jurisdiction which includes a minimum of an average of 400 hours per year for the 2 years immediately preceding the date of application. The work experience must be attested as to the number of hours.
 - 2. If an applicant has not practiced as a licensed, certified, or registered physical therapist assistant within the last 10 years in another state or jurisdiction, then:
 - a. Evidence of completing an objective third-party assessment that compares a certificate holder's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board and an average of 30 hours per year in physical therapy continuing education courses since the date the certification expired.
 - i. The applicant must submit the results of the objective third-party assessment and the corresponding continuing education hours for Board consideration within 1 year of completing the objective third-party assessment.
 - ii. All continuing education hours must be Category I in compliance with the “Physical Therapy Board Standards for Continuing Education Activities”, and directly related to the physical therapist assistant's clinical practice and address any areas of deficiencies identified in the objective third-party assessment.
 - iii. The Board may accept 2.5 hours for each month the certification is expired.
 - b. Completion of a 240-hour internship within 6 consecutive months using the most current version of the “Physical Therapist Assistant Clinical Performance Instrument” (CPI) as the professional standard and measure of continued competency or a comparable objective third-party assessment that compares a certificate holder's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board as required in Rule 305(C)(2). Satisfactory completion of the internship shall require both 240 hours of internship practice and successful demonstration of entry-level performance on all skills on the CPI or comparable objective third-party assessment on electronic or paper form.
 - c. Practice for six months on probationary status with a practice monitor subject to the terms established by the Board.

3. If an applicant has not practiced as a licensed, certified, or registered physical therapist for the last 10 or more years in another state or jurisdiction, then he/she is required to re-take and pass the National Physical Therapy Examination (NPTE).__
 4. An applicant who is unable to demonstrate competency under paragraphs (1), (2), or (3) of this section may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a certification under this paragraph (4), the Board may subject said certification to such lawful conditions as the Board finds are necessary to protect the public.
- C. An applicant for reinstatement who has actively practiced in Colorado on an expired certification in violation of section 12-41-204, C.R.S., is subject to denial of application, disciplinary action, and/or other penalties as authorized in the Physical Therapy Practice Act at section 12-41-201 et seq., C.R.S., and in accordance with section 24-34-102 et seq., C.R.S.

Editor's Notes

History

Rules 7, 10, 11 eff. 11/30/2007.

Rule 6 eff. 03/30/2011.

Rules 1 - 11 emer. rule repealed eff. 03/09/2012.

Rules 1 - 11 emer. rule eff. 03/09/2012.

Rules 1 - 11, 303, 304 emer. rule eff. 04/02/2012.

Rules 301, 302, 305, 306 emer. rule eff. 06/01/2012.

Rules 1 - 11 repealed eff. 06/30/2012.

Rules 201 - 211, 301 - 305 eff. 06/30/2012.

Rules 101 – 102, 212, 214 eff. 01/30/2013.

Rules 207 and 213, eff. 11/01/2014.

Rule 215 emer. rule eff. 06/02/2014.

Rules 202, 203, 205, 215, 303 eff. 09/14/2014.

Rules 207 and 213, eff. 11/01/2014.

Rules 102, 103, 201, 202, 203, 204, 205, 206, 208, 212, 302, 303, 304, 305, and 306 eff. 05/15/2015.

Rules 101, 102, 103, 104, 105, 106, 107, 201, 202, 204, 205, 206, 207, 209 (repealed), 210, 212, 213, 214 (repealed), 215, 301, 302, 303, 304, 305, and 306 eff. 11/14/2016.

Rules 106, 107, 201, 204, 213, 303, and 305 eff. 03/02/2017.

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Office of the Attorney General

Tracking number: 2016-00610

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Physical Therapy Board

on 01/13/2017

4 CCR 732-1

PHYSICAL THERAPIST LICENSURE AND PHYSICAL THERAPIST ASSISTANT CERTIFICATION

The above-referenced rules were submitted to this office on 01/24/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 31, 2017 09:45:38

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-31

Rule title

5 CCR 1002-31 REGULATION NO. 31 - THE BASIC STANDARDS AND
METHODOLOGIES FOR SURFACE WATER 1 - eff 03/02/2017

Effective date

03/02/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 31 - THE BASIC STANDARDS AND METHODOLOGIES FOR SURFACE WATER

5 CCR 1002-31

...

31.11 BASIC STANDARDS APPLICABLE TO SURFACE WATERS OF THE STATE

All surface waters of the state are subject to the following basic standards; however, discharge of substances regulated by permits which are within those permit limitations shall not be a basis for enforcement proceedings under these basic standards:

...

- (3) The interim organic pollutant standards contained in the following Basic Standards for Organic Chemicals Table are applicable to all surface waters of the state for which the corresponding use classifications have been adopted, unless alternative site-specific standards have been adopted pursuant to sub-section (4) below.

Note that all standards in the Basic Standards for Organic Chemicals Table are being adopted as "interim standards." These interim standards will remain in effect until alternative permanent standards are adopted by the Commission in revisions to this regulation or site-specific standards determinations. Although fully effective with respect to current regulatory applications, these interim standards shall not be considered final or permanent standards subject to antibacksliding or downgrading restrictions.

BASIC STANDARDS FOR ORGANIC CHEMICALS (in micrograms per liter)						
Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
Acenaphthene	83-32-9	420	420	--- ¹⁰	1,700	520
Acetochlor	34256-82-1	140	---	---	---	---
Acetone	67-64-1	6300	---	---	---	---
Acrolein	107-02-8	3.5	3.5	9.3	68	21
Acrylamide ^{C, 13}	79-06-1	0.022	---	---	---	---
Acrylonitrile ^C	107-13-1	0.065	0.051	0.25	7,500	2,600
Alachlor	15972-60-8	2 ^M	2	140	---	---
Aldicarb	116-06-3	7 ^M	---	---	---	---
Aldicarb Sulfone	1646-88-4	7 ^M	---	---	---	---
Aldicarb Sulfoxide	1646-87-3	7 ^M	---	---	---	---
Aldrin ^C	309-00-2	0.0021	4.9X10 ⁻⁵	5.0X10 ⁻⁵	1.5	---
Aniline ^C	62-53-3	6.1	---	---	---	---
Anthracene (PAH)	120-12-7	2,100	2,100	40,000	---	---
Aramite ^C	140-57-8	1.4	---	---	---	---
Atrazine	1912-24-9	3 ^M	---	---	---	---
Azobenzene ^C	103-33-3	0.32	---	---	---	---
Benzene ^{C, 12}	71-43-2	2.3 to 5 ^M	2.2	51	5,300	---
Benzidine ^C	92-87-5	0.00015	8.6X10 ⁻⁵	0.00020	2,500	---

BASIC STANDARDS FOR ORGANIC CHEMICALS (in micrograms per liter)						
Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
Benzo(a)anthracene (PAH) ^C	56-55-3	0.0048	0.0038	0.018	---	---
Benzo(a)pyrene (PAH) ^{C, 12}	50-32-8	0.0048 to 0.2 ^M	0.0038	0.018	---	---
Benzo(b)fluoranthene (PAH) ^C	205-99-2	0.0048	0.0038	0.018	---	---
Benzo(k)fluoranthene (PAH) ^C	207-08-9	0.0048	0.0038	0.018	---	---
Benzo(g,h,i)perylene (PAH)	191-24-2	---	0.0038	0.018	---	---
Benzotrichloride ^C	98-07-7	0.0027	---	---	---	---
Benzyl chloride ^C	100-44-7	0.21	---	---	---	---
Biphenyl ^C	92-52-4	4.4	---	---	---	---
Bis(chloromethyl)ether (BCME) ^C	542-88-1	0.00016	0.0001	0.0003	---	---
Bromate ^C	15541-45-4	0.050	---	---	---	---
Bromobenzene	108-86-1	56	---	---	---	---
Bromodichloromethane (HM) ^C	75-27-4	---	0.55	17	11,000	---
Bromoform (HM) ^C	75-25-2	---	4.3	140	---	---
Butyl benzyl phthalate	85-68-7	1,400	1,400	1,900	---	---
Carbofuran ^{C, 12}	1563-66-2	35 to 40 ^M	---	---	---	---
Carbon tetrachloride ^{C, 12}	56-23-5	0.5 to 5 ^M	0.43	3.0	35,200	---
Chlordane ^{C, 12}	57-74-9	0.10 to 2 ^M	0.00080	0.00081	1.2	0.0043
Chlordecone ^C	143-50-0	0.0035	---	---	---	---

BASIC STANDARDS FOR ORGANIC CHEMICALS (in micrograms per liter)						
Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
Chlorethyl ether (BIS-2) ^c	111-44-4	0.032	0.030	0.53	---	---
Chlorobenzene ¹¹	108-90-7	100 ^M	100	1,600	---	---
Chlorodibromomethane (HM) ¹¹	124-48-1	---	54.0	1,700	---	---
Chloroform (HM) ^c	67-66-3	---	3.4	110	28,900	1,240
Chloroisopropyl ether(BIS-2)	108-60-1	280	280	65,000	---	---
4-Chloro-3-methylphenol	59-50-7	210	---	---	30	---
Chloronapthalene	91-58-7	560	560	--- ¹⁰	2,300	620
Chlorophenol,2-	95-57-8	35	35	150	4,380	2,000
Chlorphrifos	2921-88-2	21	---	---	0.083	0.041
Chrysene (PAH) ^c	218-01-9	0.0048	0.0038	0.018	---	---
DDD ^c	72-54-8	0.15	0.00031	0.00031	0.6	---
DDE ^c	72-55-9	0.1	0.00022	0.00022	1,050	---
DDT ^c	50-29-3	0.1	0.00022	0.00022	0.55	0.001
Dalapon	75-99-0	200 ^M	---	---	---	---
Demeton	8065-48-3	---	---	---	---	0.1
Diazinon	333-41-5	---	---	---	0.17	0.17
Dibenzo(a,h)anthracene (PAH) ^c	53-70-3	0.0048	0.0038	0.018	---	---
1,2 Dibromo-3-Chloropropane (DBCP) ^c	96-12-8	0.2 ^M	---	---	---	---
Dibromoethane 1,2 ^{c, 13}	106-93-4	0.018	---	---	---	---

BASIC STANDARDS FOR ORGANIC CHEMICALS (in micrograms per liter)						
Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
Dicamba	1918-00-9	210	170	860	---	---
Dichloroacetic acid ^C	79-43-6	0.7	---	---	---	---
Dichlorobenzene 1,2 ¹¹	95-50-1	600 ^M	420	1,300	---	---
Dichlorobenzene 1,3	541-73-1	94	94	960	---	---
Dichlorobenzene 1,4 ¹¹	106-46-7	75 ^M	63	190	---	---
Dichlorobenzidine ^C	91-94-1	0.078	0.021	0.028	---	---
Dichloroethane 1,2 ^{C, 12}	107-06-2	0.38 to 5 ^M	0.38	37	118,000	20,000
Dichloroethylene 1,1	75-35-4	7 ^M	7	3,600	---	---
Dichloroethylene 1,2-cis	156-59-2	14 to 70 ^M	---	---	---	---
Dichloroethylene 1,2-trans ¹¹	156-60-5	100 ^M	100	10,000	---	---
Dichloromethane (methylene chloride) ^{C, 12}	75-09-2	5 ^M	4.6	590	---	---
Dichlorophenol 2,4	120-83-2	21	21	290	2,020	365
Dichlorophenoxyacetic acid (2,4-D)	94-75-7	70 ^M	---	---	---	---
Dichloropropane 1,2 ^{C, 12}	78-87-5	0.52 to 5 ^M	0.50	14	23,000	5,700
Dichloropropylene 1,3 ^C	542-75-6	0.35	0.34	21	6,060	244
Dichlorvos ^C	62-73-7	0.12	---	---	---	---
Dieldrin ^C	60-57-1	0.002	5.2X10 ⁻⁵	5.4X10 ⁻⁵	0.24	0.056
Diethyl phthalate	84-66-2	5,600	5,600	44,000	---	---

BASIC STANDARDS FOR ORGANIC CHEMICALS
(in micrograms per liter)

Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
Diisopropylmethylphosphonate (DIMP)	1445-75-6	8	---	---	---	---
Dimethylphenol 2,4	105-67-9	140	140	850	2,120	---
Dimethyl phthalate	131-11-3	70,000	70,000	1,100,000	---	---
Di-n-butyl phthalate	84-74-2	700	700	4,500	---	---
Dinitrophenol 2,4	51-28-5	14	14	5,300	---	---
Dinitro-o-cresol 4,6	534-52-1	0.27	1.3	28	---	---
Dinitrotoluene 2,4 ^c	121-14-2	0.11	0.11	3.4	---	---
Dinitrotoluene 2,6 ^c	606-20-2	---	---	---	330	230
Dinoseb	88-85-7	7 ^M	---	---	---	---
Dioxane 1,4-	123-91-1	0.35	---	---	---	---
Dioxin (2,3,7,8 TCDD) ^{c, 12}	1746-01-6	2.2x10 ⁻⁷ to 3.0x10 ^{-5, M}	5.0X10 ⁻⁹	5.1X10 ⁻⁹	0.01	0.00001
Diphenylhydrazine 1,2 ^c	122-66-7	0.044	0.036	0.20	270	---
Di(2-ethylhexyl)adipate	103-23-1	400 ^M	---	---	---	---
Diquat ¹²	85-00-7	15 to 20 ^M	---	---	---	---
Endosulfan	115-29-7	42	--- ¹⁰	---	0.11	0.056
Endosulfan, alpha	959-98-8	42	--- ¹⁰	---	0.11	0.056
Endosulfan, beta	33213-65-9	42	--- ¹⁰	---	0.11	0.056
Endosulfan sulfate	1031-07-8	42	--- ¹⁰	---	0.11	0.056

BASIC STANDARDS FOR ORGANIC CHEMICALS
(in micrograms per liter)

Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
Endothall	145-73-3	100 ^M	---	---	---	---
Endrin	72-20-8	2 ^M	---- ¹⁰	---	0.086	0.036
Endrin aldehyde	7421-93-4	2.1	0.29	0.30	---	---
Epichlorohydrin ^C	106-89-8	3.5	---	---	---	---
Ethylbenzene ¹¹	100-41-4	700 ^M	530	2,100	32,000	---
Ethylene dibromide ^{C, 12} (1,2 – dibromoethane)	106-93-4	0.02 to 0.05 ^M	---	---	---	---
Ethylene glycol monobutyl ether (EGBE) (2-Butoxyethanol)	111-76-2	700	---	---	---	---
Ethylhexyl phthalate (BIS-2) ^{C, 12} (DEHP)	117-81-7	2.5 to 6 ^M	1.2	2.2	---	---
Fluoranthene (PAH)	206-44-0	280	130	140	3,980	---
Fluorene (PAH)	86-73-7	280	280	5,300	---	---
Folpet ^C	133-07-3	10	---	---	---	---
Furmecyclo ^C	60568-05-0	1.2	---	---	---	---
Glyphosate	1071-83-6	700 ^M	---	---	---	---
Guthion	86-50-0	---	---	---	---	0.01
Heptachlor ^{C, 12}	76-44-8	0.008 to 0.4 ^M	7.8X10 ⁻⁵	7.9X10 ⁻⁵	0.52	0.0038
Heptachlor epoxide ^{C, 12}	1024-57-3	0.004 to 0.2 ^M	3.9X10 ⁻⁵	3.9X10 ⁻⁵	0.52	0.0038
Hexachlorobenzene ^{C, 12}	118-74-1	0.022 to 1.0 ^M	0.00028	0.00029	---	---

BASIC STANDARDS FOR ORGANIC CHEMICALS (in micrograms per liter)						
Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
Hexachlorobutadiene	87-68-3	0.45	0.44	--- ¹⁰	90	9.3
Hexachlorocyclohexane, Alpha ^C	319-84-6	0.0056	0.0026	0.0049	---	---
Hexachlorocyclohexane, Beta	319-85-7	0.019	0.0091	0.017	---	---
Hexachlorocyclohexane, Gamma (Lindane)	58-89-9	0.2 ^M	0.2	--- ¹⁰	0.95	0.08
Hexachlorocyclohexane, Technical ^C	608-73-1	---	0.012	0.041	100	---
Hexachlorocyclopentadiene ^{11, 12} (HCCPD)	77-47-4	42 to 50 ^M	40	--- ¹⁰	7	5
Hexachlorodibenzo-p-dioxin (1,2,3,7,8,9-hcdd) ^C	19408-74-3	5.60E-06	---	---	---	---
Hexachloroethane	67-72-1	0.88	0.5	1.2	980	540
Hexanone 2-	591-78-6	35	---	---	---	---
Hydrazine/Hydrazine sulfate ^C	302-01-2	0.012	---	---	---	---
Indeno(1,2,3-cd)pyrene (PAH) ^C	193-39-5	0.0048	0.0038	0.018	---	---
Isophorone ¹¹	78-59-1	140	130	3,600	---	---
Malathion ^M	121-75-5	140 14,000	---	---	---	0.1
Methanol	67-56-1	14,000	---	---	---	---
Methoxychlor ¹²	72-43-5	35 to 40 ^M	--- ¹⁰	---	---	0.03
Methyl bromide (HM)	74-83-9	---	9.8	1,500	---	---
Methyl chloride (HM) ^C	74-87-3	---	5.6	180	---	---

BASIC STANDARDS FOR ORGANIC CHEMICALS
(in micrograms per liter)

Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
4,4-Methylene bis (N,N'-dimethyl)aniline ^C	101-61-1	0.76	---	---	---	---
Metribuzin	21087-64-9	180	160	1,700	---	---
Mirex	2385-85-5	1.4	---	---	---	0.001
Naphthalene (PAH)	91-20-3	140	140	--- ¹⁰	2,300	620
Nitrobenzene	98-95-3	14	14	2,800	27,000	---
Nitrophenol 4	100-02-7	56	56	9,700	---	---
Nitrosodibutylamine N ^C	924-16-3	0.0065	0.0043	0.012	---	---
Nitrosodiethylamine N ^C	55-18-5	0.00023	0.00023	0.0083	---	---
Nitrosodimethylamine N ^C	62-75-9	0.00069	0.00069	3.0	---	---
N-Nitrosodiethanolamine ^C	1116-54-7	0.013	---	---	---	---
Nitrosodiphenylamine N ^C	86-30-6	7.1	3.3	6.0	---	---
N-Nitroso-N-methylethylamine ^C	10595-95-6	0.0016	---	---	---	---
Nitrosopyrrolidine N ^C	930-55-2	0.017	0.016	36	---	---
N-Nitrosodi-n-propylamine ^C	621-64-7	0.005	0.005	0.50	---	---
Nonylphenol	84852-15-3 and 25154-52-3	---	---	---	28 (effective 1/1/2011)	6.6 (effective 1/1/2011)
Oxamyl (vydate) ¹²	23135-22-0	175 to 200 ^M	---	---	---	---
PCBs ^{C, 9, 12}	1336-36-3	0.0175 to 0.5 ^M	6.4X10 ⁻⁵	6.4X10 ⁻⁵	2.0	0.014
Parathion	56-38-2	---	---	---	0.065	0.013

BASIC STANDARDS FOR ORGANIC CHEMICALS (in micrograms per liter)						
Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
Pentachlorobenzene	608-93-5	5.6	1.4	1.5	---	---
Pentachlorophenol ^{C, 12}	87-86-5	0.088 to 1.0 ^M	0.080	0.91	19 ⁶	15 ⁶
Perchlorate	7790-98-9	4.9	---	---	---	---
Phenol	108-95-2	2,100	2,100	--- ¹⁰	10,200	2,560
Picloram	1918-02-1	490	---	---	---	---
Prometon	1610-18-0	100	---	---	---	---
Propylene oxide ^C	75-56-9	0.15	---	---	---	---
Pyrene (PAH)	129-00-0	210	210	4,000	---	---
Quinoline ^C	91-22-5	0.012	---	---	---	---
Simazine	122-34-9	4 ^M	---	---	---	---
Styrene	100-42-5	100 ^M	---	---	---	---
Tetrachlorobenzene 1,2,4,5-	95-94-3	2.1	0.97	1.07	---	---
Tetrachloroethane 1,1,2,2 ^C	79-34-5	0.18	0.17	4	---	2,400
Tetrachloroethylene (PCE) ^C	127-18-4	5 ^M	5	62	5,280	840
Tetrahydrofuran	109-99-9	6,300	---	---	---	---
Toluene ^{11, 12}	108-88-3	560 to 1,000 ^M	510	5,900	17,500	---
Toxaphene ^{C, 12}	8001-35-2	0.032 to 3 ^M	0.00028	--- ¹⁰	0.73	0.0002
Tributyltin (TBT)	56573-85-4	---	---	---	0.46	0.072

BASIC STANDARDS FOR ORGANIC CHEMICALS (in micrograms per liter)						
Parameter		Human Health Based ¹			Aquatic Life Based ⁴	
	CAS No.	Water Supply ²	Water+Fish ³	Fish Ingestion ⁸	Acute	Chronic
Trichloroacetic acid	76-03-9	0.52	---	---	---	---
Trichlorobenzene 1,2,4- ¹¹	120-82-1	70 ^M	35	--- ¹⁰	250	50
Trichloroethane 1,1,1 (1,1,1-TCA)	71-55-6	200 ^M	---	---	---	---
Trichloroethane 1,1,2 (1,1,2-TCA) ^{11, 12}	79-00-5	2.8 to 5 ^M	2.7	71	9,400	---
Trichloroethylene (TCE) ^C	79-01-6	5 ^M	2.5	30	45,000	21,900
Trichloropropane 1,2,3- ^{C, 13}	96-18-4	3.7E-4	---	---	---	---
Trichlorophenol 2,4,5	95-95-4	700	700	3,600	---	---
Trichlorophenol 2,4,6 ^C	88-06-2	3.2	1.4	2.4	---	970
Trichlorophenoxypropionic acid (2,4,5-tp) (Silvex)	93-72-1	50 ^M	---	---	---	---
Trihalomethanes	(total) ⁷	80	80	---	---	---
Vinyl Chloride ^{C, 12}	75-01-4	0.023 to 2 ^M	0.023	2.3	---	---
Xylenes (total) ¹²	1330-20-7	1,400 to 10,000 ^M	---	---	---	---

1 All standards are chronic or 30-day standards. They are based on information contained in EPA's Integrated Risk Information System (IRIS) and/or EPA lifetime health advisories for drinking water using a 10^{-6} incremental risk factor unless otherwise noted.

2 Only applicable to segments classified for water supply.

3 Applicable to all Class 1 aquatic life segments which also have a water supply classification or Class 2 aquatic life segments which also have a water supply classification designated by the Commission after rulemaking hearing. These class 2 segments will generally be those where fish of a catchable size and which are normally consumed are present, and where there is evidence that fishing takes place on a recurring basis. The Commission may also consider additional evidence that may be relevant to a determination whether the conditions applicable to a particular segment are similar enough to the assumptions underlying the water plus fish ingestion criteria to warrant the adoption of water plus fish ingestion standards for the segment in question.

4 Applicable to all aquatic life segments.

5 Deleted.

6 Standards are pH dependent. Those listed are calculated for pH = 7.8.

$$\text{Acute} = e^{[1.005(\text{pH}) - 4.869]}; \text{Chronic} = e^{[1.005(\text{pH}) - 5.134]}.$$

7 Total trihalomethanes are considered the sum of the concentrations of bromodichloromethane (CAS No. 75-27-4), dibromochloromethane (Chlorodibromomethane(HM), CAS No. 124-48-1), tribromomethane (bromoform, CAS No. 75-25-2) and trichloromethane (chloroform, CAS No. 67-66-3).

8 Applicable to the following segments which do not have a water supply classification: all Class 1 aquatic life segments or Class 2 aquatic life segments designated by the Commission after rulemaking hearing. These class 2 segments will generally be those where fish of a catchable size and which are normally consumed are present, and where there is evidence that fishing takes place on a recurring basis. The Commission may also consider additional evidence that may be relevant to a determination whether the conditions applicable to a particular segment are similar enough to the assumptions underlying the fish ingestion criteria to warrant the adoption of fish ingestion standards for the segment in question.

9 PCBs are a class of chemicals which include aroclors, 1242, 1254, 1221, 1232, 1248, 1260 and 1016, CAS numbers 53469-21-9, 11097-69-1, 11104-28-2, 11141-16-5, 12672-29-6, 11096-82-5, and 12674-11-2 respectively. The aquatic life criteria apply to this set of PCBs. The human health criteria apply to total PCBs, i.e. the sum of all congener or all isomer analyses.

10 The chronic aquatic life standard is more stringent than the associated Water+Fish or Fish Ingestion standard, and therefore no Water+Fish or Fish Ingestion standard has been adopted.

11 The Water+Fish and Fish Ingestions standards for these compounds have been calculated using a relative source contribution (RSC).

12 Whenever a range of standards is listed and referenced to this footnote, the first number in the range is a strictly health-based value, based on the Commission's established methodology for human health-based standards. The second number in the range is a maximum contaminant level, established under the federal Safe Drinking Water Act that has been determined to be an acceptable level of this chemical in public water supplies, taking treatability and laboratory detection limits into account. Control requirements, such as discharge permit effluent limitations, shall be established using the first number in the range as the ambient water quality target, provided that no effluent limitation shall require an "end-of-pipe" discharge level more restrictive than the second number in the range. Water bodies will be considered in attainment of this standard, and not included on the Section 303(d) List, so long as the existing ambient quality does not exceed the second number in the range.

13 Mutagenic compound, age dependent factors were used in calculating standard.

C Carcinogens classified by the EPA as A, B1, or B2.

M Drinking water MCL.

CAS No. - Chemical Abstracts Service Registry Number.

(HM) – Halomethanes

(PAH) - Polynuclear Aromatic Hydrocarbons.

....

31.54 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; JANUARY 9, 2017 RULEMAKING; EFFECTIVE MARCH 1, 2017

The provisions of sections 25-8-202(1)(b), 25-8-204; and 25-8-402, C.R.S., provide the specific statutory authority for adoption. The Commission also adopted, in compliance with section 24-4-103(4) C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE:

A. Corrections to Organic Chemicals

In this written comment rulemaking, the Commission corrected errors to the organic chemical standards in the regulation that occurred subsequent to the April 11, 2016 rulemaking. The division proposed changes to fix errors to water+fish and fish ingestion standards for biphenyl, tetrahydrofuran, methanol and trichloroethylene (TCE), and a revision to the trichloroethylene (TCE) water supply standard. During the hearing process for the April 11, 2016 rulemaking, the division withdrew the afore mentioned additions and revisions to the Regulation 31 organic chemical standards due to concerns related to EPA's 2015 update to Human Health Ambient Water Quality Criteria. The final action documents submitted to the Secretary of State inaccurately reflected the commission's decision with respect to biphenyl, tetrahydrofuran, and methanol. At the time of notice for this hearing, there was a belief that the final action documents submitted to the Secretary of State also inaccurately reflected the commission's decision with respect to trichloroethylene (TCE). However, the official version of the regulations accurately reflects the TCE standards. Therefore, the corrections made by the commission in this rulemaking were: deletion of the water+fish and fish ingestion standards for biphenyl, tetrahydrofuran and methanol. No changes were made to the water+fish, fish ingestion and water supply standards for trichloroethylene (TCE).

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Office of the Attorney General

Tracking number: 2016-00466

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 01/09/2017

5 CCR 1002-31

**REGULATION NO. 31 - THE BASIC STANDARDS AND METHODOLOGIES FOR SURFACE
WATER**

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 18, 2017 17:10:54

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-32

Rule title

5 CCR 1002-32 REGULATION NO. 32 - CLASSIFICATIONS AND NUMERIC
STANDARDS FOR ARKANSAS RIVER BASIN 1 - eff 06/30/2017

Effective date

06/30/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 32 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR ARKANSAS RIVER BASIN

5 CCR 1002-32

....

32.7 – 32.9 RESERVED

....

32.58 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 12, 2016 RULEMAKING; FINAL ACTION JANUARY 9, 2017; EFFECTIVE DATE JUNE 30, 2017

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

BASIS AND PURPOSE

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2018, to determine whether the temporary modification should be modified, eliminated or extended.

No action: The commission took no action on the temporary modifications on the following segments.

Upper Arkansas Segment 8b: temporary modifications of temperature standards. Resurrection mining presented evidence that they are making progress on the plan for eliminating the need for the temporary modification. The commission made no change to the expiration date of 12/31/2017 as the original time allotment was deemed adequate to resolve the uncertainty.

Middle Arkansas Segment 4b: temporary modifications of ammonia, arsenic, chronic boron, cadmium, chlorine, chronic chlorophyll a, chromium III, chromium VI, copper, acute cyanide, dissolved oxygen, E. Coli, chronic iron, lead, manganese, chronic mercury, chronic molybdenum, nickel, chronic nitrate, chronic nitrite, acute pH, chronic phosphorous, selenium, silver, chronic sulfide, and zinc. The commission made no change to the expiration date of 12/31/2018 as the original time allotment was deemed adequate to resolve the uncertainty.

Lower Arkansas Segment: 1a: temporary modifications of the selenium and sulfate standard. The City of Pueblo is making progress on its plans to seek a discharger-specific variance (DSV). The two major tasks for the division and Pueblo are to develop the Alternative Effluent Limit and to fully articulate the compliance schedule. The commission made no change to the expiration date of 12/31/2018 as this time allotment was deemed adequate to resolve the uncertainty.

Extensions:

Upper Arkansas Segment 8b: temporary modifications of the chronic cadmium, and acute and chronic zinc standards were extended to 12/31/2018. The commission extended the expiration date to 12/31/2018 for the temporary modifications for segment 8b for chronic cadmium, and acute and chronic zinc to allow time to collect additional biological data in ponded wetland habitat to resolve the uncertainty regarding the resident biota and appropriate standards for this segment. This may be suitable habitat for sensitive organisms important to the recalculation procedure. In the event that access is not granted to sample this habitat on Iowa Gulch, sampling the ponded habitat from nearby streams may be necessary to inform the resident species list in Iowa Gulch.

Middle Arkansas Segment 6b: temporary modification of the temperature standard was extended to 12/31/2018. Public Service Company of Colorado presented evidence that additional time is needed to collect data to resolve the uncertainty regarding the underlying temperature standard. Therefore, the commission extended the expiration date of the "current conditions" temporary modification for temperature to 12/31/2018.

New temporary Modifications:

Middle Arkansas Segment 2: temporary modification of the temperature standard. The commission adopted a "current conditions" temporary modification of temperature. Colorado Parks and Wildlife operates the Pueblo hatchery that currently has temperature compliance issues. There is uncertainty about the appropriate temperature standard in the Arkansas River below Pueblo Reservoir. Temperature records in the Arkansas River below Pueblo Reservoir indicate the cold stream tier II temperature standards have never been attained since record keeping began in 1986, and Pueblo Reservoir already has an ambient-based temperature standard. CPW will collect additional information on the Arkansas River including instream temperatures throughout the segment, effluent temperatures, and coldwater species reproduction to support a site-specific standard. The commission adopted this temporary modification with an expiration date of July 1, 2021. The commission will first review progress on this study plan in the June 2018 Arkansas Basin hearing.

Site specific standards: The commission adopted site-specific standards for the following segments.

Upper Arkansas Segment 8b and 9: site-specific standard for acute cadmium. The commission adopted a site-specific standard for Segments 8b and 9 using a hardness-based equation for acute cadmium based on the EPA recalculation procedure. The recalculation method provides a revised equation for acute cadmium which is intended to protect the resident, attainable aquatic macroinvertebrate communities and fish populations in Iowa Gulch, and is consistent with the site-specific standard on the downstream receiving waters, Upper Arkansas Segment 2c.

Resegmentation: The commission approved the following resegmentation.

Upper Arkansas Segments 8a and 8b: the boundary between Segments 8a and 8b was clarified by changing the description of the upper boundary of Segment 8b to include additional description and coordinates for the historical ASARCO water supply intake. This redefinition was necessary because the ASARCO water supply intake no longer exists. This segment boundary is based on a difference in water use and water-quality characteristics in these two segments.

New Temporary Modifications of the Arsenic Standard:

Consistent with the actions taken in 2013, the commission adopted a temporary modification of the arsenic standard on segments on the following list, with an expiration date of 12/31/2021. At the April 8, 2013 rulemaking, the commission heard testimony that concurred with the finding from a December 13, 2011 rulemaking hearing that an initial reasonable lower limit of treatment technology for arsenic is 3.0 µg/L, pending further investigation by the division, dischargers and stakeholders. The temporary modification was established by the commission to allow for a temporarily less stringent application of the chronic arsenic standard in control requirements for both existing discharges and new or increased discharges.

Upper Arkansas Segment 2a
Upper Arkansas Segment 2c
Upper Arkansas Segment 7
Upper Arkansas Segment 14b
Upper Arkansas Segment 18
Upper Arkansas Segment 37
Middle Arkansas Segment 7a
Middle Arkansas Segment 7b
Middle Arkansas Segment 18a
Middle Arkansas Segment 20
Fountain Creek Segment 1b
Fountain Creek Segment 8
Lower Arkansas Segment 9a
Lower Arkansas Segment 11
Lower Arkansas Segment 19

PARTIES TO THE RULEMAKING HEARING

1. Colorado Parks and Wildlife
2. Resurrection Mining Company
3. Public Service Company of Colorado
4. City of Pueblo
5. Peabody Sage Creek Mining Company and Seneca Coal Company
6. Tri-State Generation and Transmission Association, Inc.
7. Climax Molybdenum Company
8. Rio Grande Silver, Inc.
9. Mt. Emmons Mining Company
10. Plum Creek Water Reclamation Authority
11. Environmental Protection Agency
12. Raytheon Company
13. City of Boulder Open Space and Mountain Parks
14. High Country Conservation Advocates
15. City of Colorado Springs and Colorado Springs Utilities
16. City of Black Hawk and Black Hawk/Central City Sanitation District
17. Town of Crested Butte and Coal Creek Watershed Coalition
18. Parker Water and Sanitation District

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL COMMISSION**

5 CCR 1002-32

**REGULATION NO. 32
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
ARKANSAS RIVER BASIN**

**APPENDIX 32-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2017

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper Arkansas River Basin

2a. Mainstem of the East Fork of the Arkansas River and the Arkansas River from a point immediately above the confluence with Birdseye Gulch to a point immediately above the confluence with the California Gulch.						
COARUA02A	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		pH	6.5 - 9.0	---	Chromium III	50(T)
		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
					Iron	---
		Inorganic (mg/L)		Iron	---	
		acute	chronic	Lead	TVS	
		Ammonia	TVS	Manganese	TVS	
		Boron	---	Manganese	---	
		Chloride	---	Mercury	---	
		Chlorine	0.019	Molybdenum	---	
		Cyanide	0.005	Nickel	TVS	
		Nitrate	10	Selenium	TVS	
		Nitrite	---	Silver	TVS	
		Phosphorus	---	Uranium	---	
		Sulfate	---	Zinc	TVS	
		Sulfide	---			

2c. Mainstem of the Arkansas River from a point immediately above the confluence with the Lake Fork to a point immediately above the confluence with Lake Creek.							
COARUA02C	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT	acute	chronic		
Reviewable*	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	
	Recreation E	acute	chronic	Arsenic	340	0.02(T)	
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	---	
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021 *Designation: 9/30/00 Base-line does not apply *Cadmium(acute) = 1.136672-(ln(hardness)*0.041838)*e^(0.9151*ln(hardness)-3.6236) *Cadmium(chronic) = (1.101672-[ln(hardness)*0.041838])*e^(0.7998[ln hardness]-3.1725) *Zinc(acute) = 0.978*e^(0.8537[ln(hardness)]+2.2178) *Zinc(chronic) = 0.986*e^(0.8537[ln(hardness)]+2.0469)		pH	6.5 - 9.0	---	Cadmium	SSE*	
		chlorophyll a (mg/m2)	---	---	Chromium III	50(T)	TVS
		E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
					Copper	TVS	TVS
		Inorganic (mg/L)			Iron	---	WS
		acute	chronic	Iron	---	1000(T)	
		Ammonia	TVS	TVS	Lead	TVS	TVS
		Boron	---	0.75	Manganese	TVS	TVS
		Chloride	---	250	Manganese	---	WS
		Chlorine	0.019	0.011	Mercury	---	0.01(t)
		Cyanide	0.005	---	Molybdenum	---	160(T)
		Nitrate	10	---	Nickel	TVS	TVS
		Nitrite	---	0.05	Selenium	TVS	TVS
		Phosphorus	---	---	Silver	TVS	TVS(tr)
		Sulfate	---	WS	Uranium	---	---
Sulfide	---	0.002	Zinc	---	SSE*		
			Zinc	SSE*	---		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper Arkansas River Basin

7. Mainstem of Evans Gulch from the source to the confluence with the Arkansas River.						
COARUA07	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	150	Chromium VI	TVS
Arsenic(chronic)=hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
		Inorganic (mg/L)			Iron	---
		acute	chronic		Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

8a. Mainstem of Iowa Gulch from the source to the historic upper ASARCO water supply intake at 39.224327, -106.223432.						
COARUA08A	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 2	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02-10(T) ^A
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
		chlorophyll a (mg/m ²)	---	150	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
					Iron	---
		Inorganic (mg/L)			Iron	---
		acute	chronic		Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper Arkansas River Basin

8b. Mainstem of Iowa Gulch from a point immediately below the historic upper ASARCO water supply intake at 39.224327, -106.223432 to a point immediately below the headgate of the Paddock #1 Ditch (Iowa Ditch).						
COARUA08B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
UP	Aq Life Cold 2	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation E	acute	chronic		Arsenic	340
Qualifiers: Other: *Cadmium(acute) = (1.136672-[ln(hardness)*0.041838]*e^(0.9789*ln(hardness)-3.5146)) Temporary Modification(s): temperature(DM) = No acute standard 11/1- 3/31 temperature(MWAT) = 14 11/1 - 3/31 Expiration Date of 12/31/2017 Cadmium(chronic) = 1.6 Zinc(chronic) = 505 Zinc(acute) = 754 Expiration Date 12/31/2018		D.O. (mg/L)	---	6.0	Beryllium	---
		D.O. (spawning)	---	7.0	Cadmium	SSE*
		pH	6.5 - 9.0	---	Chromium III	TVS
		chlorophyll a (mg/m ²)	---	150	Chromium III	---
		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
		Inorganic (mg/L)			Copper	TVS
		acute	chronic		Iron	---
		Ammonia	TVS	TVS	Lead	TVS
		Boron	---	0.75	Manganese	TVS
		Chloride	---	---	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	---	---	Nickel	TVS
		Nitrate	100	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	---	Zinc	TVS
		Sulfide	---	0.002		
9. Mainstem of Iowa Gulch from a point immediately below the headgate of the Paddock #1 Ditch (Iowa Ditch) to the confluence with the Arkansas River.						
COARUA09	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic		Arsenic	340
Qualifiers: Other: *Cadmium(acute) = (1.136672-[ln(hardness)*0.041838]*e^(0.9789*ln(hardness)-3.5146))		D.O. (mg/L)	---	6.0	Beryllium	---
		D.O. (spawning)	---	7.0	Cadmium	SSE*
		pH	6.5 - 9.0	---	Chromium III	TVS
		chlorophyll a (mg/m ²)	---	150	Chromium III	---
		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
		Inorganic (mg/L)			Copper	TVS
		acute	chronic		Iron	---
		Ammonia	TVS	TVS	Lead	TVS
		Boron	---	0.75	Manganese	TVS
		Chloride	---	---	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	100	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	---	Zinc	TVS
		Sulfide	---	0.002		

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr = trout

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

Upper Arkansas River Basin

14b. All tributaries to the Arkansas River, including wetlands, which are not on National Forest lands, from the confluence with Brown's Creek to the Chaffee/Fremont County line, except for the specific listing in segment 12b.

COARUA14B		Classifications		Physical and Biological			Metals (ug/L)		
Designation	Agriculture			DM	MWAT		acute	chronic	
Reviewable	Aq Life Cold 2			Temperature °C	CS-II	CS-II	Aluminum	---	---
	Recreation E				acute	chronic	Arsenic	340	0.02(T)
	Water Supply			D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:				D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:				pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s):				chlorophyll a (mc/m ²)	---	150	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid				E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
Expiration Date of 12/31/2021							Iron	---	WS
							Iron	---	1000(T)
							Lead	TVS	TVS
							Manganese	TVS	TVS
							Manganese	---	WS
							Mercury	---	0.01(t)
							Molybdenum	---	160(T)
							Nickel	TVS	TVS
							Selenium	TVS	TVS
							Silver	TVS	TVS(tr)
							Uranium	---	---
							Zinc	TVS	TVS

18. Mainstem of Curren Creek (Park County), including all tributaries and wetlands, from the source to the confluence with Tallahassee Creek, except for the specific listings in 17a, 17b, and 17c.

COARUA18	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT		acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---	---
	Recreation E	acute	chronic		Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
Expiration Date of 12/31/2021					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
		acute	chronic		Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	0.11	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

Upper Arkansas River Basin

37. All lakes and reservoirs tributary to the mainstem of Fourmile Creek from the source to the confluence with the Arkansas River. This segment includes Wrights Reservoir.								
COARUA37	Classifications	Physical and Biological			Metals (ug/L)			
Designation	Agriculture	DM		MWAT	acute	chronic		
Reviewable	Aq Life Cold 1	Temperature °C	CL,CLL	CL,CLL	Aluminum	---	---	
	Recreation E	acute		chronic	Arsenic	340	0.02(T)	
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---	
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS	
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS	
Temporary Modification(s):		chlorophyll a (ug/L)	---	8*	Chromium VI	TVS	TVS	
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS	
Expiration Date of 12/31/2021					Iron	---	WS	
*chlorophyll a (ug/L)(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area. *Phosphorus(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area.		Inorganic (mg/L)			Iron	---	1000(T)	
		acute		chronic	Lead	TVS	TVS	
		Ammonia	TVS	TVS	Manganese	TVS	TVS	
		Boron	---	0.75	Manganese	---	WS	
		Chloride	---	250	Mercury	---	0.01(t)	
		Chlorine	0.019	0.011	Molybdenum	---	160(T)	
		Cyanide	0.005	---	Nickel	TVS	TVS	
		Nitrate	10	---	Selenium	TVS	TVS	
		Nitrite	---	0.05	Silver	TVS	TVS(tr)	
		Phosphorus	---	0.025*	Uranium	---	---	
		Sulfate	---	WS	Zinc	TVS	TVS	
		Sulfide	---	0.002				

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Middle Arkansas River Basin

2. Mainstem of the Arkansas River from the outlet of Pueblo Reservoir to a point immediately above the confluence with Wildhorse/Dry Creek Arroyo.						
COARMA02	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM		MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
Temperature (ac/ch) = current conditions		Inorganic (mg/L)			Iron	---
Expiration date 7/1/2021			acute	chronic	Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	---	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Middle Arkansas River Basin

4b. Mainstem of Rock Creek, Salt Creek and Peck Creek from their sources to the confluence with the Arkansas River.							
COARMA04B	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT	acute	chronic	
UP	Aq Life Warm 1	Temperature °C	WS-II	WS-II	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	7.6(T)
Qualifiers:		D.O. (mg/L)	---	5.0	Beryllium	---	---
Other:		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
Temporary Modification(s):		chlorophyll a (mg/m²)	---	150	Chromium III	TVS	TVS
Ammonia(ac/ch) = current conditions		E. Coli (per 100 mL)	---	126	Chromium III	---	100(T)
Arsenic(ac/ch) = current conditions		Inorganic (mg/L)			Chromium VI	TVS	TVS
Boron(chronic) = current conditions			acute	chronic	Copper	TVS	TVS
Cadmium(ac/ch) = current conditions		Ammonia	TVS	TVS	Iron	---	1000(T)
Chlorine(ac/ch) = current conditions		Boron	---	0.75	Lead	TVS	TVS
chlorophyll a (mg/m²)(chronic) = current conditions		Chloride	---	---	Manganese	TVS	TVS
Chromium III(chronic) = current conditions		Chlorine	0.019	0.011	Mercury	---	0.01(t)
Chromium III(ac/ch) = current conditions		Cyanide	0.005	---	Molybdenum	---	160(T)
Chromium VI(ac/ch) = current conditions		Nitrate	100	---	Nickel	TVS	TVS
Copper(ac/ch) = current conditions		Nitrite	---	0.05	Selenium	TVS	TVS
Cyanide(acute) = current conditions		Phosphorus	---	0.17	Silver	TVS	TVS
D.O. (mg/L)(chronic) = current conditions		Sulfate	---	---	Uranium	---	---
E. Coli (per 100 mL)(chronic) = current conditions		Sulfide	---	0.002	Zinc	TVS	TVS
Iron(chronic) = current conditions							
Lead(ac/ch) = current conditions							
Manganese(ac/ch) = current conditions							
Mercury(chronic) = current conditions							
Molybdenum(chronic) = current conditions							
Nickel(ac/ch) = current conditions							
Nitrate(acute) = current conditions							
Nitrite(chronic) = current conditions							
pH(acute) = current conditions							
Phosphorus(chronic) = current conditions							
Selenium(ac/ch) = current conditions							
Silver(ac/ch) = current conditions							
Sulfide(chronic) = current conditions							
Zinc(ac/ch) = current conditions							
Expiration Date of 12/31/2018							

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Middle Arkansas River Basin

6b. Mainstem of the Saint Charles River from the confluence with Edson Arroyo to the confluence with the Arkansas River.						
COARMA06B	Classifications	Physical and Biological			Metals (ug/L)	
Designation			DM	MWAT	acute	chronic
UP	Agriculture		WS-II	WS-II	Aluminum	---
	Aq Life Warm 2	Temperature °C	WS-II	WS-II		---
	Recreation E		acute	chronic	Arsenic	340 0.02-10(T) ^A
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS TVS
Other:		chlorophyll a (mg/m ²)	---	---	Chromium III	50(T) TVS
Temporary Modification(s):		E. Coli (per 100 mL)	---	126	Chromium VI	TVS TVS
temperature(DM/MWAT) = "current		Inorganic (mg/L)			Copper	TVS TVS
conditions"			acute	chronic	Iron	---
Expiration Date of -12/31/2018		Ammonia	TVS	TVS	Iron	---
*Selenium(acute) = See selenium assessment		Boron	---	0.75	Lead	TVS TVS
location at 32.6(4).		Chloride	---	250	Manganese	TVS TVS
*Selenium(chronic) = See selenium assessment		Chlorine	---	0.011	Manganese	---
location at 32.6(4).		Cyanide	0.005	---	Mercury	---
		Nitrate	10	---	Molybdenum	---
		Nitrite	---	0.05	Nickel	TVS TVS
		Phosphorus	---	---	Selenium	173* 50*
		Sulfate	---	WS	Silver	TVS TVS
		Sulfide	---	0.002	Uranium	---
					Zinc	TVS TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Middle Arkansas River Basin

7a. Mainstem of Greenhorn Creek, including all tributaries and wetlands, from the source to the San Isabel National Forest boundary, except for specific listings in segment 1. Mainstem of Graneros Creek, from the source to the San Isabel National Forest boundary, except for specific listings in segment 1. All tributaries to Muddy Creek, including wetlands, from the source to the San Isabel National Forest boundary.

COARMA07A	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT		acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	---
	Recreation E	acute	chronic		Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
Expiration Date of 12/31/2021					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
		acute	chronic		Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	0.11	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002			

7b. Mainstem of Greenhorn Creek, including all tributaries and wetlands, from the San Isabel National Forest boundary to a point immediately below the Greenhorn Highline (Hayden Supply Ditch) diversion dam. Mainstem of Graneros Creek below the San Isabel National Forest boundary. Muddy Creek, including all tributaries and wetlands, from the San Isabel National Forest boundary to 232/Bondurant Road.

COARMA07B	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT		acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---	---
	Recreation E	acute	chronic		Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
Expiration Date of 12/31/2021					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
		acute	chronic		Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	0.11	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Middle Arkansas River Basin

18a Mainstem of Boggs Creek from the source to Pueblo Reservoir.						
COARMA18A	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM		MWAT	acute	chronic
Reviewable	Aq Life Warm 1	Temperature °C	WS-II	WS-II	Aluminum	---
	Recreation E	acute	chronic		Arsenic	340
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS
Other:		chlorophyll a (mg/m2)	---	150	Chromium III	50(T)
Temporary Modification(s):		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
Arsenic(chronic) = hybrid		Inorganic (mg/L)			Copper	TVS
Expiration Date of 12/31/2021		acute	chronic		Iron	---
		Ammonia	TVS	TVS	Iron	---
		Boron	---	0.75	Lead	TVS
		Chloride	---	250	Manganese	TVS
		Chlorine	0.019	0.011	Manganese	---
		Cyanide	0.005	---	Mercury	---
		Nitrate	10	---	Molybdenum	---
		Nitrite	---	0.5	Nickel	TVS
		Phosphorus	---	0.17	Selenium	TVS
		Sulfate	---	WS	Silver	TVS
		Sulfide	---	0.002	Uranium	---
					Zinc	TVS

20. Pueblo Reservoir.						
COARMA20	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM		MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	1/1 - 3/31	CLL	Aluminum	---
	Recreation E	Temperature °C	4/1 - 12/31	CLL	Arsenic	340
	Water Supply	acute	chronic		Beryllium	---
	DUWS	D.O. (mg/L)	---	6.0	Cadmium	TVS(tr)
Qualifiers:		D.O. (spawning)	---	7.0	Chromium III	50(T)
Other:		pH	6.5 - 9.0	---	Chromium VI	TVS
chlorophyll a (ug/L)(chronic) = See assessment		chlorophyll a (ug/L)	---	5	Copper	TVS
location at 32.6(4).		E. Coli (per 100 mL)	---	126	Iron	---
Temporary Modification(s):		Inorganic (mg/L)			Iron	---
Arsenic(chronic) = hybrid		acute	chronic		Lead	TVS
Expiration Date of 12/31/2021		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	---	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Fountain Creek Basin

1b. Severy Creek and all tributaries from the source to a point just upstream of where US Forest Service Road 330 crosses the stream.						
COARFO01B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
OW	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
		Inorganic (mg/L)			Iron	---
			acute	chronic	Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

8. All lakes and reservoirs tributary to the mainstem of Fountain Creek from the source to a point immediately above the confluence with Monument Creek, except for specific listings in segment 9.						
COARFO08	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CL	CL	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021 *chlorophyll a (ug/L)(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area. *Phosphorus(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area.		pH	6.5 - 9.0	---	Chromium III	50(T)
		chlorophyll a (ug/L)	---	8*	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
					Iron	---
		Inorganic (mg/L)			Iron	---
			acute	chronic	Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.025*	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Arkansas Basin

1a. Mainstem of the Arkansas River from a point immediately above the confluence with Fountain Creek to immediately above the Colorado Canal headgate near Avondale.

COARLA01A	Classifications	Physical and Biological				Metals (ug/L)		
Designation	Agriculture	DM		MWAT		acute	chronic	
UP	Aq Life Warm 2	Temperature °C	1/1 - 11/30	WS-II	WS-II	Aluminum	---	---
	Recreation E	Temperature °C	12/1 - 12/31	21.5	20.7	Arsenic	340	0.02-10(T) ^A
	Water Supply					Beryllium	---	---
Qualifiers:		acute		chronic		Cadmium	TVS	TVS
Other:		D.O. (mg/L)	---	5.0		Chromium III	50(T)	TVS
Temporary Modification(s): Selenium(acute) = existing quality Sulfate(chronic) = existing quality Expiration Date of 12/31/2018		pH	6.5 - 9.0	---		Chromium VI	TVS	TVS
		chlorophyll a (mg/m ²)	---	---		Copper	TVS	TVS
		E. Coli (per 100 mL)	---	126		Iron	---	WS
		Inorganic (mg/L)				Iron	---	2800(T)
		acute		chronic		Lead	TVS	TVS
		Ammonia	TVS	TVS		Manganese	TVS	TVS
		Boron	---	0.75		Manganese	---	WS
		Chloride	---	250		Mercury	---	0.01(t)
		Chlorine	0.019	0.011		Molybdenum	---	160(T)
		Cyanide	0.005	---		Nickel	TVS	TVS
		Nitrate	10	---		Selenium	19.1	14.1
		Nitrite	---	0.5		Silver	TVS	TVS
		Phosphorus	---	---		Uranium	---	---
		Sulfate	---	329		Zinc	TVS	TVS
		Sulfide	---	0.002				

1b. Mainstem of the Arkansas River from the Colorado Canal headgate to the inlet to John Martin Reservoir.

COARLA01B	Classifications	Physical and Biological				Metals (ug/L)		
Designation	Agriculture	DM		MWAT		acute	chronic	
UP	Aq Life Warm 2	Temperature °C	WS-II	WS-II		Aluminum	---	---
	Recreation E	acute		chronic		Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	5.0		Beryllium	---	---
Qualifiers:		pH	6.5 - 9.0	---		Cadmium	TVS	TVS
Water + Fish Standards Apply		chlorophyll a (mg/m ²)	---	---		Chromium III	50(T)	TVS
Other:		E. Coli (per 100 mL)	---	126		Chromium VI	TVS	TVS
Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021 Discharger Specific Variance(s): Selenium(acute) = TVS: no limit Selenium(chronic) = TVS: 0.37 lbs/day Expiration Date of 12/31/2026 *Variance: Selenium = 0.37 lbs/day as a 12-month rolling average. See 32.6(6) for details.		Inorganic (mg/L)				Copper	TVS	TVS
		acute		chronic		Iron	---	WS
		Ammonia	TVS	TVS		Iron	---	1950(T)
		Boron	---	0.75		Lead	TVS	TVS
		Chloride	---	250		Manganese	TVS	TVS
		Chlorine	0.019	0.011		Manganese	---	WS
		Cyanide	0.005	---		Mercury	---	0.01(t)
		Nitrate	10	---		Molybdenum	---	160(T)
		Nitrite	---	0.5		Nickel	TVS	TVS
		Phosphorus	---	---		Selenium	TVS	TVS
		Sulfate	---	902		Silver	TVS	TVS
		Sulfide	---	0.002		Uranium	---	---
						Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr = trout

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Arkansas Basin

9a. Mainstems of Adobe, Buffalo, Cheyenne, Clay, Gageby, Horse, Two Butte, Wildhorse and Wolf Creeks from their sources to their confluences with the Arkansas River. Mainstems of Chacuacho Creek, San Francisco Creek, Trinchera Creek and Van Bremer Arroyo from their sources to their confluences with the Purgatoire River. Mainstem of Willow Creek from Highway 287 to the confluence with the Arkansas River. Mainstem of Big Sandy Creek from the source to the El Paso/Elbert county line. Mainstem of South Rush Creek from the source to the confluence with Rush Creek. Mainstem of Middle Rush Creek from the source to the confluence with North Rush Creek. North Rush Creek from the source to the confluence with South Rush Creek. Mainstem of Rush Creek to the Lincoln County Line. Mainstem of Antelope Creek from the source to the confluence with Rush Creek; the West May Valley drain from the Fort Lyon Canal to the confluence with the Arkansas River.

COARLA09A	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT		acute	chronic	
Reviewable	Aq Life Warm 1	Temperature °C	WS-II	WS-II	Aluminum	---	---
	Recreation E	acute	chronic		Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
Other:		chlorophyll a (mg/m ²)	---	150	Chromium III	50(T)	TVS
Temporary Modification(s):		E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		Inorganic (mg/L)			Copper	TVS	TVS
Expiration Date of 12/31/2021		acute	chronic		Iron	---	WS
		Ammonia	TVS	TVS	Iron	---	1000(T)
		Boron	---	0.75	Lead	TVS	TVS
		Chloride	---	250	Manganese	TVS	TVS
		Chlorine	0.019	0.011	Manganese	---	WS
		Cyanide	0.005	---	Mercury	---	0.01(t)
		Nitrate	10	---	Molybdenum	---	160(T)
		Nitrite	---	0.5	Nickel	TVS	TVS
		Phosphorus	---	0.17	Selenium	TVS	TVS
		Sulfate	---	WS	Silver	TVS	TVS
		Sulfide	---	0.002	Uranium	---	---
					Zinc	TVS	TVS

11. John Martin Reservoir.

COARLA11	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT		acute	chronic	
Reviewable	Aq Life Warm 1	Temperature °C	WL	WL	Aluminum	---	---
	Recreation E	acute	chronic		Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
Other:		chlorophyll a (mg/m ²)	---	---	Chromium III	50(T)	TVS
Temporary Modification(s):		E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		Inorganic (mg/L)			Copper	TVS	TVS
Expiration Date of 12/31/2021		acute	chronic		Iron	---	WS
		Ammonia	TVS	TVS	Iron	---	1000(T)
		Boron	---	0.75	Lead	TVS	TVS
		Chloride	---	250	Manganese	TVS	TVS
		Chlorine	0.019	0.011	Mercury	---	0.01(t)
		Cyanide	0.005	---	Molybdenum	---	160(T)
		Nitrate	10	---	Nickel	TVS	TVS
		Nitrite	---	0.5	Selenium	TVS	TVS
		Phosphorus	---	---	Silver	TVS	TVS
		Sulfate	---	WS	Uranium	---	---
		Sulfide	---	0.002	Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Arkansas Basin

19. All lakes and reservoirs tributary to the Arkansas River, except for specific listings in segments 10-18 and Middle Arkansas Basin segments 19-28.							
COARLA19	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM		MWAT	acute		chronic
Reviewable	Aq Life Warm 1	Temperature °C	WL	WL	Aluminum	---	---
	Recreation E	acute		chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
Other:		chlorophyll a (ug/L)	---	20*	Chromium III	50(T)	TVS
Temporary Modification(s):		E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		Inorganic (mg/L)			Copper	TVS	TVS
Expiration Date of 12/31/2021		acute		chronic	Iron	---	WS
*chlorophyll a (ug/L)(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area. *Phosphorus(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area.		Ammonia	TVS	TVS	Iron	---	1000(T)
		Boron	---	0.75	Lead	TVS	TVS
		Chloride	---	250	Manganese	TVS	TVS
		Chlorine	0.019	0.011	Manganese	---	WS
		Cyanide	0.005	---	Mercury	---	0.01(t)
		Nitrate	10	---	Molybdenum	---	160(T)
		Nitrite	---	0.5	Nickel	TVS	TVS
		Phosphorus	---	0.083*	Selenium	TVS	TVS
		Sulfate	---	WS	Silver	TVS	TVS(tr)
		Sulfide	---	0.002	Uranium	---	---
					Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 32.6 for details on TVS, TVS(tr), WS, temperature standards.

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Tracking number: 2016-00376

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 01/09/2017

5 CCR 1002-32

**REGULATION NO. 32 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR ARKANSAS
RIVER BASIN**

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 18, 2017 17:11:07

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-33

Rule title

5 CCR 1002-33 REGULATION NO. 33 - CLASSIFICATIONS AND NUMERIC
STANDARDS FOR UPPER COLORADO RIVER BASIN AND NORTH PLATTE RIVER
(PLANNING REGION 12) 1 - eff 06/30/2017

Effective date

06/30/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 33 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR UPPER COLORADO RIVER BASIN AND NORTH PLATTE RIVER (PLANNING REGION 12)

5 CCR 1002-33

....

33.7 – 33.9 RESERVED

....

33.57 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 12, 2016 RULEMAKING; FINAL ACTION JANUARY 9, 2017; EFFECTIVE DATE JUNE 30, 2017

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

BASIS AND PURPOSE

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2018, to determine whether the temporary modification should be modified, eliminated or extended.

No action: The commission took no action on the following temporary modifications:

Blue River Segment 14: temporary modification of the molybdenum standard. The commission made no change to the expiration date of 12/31/2017 since this issue will be addressed in mid-2017 in a molybdenum-specific hearing.

Yampa River Segments: Seneca-Peabody presented evidence that it is making progress on the plan for eliminating the need for need for the temporary modifications. The commission made no change to the expiration date of the temporary modifications on these segments as the original time allotment was deemed adequate to resolve the uncertainty.

Segment 13b, selenium, (exp 12/31/2018)
Segment 13d, selenium, (exp 12/31/2018)
Segment 13e, selenium, (exp 12/31/2018)
Segment 13g, selenium, (exp 12/31/2018)
Segment 13i, selenium, (exp 12/31/2018)

Extension

Yampa River Segments 13d and 13i: temporary modifications of the iron standards. Seneca-Peabody presented evidence that additional time was necessary to resolve the

uncertainty regarding the underlying iron standard. The commission extended the expiration dates of the iron temporary modifications to December 31, 2018.

New Temporary Modifications of the Arsenic Standard:

Consistent with the actions taken in 2013, the commission adopted a temporary modification of the arsenic standard on segments on the following list, with an expiration date of 12/31/2021. At the April 8, 2013 rulemaking, the commission heard testimony that concurred with the finding from December 13, 2011 hearing that an initial reasonable lower limit of treatment technology for arsenic is 3.0 µg/L, pending further investigation by the division, dischargers and stakeholders. The temporary modification was established by the commission to allow for a temporarily less stringent application of the chronic arsenic standard in control requirements for both existing discharges and new or increased discharges.

Upper Colorado Segment 1
Blue River Segment 6a
Blue River Segment 12
Blue River Segment 17
Blue River Segment 18
Eagle River Segment 2
Eagle River Segment 5c
Eagle River Segment 9b
Eagle River Segment 12
Roaring Fork Segment 3c
Roaring Fork Segment 10b

PARTIES TO THE RULEMAKING HEARING

1. Colorado Parks and Wildlife
2. Resurrection Mining Company
3. Public Service Company of Colorado
4. City of Pueblo
5. Peabody Sage Creek Mining Company and Seneca Coal Company
6. Tri-State Generation and Transmission Association, Inc.
7. Climax Molybdenum Company
8. Rio Grande Silver, Inc.
9. Mt. Emmons Mining Company
10. Plum Creek Water Reclamation Authority
11. Environmental Protection Agency
12. Raytheon Company
13. City of Boulder Open Space and Mountain Parks
14. High Country Conservation Advocates
15. City of Colorado Springs and Colorado Springs Utilities
16. City of Black Hawk and Black Hawk/Central City Sanitation District
17. Town of Crested Butte and Coal Creek Watershed Coalition
18. Parker Water and Sanitation District

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL COMMISSION**

5 CCR 1002-33

**REGULATION NO. 33
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
UPPER COLORADO RIVER BASIN AND
NORTH PLATTE RIVER (PLANNING REGION 12)**

**APPENDIX 33-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2017

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper Colorado River Basin

1. Mainstem of the Colorado River, including all tributaries and wetlands, within Rocky Mountain National Park, or which flow into Rocky Mountain National Park.						
COUCUC01	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
OW	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
					Iron	---
		Inorganic (mg/L)			Iron	---
			acute	chronic	Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002	Zinc	---
		2. Mainstem of the Colorado River, including all tributaries and wetlands within, or flowing into Arapahoe National Recreation Area.				
COUCUC02	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Other:		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
					Iron	---
		Inorganic (mg/L)			Iron	---
			acute	chronic	Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002	Zinc	---

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Blue River Basin

6a. Mainstem of the Snake River, including all tributaries and wetlands from the source to Dillon Reservoir, except for specific listings in Segments 6b, 7, 8 and 9.							
COUCBL06A	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT	acute	chronic	
UP	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150*	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
Expiration Date of 12/31/2021					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
			acute	chronic	Lead	TVS	TVS
*chlorophyll a (mg/m2)(chronic) = applies only above the facilities listed at 33.5(4). *Phosphorus(chronic) = applies only above the facilities listed at 33.5(4).		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	0.11*	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002			

12. Mainstem of Illinois Gulch and Fredonia Gulch from their source to their confluence with the Blue River.							
COUCBL12	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 2	Temperature °C	CS-I	CS-I	Aluminum	---	---
	Recreation P		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	205	Copper	TVS	TVS
Expiration Date of 12/31/2021					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
			acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	0.11	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr = trout
 sc = sculpin

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Blue River Basin

14. Mainstem of Tenmile Creek, including all tributaries and wetlands from a point immediately above the confluence with West Tenmile Creek to Dillon Reservoir, except for the specific listing in Segment 16.					
COUCBL14	Classifications	Physical and Biological		Metals (ug/L)	
Designation		DM	MWAT	acute	chronic
Reviewable	Agriculture				
	Aq Life Cold 1	Temperature °C	CS-I	Aluminum	---
	Recreation E				
	Water Supply	acute	chronic	Arsenic	340
Qualifiers:		D.O. (mg/L)	6.0	Beryllium	---
		D.O. (spawning)	7.0	Cadmium	TVS(tr)
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021 Molybdenum(chronic) = current conditions Expiration Date of 12/31/2017 *chlorophyll a (mg/m ²)(chronic) = applies only above the facilities listed at 33.5(4). *Phosphorus(chronic) = applies only above the facilities listed at 33.5(4).		pH	6.5 - 9.0	Chromium III	50(T)
		chlorophyll a (mg/m ²)	150*	Chromium VI	TVS
		E. Coli (per 100 mL)	126	Copper	TVS
				Iron	---
		Inorganic (mg/L)		Iron	1000(T)
		acute	chronic	Lead	TVS
		Ammonia	TVS	Manganese	TVS
		Boron	0.75	Manganese	---
		Chloride	250	Mercury	0.01(t)
		Chlorine	0.019	Molybdenum	210(T)
		Cyanide	0.005	Nickel	TVS
		Nitrate	10	Selenium	TVS
		Nitrite	0.05	Silver	TVS(tr)
		Phosphorus	0.11*	Uranium	---
		Sulfate	WS	Zinc	TVS
		Sulfide	0.002	Zinc	TVS(sc)

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Blue River Basin

17. Mainstem of the Blue River from the outlet of Dillon Reservoir to the confluence with the Colorado River.						
COUCBL17	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
				Iron	---	
		Inorganic (mg/L)		Iron	---	
		acute	chronic	Lead	TVS	
		Ammonia	TVS	Manganese	TVS	
		Boron	---	Manganese	---	
		Chloride	---	Mercury	---	
		Chlorine	0.019	Molybdenum	---	
		Cyanide	0.005	Nickel	TVS	
		Nitrate	10	Selenium	TVS	
		Nitrite	---	Silver	TVS	
		Phosphorus	---	Uranium	---	
		Sulfate	---	Zinc	TVS	
		Sulfide	---	Zinc	---	
18. All tributaries to the Blue River, including all wetlands, from the outlet of Dillon Reservoir to the outlet of Green Mountain Reservoir, except for the specific listing in Segment 16.						
COUCBL18	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
				Iron	---	
		Inorganic (mg/L)		Iron	---	
		acute	chronic	Lead	TVS	
		Ammonia	TVS	Manganese	TVS	
		Boron	---	Manganese	---	
		Chloride	---	Mercury	---	
		Chlorine	0.019	Molybdenum	---	
		Cyanide	0.005	Nickel	TVS	
		Nitrate	10	Selenium	TVS	
		Nitrite	---	Silver	TVS	
		Phosphorus	---	Uranium	---	
		Sulfate	---	Zinc	TVS	
		Sulfide	---	Zinc	---	

18. All tributaries to the Blue River, including all wetlands, from the outlet of Dillon Reservoir to the outlet of Green Mountain Reservoir, except for the specific listing in Segment 16.						
COUCBL18	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
					Iron	---
					Iron	---
			Inorganic (mg/L)			
			acute	chronic	Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002	Zinc	---

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Eagle River Basin

2. Mainstem of the Eagle River from the source to the compressor house bridge at Belden.							
COUCEA02	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		chlorophyll a (mg/m2)	---	150*	Chromium VI	TVS	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
*chlorophyll a (mg/m2)(chronic) = applies only above the facilities listed at 33.5(4). *Phosphorus(chronic) = applies only above the facilities listed at 33.5(4).			acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	0.11*	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002	Zinc	---	TVS(sc)

5c. Mainstem of the Eagle River from a point immediately above Martin Creek to a point immediately above the confluence with Gore Creek.						
COUCEA05C	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable*	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	---
Expiration Date of 12/31/2021					Copper	SSE*
		Inorganic (mg/L)			Iron	---
*Designation: 9/30/00 Baseline does not apply		acute	chronic	Iron	---	WS
Cadmium(chronic) = (1.101672-[ln(hardness)(0.041838)])* e^(0.7998 [ln (hardness)]-3.1725)		Ammonia	TVS	TVS	Lead	TVS
*Copper(acute) = 0.96*e^0.9801[ln(hardness)]-1.5865		Boron	---	0.75	Manganese	TVS
*Copper(chronic) = 0.96*e^0.5897[ln(hardness)]-0.4845		Chloride	---	250	Manganese	---
*Zinc(acute) = 0.978*e^0.8537[ln(hardness)]+1.4189		Chlorine	0.019	0.011	Mercury	---
*Zinc(chronic) = 0.986*e^0.8537[ln(hardness)]+1.2481		Cyanide	0.005	---	Molybdenum	---
		Nitrate	10	---	Nickel	TVS
		Nitrite	---	0.05	Selenium	TVS
		Phosphorus	---	---	Silver	TVS
		Sulfate	---	WS	Uranium	---
		Sulfide	---	0.002	Zinc	---
					Zinc	SSE*
						SSE*

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Eagle River Basin

9b. Mainstem of the Eagle River from a point immediately below the confluence with Squaw Creek to a point immediately below the confluence with Rube Creek.							
COUCEA09B	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-II*	varies*	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
		Inorganic (mg/L)		Iron	---	WS	
*Temperature = DM=15 and MWAT=12 from 4/1 - 5/31 DM=15 and MWAT=12 from 10/1 - 10/15 DM=15 and MWAT=11 from 10/16 - 10/31			acute	chronic	Iron	---	1000(T)
					Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	---	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002			

12. Mainstem of Brush Creek, from the source to the confluence with the Eagle River, including the East and West Forks.						
COUCEA12	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
					Iron	---
					Iron	---
					Lead	TVS
					Manganese	TVS
					Manganese	---
					Mercury	---
					Molybdenum	---
					Nickel	TVS
					Selenium	TVS
					Silver	TVS
				Uranium	---	
				Zinc	TVS	

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Roaring Fork River Basin

3c. Mainstem of the Roaring Fork River, from a point immediately below the confluence with the Fryingpan River, to the confluence with the Colorado River. Mainstem of Three Mile Creek, including all tributaries and wetlands, from the source to the confluence with the Roaring Fork River.

COUCRF03C	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150*	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
Expiration Date of 12/31/2021					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
			acute	chronic	Lead	TVS	TVS
*chlorophyll a (mg/m2)(chronic) = applies only above the facilities listed at 33.5(4). *Phosphorus(chronic) = applies only above the facilities listed at 33.5(4).		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	0.11*	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002			

7. All tributaries to the Fryingpan River, including all wetlands, except for those tributaries included in Segment 1.

COUCRF07	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT	acute		chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	
	Recreation E	acute	chronic	Arsenic	340	0.02(T)	
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	
		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS	
		E. Coli (per 100 mL)	---	126	Copper	TVS	
					Iron	---	
					Iron	---	
		Inorganic (mg/L)					
		acute	chronic	Lead	TVS	TVS	
		Ammonia	TVS	TVS	Manganese	TVS	
		Boron	---	0.75	Manganese	---	
		Chloride	---	250	Mercury	---	
		Chlorine	0.019	0.011	Molybdenum	---	
		Cyanide	0.005	---	Nickel	TVS	
		Nitrate	10	---	Selenium	TVS	
		Nitrite	---	0.05	Silver	TVS	
		Phosphorus	---	0.11	Uranium	---	
		Sulfate	---	WS	Zinc	TVS	
		Sulfide	---	0.002	Zinc	---	

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Roaring Fork River Basin

10b. Mainstem of North Thompson Creek, including all tributaries and wetlands, from the source to the White River National Forest boundary. Mainstem of Middle Thompson Creek, including all tributaries and wetlands, from the source to a point immediately below the confluence with the South Branch of Middle Thompson Creek.						
COUCRF10B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
OW	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
		Inorganic (mg/L)			Iron	---
			acute	chronic	Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002	Zinc	---

12. All lakes and reservoirs tributary to the Roaring Fork River except for specific listings in Segment 11.									
COUCRF12	Classifications	Physical and Biological			Metals (ug/L)				
Designation	Agriculture	DM		MWAT	acute	chronic			
Reviewable	Aq Life Cold 1	Temperature °C	4/1 - 12/31	CLL*	20.3* ^B	Aluminum	---	---	
	Recreation E	Temperature °C		CL,CLL	CL,CLL	Arsenic	340	0.02(T)	
	Water Supply					Beryllium	---	---	
	DUWS*					Cadmium	TVS(tr)	TVS	
Qualifiers:				acute	chronic	Chromium III	50(T)	TVS	
Other:		D.O. (mg/L)		---	6.0	Chromium VI	TVS	TVS	
		D.O. (spawning)		---	7.0	Copper	TVS	TVS	
		pH		6.5 - 9.0	---	Iron	---	WS	
		chlorophyll a (ug/L)		---	8*	Iron	---	1000(T)	
		E. Coli (per 100 mL)		---	126	Lead	TVS	TVS	
						Manganese	TVS	TVS	
*chlorophyll a (ug/L)(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area. *Classification: DUWS Applies only to Leonard Thomas Res and Wildcat Res *Phosphorus(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area. *Temperature(4/1 - 12/31) = Ruedi Res (MWAT=20.3)		Inorganic (mg/L)					Manganese	---	WS
				acute	chronic	Mercury	---	0.01(t)	
		Ammonia		TVS	TVS	Molybdenum	---	160(T)	
		Boron		---	0.75	Nickel	TVS	TVS	
		Chloride		---	250	Selenium	TVS	TVS	
		Chlorine		0.019	0.011	Silver	TVS	TVS(tr)	
		Cyanide		0.005	---	Uranium	---	---	
		Nitrate		10	---	Zinc	TVS	TVS	
		Nitrite		---	0.05				
		Phosphorus		---	0.025*				
		Sulfate		---	WS				
		Sulfide		---	0.002				

*chlorophyll a (ug/L)(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area.
 *Classification: DUWS Applies only to Leonard Thomas Res and Wildcat Res
 *Phosphorus(chronic) = applies only to lakes and reservoirs larger than 25 acres surface area.
 *Temperature(4/1 - 12/31) = Ruedi Res (MWAT=20.3)

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr = trout
 sc = sculpin

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Yampa River Basin

13b. Mainstem of Foidel Creek, including all tributaries and wetlands. Mainstem Fish Creek, including all tributaries from County Road 27 downstream to the confluence with Trout Creek, except for specific listings in Segment 13g. Middle Creek and all tributaries, from County Road 27 downstream to the confluence with Trout Creek.						
COUCYA13B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM		MWAT	acute	chronic
Reviewable	Aq Life Warm 1 Recreation E	WS-II		WS-II	Aluminum	---
Qualifiers:		acute		chronic	Arsenic	340
Other:		D.O. (mg/L)		6.0	Beryllium	---
Temporary Modification(s):		D.O. (spawning)		7.0	Cadmium	TVS(tr)
Selenium(chronic) = current conditions*		pH		6.5 - 9.0	Chromium III	TVS
Expiration Date of 12/31/2018		chlorophyll a (mg/m ²)		150	Chromium III	100(T)
		E. Coli (per 100 mL)		126	Chromium VI	TVS
		Inorganic (mg/L)			Copper	TVS
		acute		chronic	Iron	---
		Ammonia		TVS	Iron	3/1 - 6/30
		Boron		0.75	Lead	TVS
		Chloride		---	Manganese	TVS
		Chlorine		0.019	Mercury	---
		Cyanide		0.005	Molybdenum	---
		Nitrate		100	Nickel	TVS
		Nitrite		0.05	Selenium	TVS
		Phosphorus		0.11	Silver	TVS(tr)
		Sulfate		---	Uranium	---
		Sulfide		0.002	Zinc	TVS

13d. Mainstem of Dry Creek, including all tributaries and wetlands, from the source to just above the confluence with Temple Gulch.						
COUCYA13D	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM		MWAT	acute	chronic
UP	Aq Life Warm 2 Recreation E	WS-II		WS-II	Aluminum	---
Qualifiers:		acute		chronic	Arsenic	340
Other:		D.O. (mg/L)		5.0	Beryllium	---
Temporary Modification(s):		pH		6.5 - 9.0	Cadmium	TVS
Iron(chronic) = current condition	3/1 - 4/30	chlorophyll a (mg/m ²)		150	Chromium III	TVS
Expiration Date of 12/31/2018		E. Coli (per 100 mL)		126	Chromium III	100(T)
Selenium(chronic) = current conditions		Inorganic (mg/L)			Chromium VI	TVS
Expiration Date of 12/31/2018		acute		chronic	Copper	TVS
		Ammonia		TVS	Iron	5/1 - 2/29
		Boron		0.75	Iron	3/1 - 4/30
		Chloride		---	Lead	TVS
		Chlorine		0.019	Manganese	TVS
		Cyanide		0.005	Mercury	---
		Nitrate		100	Molybdenum	---
		Nitrite		0.05	Nickel	TVS
		Phosphorus		0.17	Selenium	TVS
		Sulfate		---	Silver	TVS
		Sulfide		0.002	Uranium	---
					Zinc	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Yampa River Basin

13e. Mainstem of Sage Creek, including all tributaries and wetlands, from its sources to the confluence with the Yampa River.							
COUCYA13E		Classifications		Physical and Biological		Metals (ug/L)	
Designation	Agriculture		DM	MWAT		acute	chronic
UP	Aq Life Warm 2	Temperature °C	WS-II	WS-II	Aluminum	---	---
	Recreation N		acute	chronic	Arsenic	340	100(T)
Qualifiers:		D.O. (mg/L)	---	5.0	Beryllium	---	---
Other: Temporary Modification(s): Selenium(chronic) = current conditions Expiration Date of 12/31/2018 *Iron(chronic) = 1,000(T) ug/L on Lower Sage Creek. See section 33.6(4) for iron assessment locations. *Iron(chronic) = 1,250(T) ug/L on Upper Sage Creek. Break between Upper and Lower Sage Creek is the west border of Section 18, T5N, R87W. See section 33.6(4) for iron assessment locations.		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
		chlorophyll a (mg/m²)	---	---	Chromium III	TVS	TVS
		E. Coli (per 100 mL)	---	630	Chromium III	---	100(T)
		Inorganic (mg/L)		Chromium VI	TVS	TVS	
			acute	chronic	Copper	TVS	TVS
		Ammonia	TVS	TVS	Iron	---	1000(T)*
		Boron	---	0.75	Iron	---	1250(T)*
		Chloride	---	---	Lead	TVS	TVS
		Chlorine	0.019	0.011	Manganese	TVS	TVS
		Cyanide	0.005	---	Mercury	---	0.01(t)
		Nitrate	100	---	Molybdenum	---	160(T)
		Nitrite	---	0.05	Nickel	TVS	TVS
		Phosphorus	---	0.17	Selenium	TVS	TVS
		Sulfate	---	---	Silver	TVS	TVS
		Sulfide	---	0.002	Uranium	---	---
			Zinc	TVS	TVS		

13g. All tributaries to Fish Creek from the confluence with Cow Camp Creek to the confluence with Trout Creek,							
COUCYA13G	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT	acute	chronic		
Reviewable	Aq Life Warm 1	Temperature °C	WS-II	WS-II	Aluminum	---	
	Recreation E	acute	chronic	Arsenic	340	7.6(T)	
Qualifiers:		D.O. (mg/L)	---	5.0	Beryllium	---	
Other:		pH	6.5 - 9.0	---	Cadmium	TVS(tr)	
Temporary Modification(s): Selenium(chronic) = current conditions Expiration Date of 12/31/2018		chlorophyll a (mg/m²)	---	150	Chromium III	TVS	
		E. Coli (per 100 mL)	---	126	Chromium VI	TVS	
		Inorganic (mg/L)		Copper	TVS	TVS	
		acute	chronic	Iron	---	1000(T)	
		Ammonia	TVS	TVS	Lead	TVS	TVS
		Boron	---	0.75	Manganese	TVS	TVS
		Chloride	---	---	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	100	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	0.17	Uranium	---	---
		Sulfate	---	---	Zinc	TVS	TVS
Sulfide	---	0.002					

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Yampa River Basin

13i. Mainstem of Grassy Creek, including all tributaries and wetlands, from the source to immediately above the confluence with Scotchmans Gulch.						
COUCYA13I	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
UP	Aq Life Warm 2	WS-II	WS-II	Aluminum	---	---
	Recreation N	acute	chronic	Arsenic	340	100(T)
Qualifiers:		D.O. (mg/L)	---	Beryllium	---	---
Other:		pH	6.5 - 9.0	Cadmium	TVS	TVS
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	Chromium III	TVS	TVS
Iron(chronic) = current conditions*		E. Coli (per 100 mL)	---	Chromium VI	TVS	TVS
Expiration Date of 12/31/2018		Inorganic (mg/L)		Copper	TVS	TVS
Selenium(chronic) = current conditions		acute	chronic	Iron	---	1000(T)*
Expiration Date of 12/31/2018		Ammonia	TVS	Lead	TVS	TVS
*Iron(chronic) = See section 33.6(4) for iron assessment locations.		Boron	---	Manganese	TVS	TVS
*TempMod: Iron = for Grassy Creek.		Chloride	---	Mercury	---	0.01(t)
		Chlorine	0.019	Molybdenum	---	160(T)
		Cyanide	0.005	Nickel	TVS	TVS
		Nitrate	100	Selenium	TVS	TVS
		Nitrite	---	Silver	TVS	TVS
		Phosphorus	---	Uranium	---	---
		Sulfate	---	Zinc	TVS	TVS
		Sulfide	---			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

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Office of the Attorney General

Tracking number: 2016-00377

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 01/09/2017

5 CCR 1002-33

**REGULATION NO. 33 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR UPPER
COLORADO RIVER BASIN AND NORTH PLATTE RIVER (PLANNING REGION 12)**

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 19, 2017 14:55:15

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-34

Rule title

5 CCR 1002-34 REGULATION NO. 34 - CLASSIFICATIONS AND NUMERIC
STANDARDS FOR SAN JUAN AND DOLORES RIVER BASINS 1 - eff 06/30/2017

Effective date

06/30/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

**REGULATION NO. 34 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR SAN JUAN RIVER
AND DOLORES RIVER BASINS**

5 CCR 1002-34

....

34.7 – 34.14 RESERVED

....

**34.47 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER
12, 2016 RULEMAKING; FINAL ACTION JANUARY 9, 2017; EFFECTIVE DATE JUNE 30,
2017**

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

BASIS AND PURPOSE

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2018, to determine whether the temporary modification should be modified, eliminated or extended.

No action: The commission took no action on the temporary modifications on the following segments since they will be addressed in the basin wide hearing in June 2017.

Animas River Segment 3b: temporary modification of the cadmium, copper and zinc standards (expire 12/31/2017).

La Plata Segment 7a: temporary modification of the ammonia standards (expire 12/31/2018).

La Plata Segment 8c: temporary modification of the ammonia standards (expire 12/31/2018).

New Temporary Modifications of the Arsenic Standard:

Consistent with the actions taken in 2013, the commission adopted a temporary modification of the arsenic standard on segments on the following list, with an expiration date of 12/31/2021. At the April 8, 2013 rulemaking, the commission heard testimony that concurred with the finding from a December 13, 2011 hearing that an initial reasonable lower limit of treatment technology for arsenic is 3.0 µg/L, pending further investigation by the division, dischargers and stakeholders. The temporary modification was established by the commission to allow for a temporarily less stringent application of the chronic arsenic standard in control requirements for both existing discharges and new or increased discharges.

San Juan River Segment 9a
San Juan River Segment 11a
Piedra River Segment 7
Los Pinos River Segment 5
Animas Florida River Segment 10a
Animas Florida River Segment 13a
Animas Florida River Segment 22
La Plata River Segment 2b
La Plata River Segment 5a
La Plata River Segment 12
Dolores River Segment 1
Dolores River Segment 2
Dolores River Segment 3
Dolores River Segment 4a
Dolores River Segment 4b
Dolores River Segment 5a
Dolores River Segment 5b

PARTIES TO THE RULEMAKING HEARING

1. Colorado Parks and Wildlife
2. Resurrection Mining Company
3. Public Service Company of Colorado
4. City of Pueblo
5. Peabody Sage Creek Mining Company and Seneca Coal Company
6. Tri-State Generation and Transmission Association, Inc.
7. Climax Molybdenum Company
8. Rio Grande Silver, Inc.
9. Mt. Emmons Mining Company
10. Plum Creek Water Reclamation Authority
11. Environmental Protection Agency
12. Raytheon Company
13. City of Boulder Open Space and Mountain Parks
14. High Country Conservation Advocates
15. City of Colorado Springs and Colorado Springs Utilities
16. City of Black Hawk and Black Hawk/Central City Sanitation District
17. Town of Crested Butte and Coal Creek Watershed Coalition
18. Parker Water and Sanitation District

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL COMMISSION**

5 CCR 1002-34

**REGULATION NO. 34
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
SAN JUAN RIVER AND DOLORES RIVER BASINS**

**APPENDIX 34-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2017

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

San Juan River Basin

9a. Mainstem of the Rio Blanco, including all tributaries and wetlands, from a point immediately below the confluence with Leche Creek to the Southern Ute Indian Reservation boundary, except for specific listings in Segment 10.						
COSJSJ09A	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		pH	6.5 - 9.0	---	Chromium III	50(T)
		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
					Iron	---
		Inorganic (mg/L)			Iron	---
		acute	chronic	Lead	TVS	
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	---	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		TVS(sc)

11a. All tributaries to the San Juan River, including wetlands, from a point immediately below the confluence with Fourmile Creek to the Southern Ute Indian Reservation boundary except for the specific listings in Segments 6a, 6b, 9a and 9b.								
COSJSJ11A	Classifications		Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT	acute		chronic	
Reviewable	Aq Life Warm 1		Temperature °C	WS-II	WS-II	Aluminum	---	---
	Recreation E 5/1 - 10/31		acute	chronic	Arsenic	340	0.02(T)	
	Recreation N 11/1 - 4/30		D.O. (mg/L)	---	5.0	Beryllium	---	---
	Water Supply		pH	6.5 - 9.0	---	Cadmium	TVS(tr)	TVS
Qualifiers:			chlorophyll a (mg/m2)	---	---	Chromium III	50(T)	TVS
Other:			E. Coli (per 100 mL) 5/1 - 10/31	---	126	Chromium VI	TVS	TVS
Temporary Modification(s):			E. Coli (per 100 mL) 11/1 - 4/30	---	630	Copper	TVS	TVS
Arsenic(chronic) = hybrid						Iron	---	WS
Expiration Date of 12/31/2021			Inorganic (mg/L)			Iron	---	1000(T)
			acute	chronic	Lead	TVS	TVS	
			Ammonia	TVS	TVS	Manganese	TVS	TVS
			Boron	---	0.75	Manganese	---	WS
			Chloride	---	250	Mercury	---	0.01(t)
			Chlorine	0.019	0.011	Molybdenum	---	160(T)
			Cyanide	0.005	---	Nickel	TVS	TVS
			Nitrate	10	---	Selenium	TVS	TVS
			Nitrite	---	0.05	Silver	TVS	TVS(tr)
			Phosphorus	---	---	Uranium	---	---
			Sulfate	---	WS	Zinc	TVS	TVS
			Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr=trout
sc=sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 34.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Piedra River Basin

7. Hatcher Reservoir, Stevens Reservoir, Sullenbuger Reservoir, Village Lake and Forest Lake.						
COSJPI07	Classifications	Physical and Biological			Metals (ug/L)	
Designation			DM	MWAT	acute	chronic
Reviewable	Agriculture					
	Aq Life Warm 1	Temperature °C	WL	WL	Aluminum	---
	Recreation E 2/2 - 11/30		acute	chronic	Arsenic	340 0.02(T)
	Recreation N 12/1 - 3/1	D.O. (mg/L)	---	5.0	Beryllium	---
	Water Supply	pH	6.5 - 9.0	---	Cadmium	TVS TVS
Qualifiers:		chlorophyll a (mg/m2)	---	---	Chromium III	50(T) TVS
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		E. Coli (per 100 mL) 3/2 - 11/30	---	126	Chromium VI	TVS TVS
		E. Coli (per 100 mL) 12/1 - 3/1	---	630	Copper	TVS TVS
					Iron	---
					Iron	---
					Lead	TVS TVS
					Manganese	TVS TVS
					Manganese	---
					Mercury	---
					Molybdenum	---
					Nickel	TVS TVS
					Selenium	TVS TVS
					Silver	TVS TVS
					Uranium	---
					Zinc	TVS TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr=trout
sc=sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 34.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Los Pinos River Basin

5. Mainstem of Vallecito Creek from the boundary of the Weminuche Wilderness Area to Vallecito Reservoir.						
COSJPN05	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
		Inorganic (mg/L)		Iron	---	WS
		acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	---	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr=trout
sc=sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 34.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Animas and Florida River Basins

3b. Mainstem of the Animas River, including wetlands, from a point immediately above the confluence with Cement Creek to a point immediately above the confluence with Mineral Creek.										
COSJAF03B	Classifications		Physical and Biological			Metals (ug/L)				
Designation	Recreation E	5/15 - 9/10	DM		MWAT	acute	chronic			
UP	Recreation N	9/11 - 5/14				Aluminum	---			
Qualifiers:			acute		chronic	Arsenic	---			
Other: Temporary Modification(s): Cadmium(ac/ch) = current condition Copper(ac/ch) = current condition Zinc(ac/ch) = current condition Expiration Date of 12/31/2017 *The concentration of dissolved aluminum, cadmium, copper, iron, lead, manganese, and zinc that is directed toward maintaining and achieving water quality standards established for segments 4a and 4b.			D.O. (mg/L)		---	3.0	Beryllium	---		
			pH		6.0-9.0		---	Cadmium	---	
			chlorophyll a (mg/m²)		---		---	Chromium III	---	
			E. Coli (per 100 mL)		5/15 - 9/10		---	126	Chromium VI	---
			E. Coli (per 100 mL)		9/11 - 5/14		---	630	Copper	---
									Iron	---
									Lead	---
									Manganese	---
									Mercury	---
									Molybdenum	---
									Nickel	---
									Selenium	---
									Silver	---
									Uranium	---
									Zinc	---

10a. Mainstem of the Florida River from the boundary of the Weminuche Wilderness Area to the inlet of Lemon Reservoir.							
COSJAF10A	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS	TVS
		E. Coll (per 100 mL)	---	126	Copper	TVS	TVS
					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
			acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	---	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002	Zinc	---	TVS(sc)

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr=trout
sc=sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 34.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Animas and Florida River Basins

13a. Mainstem of Junction Creek including all tributaries, from the U.S. Forest Boundary to the confluence with Animas River.							
COSJAF13A	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 2	Temperature °C	CS-II	CS-II	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Water + Fish Ingestion Standards		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Other:		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS	TVS
Temporary Modification(s):		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
Arsenic(chronic) = hybrid					Iron	---	WS
Expiration Date of 12/31/2021					Iron	---	1000(T)
		Inorganic (mg/L)			Lead	TVS	TVS
			acute	chronic	Manganese	TVS	TVS
		Ammonia	TVS	TVS	Manganese	---	WS
		Boron	---	0.75	Mercury	---	0.01(t)
		Chloride	---	250	Molybdenum	---	160(T)
		Chlorine	0.019	0.011	Nickel	TVS	TVS
		Cyanide	0.005	---	Selenium	TVS	TVS
		Nitrate	10	---	Silver	TVS	TVS(tr)
		Nitrite	---	0.05	Uranium	---	---
		Phosphorus	---	---	Zinc	TVS	TVS
		Sulfate	---	WS			
		Sulfide	---	0.002			

22. Electra Lake. Lake Nighthorse.							
COSJAF22	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT			
Reviewable	Aq Life Cold 1	Temperature °C	CLL	CLL	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
Expiration Date of 12/31/2021					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
			acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Manganese	---	WS
		Chloride	---	250	Mercury	---	0.01(t)
		Chlorine	0.019	0.011	Molybdenum	---	160(T)
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	10	---	Selenium	TVS	TVS
		Nitrite	---	0.05	Silver	TVS	TVS(tr)
		Phosphorus	---	---	Uranium	---	---
		Sulfate	---	WS	Zinc	TVS	TVS
		Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr=trout
sc=sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 34.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

La Plata River, Mancos River, McElmo Creek and San Juan River in Montezuma County and Dolores County

2b. Mainstem of the La Plata River from the boundary of the Southern Ute Indian Reservation to the Colorado/New Mexico border.													
COSJLP02B		Classifications			Physical and Biological			Metals (ug/L)					
Designation	Agriculture				DM		MWAT	acute		chronic			
Reviewable	Aq Life Warm 1				WS-II		WS-II	---		---			
	Recreation E 5/1 - 10/31				acute		chronic	340		0.02(T)			
	Recreation P 11/1 - 4/30				---		5.0	---		---			
	Water Supply				pH 6.5 - 9.0		---	TVS		TVS			
Qualifiers:					chlorophyll a (mg/m2)		---	---	Chromium III 50(T) TVS				
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021					E. Coli (per 100 mL) 5/1 - 10/31		---	126	Chromium VI TVS TVS				
					E. Coli (per 100 mL) 11/1 - 4/30		---	205	Copper TVS TVS				
												Iron --- WS	
										Inorganic (mg/L)		Iron --- 1000(T)	
										acute chronic		Lead TVS TVS	
										Ammonia TVS TVS		Manganese TVS TVS	
										Boron --- 0.75		Manganese --- WS	
										Chloride --- 250		Mercury --- 0.01(t)	
										Chlorine 0.019 0.011		Molybdenum --- 160(T)	
										Cyanide 0.005 ---		Nickel TVS TVS	
*Southern Ute Indian Reservation					Nitrate 10 ---		Selenium TVS TVS						
					Nitrite --- 0.05		Silver TVS TVS						
					Phosphorus --- ---		Uranium --- ---						
					Sulfate --- WS		Zinc TVS TVS						
					Sulfide --- 0.002								
5a. Mainstem of the Mancos River from Hwy 160 to the boundary of the Ute Mountain Indian Reservation and mainstem of Weber Canyon from source to confluence with Mancos River.													
COSJLP05A		Classifications			Physical and Biological			Metals (ug/L)					
Designation	Agriculture				DM		MWAT	acute		chronic			
Reviewable	Aq Life Warm 1				WS-II		WS-II	---		---			
	Recreation E 5/1 - 10/31				acute		chronic	340		0.02(T)			
	Recreation N 11/1 - 4/30				---		5.0	---		---			
	Water Supply				pH 6.5 - 9.0		---	TVS		TVS			
Qualifiers:					chlorophyll a (mg/m2)		---	---	Chromium III 50(T) TVS				
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021					E. Coli (per 100 mL) 5/1 - 10/31		---	126	Chromium VI TVS TVS				
					E. Coli (per 100 mL) 11/1 - 4/30		---	630	Copper TVS TVS				
												Iron --- WS	
										Inorganic (mg/L)		Iron --- 1000(T)	
										acute chronic		Lead TVS TVS	
										Ammonia TVS TVS		Manganese TVS TVS	
										Boron --- 0.75		Manganese --- WS	
										Chloride --- 250		Mercury --- 0.01(t)	
										Chlorine 0.019 0.011		Molybdenum --- 160(T)	
										Cyanide 0.005 ---		Nickel TVS TVS	
					Nitrate 10 ---		Selenium TVS TVS						
					Nitrite --- 0.05		Silver TVS TVS						
					Phosphorus --- ---		Uranium --- ---						
					Sulfate --- WS		Zinc TVS TVS						
					Sulfide --- 0.002								

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

La Plata River, Mancos River, McElmo Creek and San Juan River in Montezuma County and Dolores County

7a. Mainstem of McElmo Creek from the source to the Colorado/Utah border, except for the specific listings in Segment 7b. Mainstem of Yellow Jacket Creek, including all tributaries and wetlands, from the source to the confluence with McElmo Creek.

COSJLP07A	Classifications	Physical and Biological		Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic
Reviewable	Aq Life Warm 1 Recreation E	Temperature °C	WS-II WS-II	Aluminum	---
Qualifiers:		acute	chronic	Arsenic	340 7.6(T)
		D.O. (mg/L)	---	Beryllium	---
Other:	Temporary Modification(s): Ammonia(chronic) = 0.06 Ammonia(acute) = old TVS Expiration Date of 6/30/2018	pH	6.5 - 9.0	Cadmium	TVS TVS
		chlorophyll a (mg/m ²)	---	Chromium III	TVS TVS
		E. Coli (per 100 mL)	---	Chromium III	---
		Inorganic (mg/L)		Chromium VI	100(T)
		acute	chronic	Chromium VI	TVS TVS
		Ammonia	TVS TVS	Copper	TVS TVS
		Boron	---	Iron	---
		Chloride	---	Lead	2200(T)
		Chlorine	0.019 0.011	Manganese	TVS TVS
		Cyanide	0.005	Mercury	TVS TVS
		Nitrate	100	Molybdenum	---
		Nitrite	---	Nickel	0.01(t)
		Phosphorus	---	Selenium	160(T)
		Sulfate	---	Silver	TVS TVS
		Sulfide	---	Sulfate	TVS TVS
			0.002	Uranium	---
				Zinc	TVS TVS

8c. Unnamed tributary to Ritter Draw (confluence at 37.40216,-108.54582).

COSJLP08C	Classifications	Physical and Biological		Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic
UP	Aq Life Warm 2 Recreation E	Temperature °C	WS-III WS-III	Aluminum	---
Qualifiers:		acute	chronic	Arsenic	340 100(T)
		D.O. (mg/L)	---	Beryllium	---
Other:	Temporary Modification(s): Ammonia(ac/ch) = current conditions Expiration Date of 6/30/2018	pH	6.5 - 9.0	Cadmium	TVS TVS
		chlorophyll a (mg/m ²)	---	Chromium III	TVS TVS
		E. Coli (per 100 mL)	---	Chromium III	---
		Inorganic (mg/L)		Chromium VI	100(T)
		acute	chronic	Chromium VI	TVS TVS
		Ammonia	TVS TVS	Copper	TVS TVS
		Boron	---	Iron	---
		Chloride	---	Lead	1000(T)
		Chlorine	0.019 0.011	Manganese	TVS TVS
		Cyanide	0.005	Mercury	TVS TVS
		Nitrate	100	Molybdenum	---
		Nitrite	---	Nickel	0.01(t)
		Phosphorus	---	Selenium	160(T)
		Sulfate	---	Silver	TVS TVS
		Sulfide	---	Sulfate	TVS TVS
			0.002	Uranium	---
				Zinc	TVS TVS

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS
La Plata River, Mancos River, McElmo Creek and San Juan River in Montezuma County and
Dolores County

12. All lakes and reservoirs tributary to the La Plata River from the source to the Hay Gulch diversion south of Hesperus.						
COSJLP12	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM		MWAT	acute	chronic
Reviewable	Aq Life Cold 1	CL		CL	---	---
	Recreation E	acute		chronic	Arsenic	340
	Water Supply	---		6.0	Beryllium	0.02(T)
Qualifiers: Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		D.O. (mg/L)		---	Cadmium	TVS(tr)
		D.O. (spawning)		---	Chromium III	TVS
		pH		6.5 - 9.0	Chromium VI	TVS
		chlorophyll a (mg/m2)		---	Copper	TVS
		E. Coli (per 100 mL)		---	Iron	WS
				126	Iron	1000(T)
		Inorganic (mg/L)			Lead	TVS
		acute		chronic	Manganese	TVS
		Ammonia		TVS	Manganese	WS
		Boron		0.75	Mercury	0.01(t)
		Chloride		250	Molybdenum	160(T)
		Chlorine		0.019	Nickel	TVS
		Cyanide		0.005	Selenium	TVS
		Nitrate		10	Silver	TVS(tr)
		Nitrite		0.05	Uranium	---
		Phosphorus		---	Zinc	TVS
		Sulfate		WS		
		Sulfide		0.002		

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Dolores River Basin

1. All tributaries to the Dolores River and West Dolores River, including all wetlands, tributaries, which are within the Lizard Head Wilderness area.						
COSJDO01	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
OW	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic		Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers: Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
		pH	6.5 - 9.0	---	Chromium III	50(T)
		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
		Inorganic (mg/L)			Iron	---
		acute	chronic		Iron	---
		Ammonia	TVS	TVS	Lead	TVS
		Boron	---	0.75	Manganese	TVS
		Chloride	---	250	Manganese	---
		Chlorine	0.019	0.011	Mercury	---
		Cyanide	0.005	---	Molybdenum	---
		Nitrate	10	---	Nickel	TVS
		Nitrite	---	0.05	Selenium	TVS
		Phosphorus	---	---	Silver	TVS(tr)
		Sulfate	---	WS	Uranium	---
		Sulfide	---	0.002	Zinc	TVS
						TVS(sc)
2. Mainstem of the Dolores River from the source to a point immediately above the confluence with Horse Creek.						
COSJDO02	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic		Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers: Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
		pH	6.5 - 9.0	---	Chromium III	50(T)
		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS
		Inorganic (mg/L)			Iron	---
		acute	chronic		Iron	---
		Ammonia	TVS	TVS	Lead	TVS
		Boron	---	0.75	Manganese	TVS
		Chloride	---	250	Manganese	---
		Chlorine	0.019	0.011	Mercury	---
		Cyanide	0.005	---	Molybdenum	---
		Nitrate	10	---	Nickel	TVS
		Nitrite	---	0.05	Selenium	TVS
		Phosphorus	---	---	Silver	TVS(tr)
		Sulfate	---	WS	Uranium	---
		Sulfide	---	0.002	Zinc	TVS
						TVS(sc)

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Dolores River Basin

3. Mainstem of the Dolores River from a point immediately above the confluence with Horse Creek to a point immediately above the confluence with Bear Creek.						
COSJDO03	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium III	50(T)
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
Expiration Date of 12/31/2021					Copper	TVS
		Inorganic (mg/L)			Iron	---
		acute	chronic		Iron	---
		Ammonia	TVS	TVS	Lead	TVS
		Boron	---	0.75	Manganese	TVS
		Chloride	---	250	Manganese	---
		Chlorine	0.019	0.011	Mercury	---
		Cyanide	0.005	---	Molybdenum	---
		Nitrate	10	---	Nickel	TVS
		Nitrite	---	0.05	Selenium	TVS
		Phosphorus	---	---	Silver	TVS
		Sulfate	---	WS	Uranium	---
		Sulfide	---	0.002	Zinc	TVS
4a. Mainstem of the Dolores River from a point immediately above the confluence with Bear Creek to the bridge at Bradfield Ranch (Forest Route 505, near Montezuma/Dolores County Line).						
COSJDO04A	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
		Inorganic (mg/L)			Iron	---
		acute	chronic		Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	---	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Dolores River Basin

4b. McPhee Reservoir and Summit Reservoir.						
COSJDO04B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CLL	CLL	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
		Inorganic (mg/L)	WS			
		acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	---	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		
5a. All tributaries to the Dolores River and West Dolores River, including all wetlands, from the source to a point immediately below the confluence with the West Dolores River except for specific listings in Segments 1 and 5b through 10; mainstem of Beaver Creek (including Plateau Creek) from the source to the confluence with the Dolores River.						
COSJDO05A	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
		Inorganic (mg/L)	WS			
		acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	---	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		
*Zinc(chronic) = Chronic zinc sculpin standard applies to Silver Creek and Fish Creek.						

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Dolores River Basin

5b. Mainstem of Rio Lado from the source to the confluence with the Dolores River. Mainstem of Spring Creek from the source to the confluence with Stoner Creek. Mainstem of Little Taylor Creek from the source to the confluence with Taylor Creek.						
COSJDO05B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
OW	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
					Iron	1000(T)
		Inorganic (mg/L)			Lead	TVS
			acute	chronic	Manganese	TVS
		Ammonia	TVS	TVS	Manganese	---
		Boron	---	0.75	Mercury	0.01(t)
		Chloride	---	250	Molybdenum	---
		Chlorine	0.019	0.011	Nickel	TVS
		Cyanide	0.005	---	Selenium	TVS
		Nitrate	10	---	Silver	TVS(tr)
		Nitrite	---	0.05	Uranium	---
		Phosphorus	---	---	Zinc	TVS
		Sulfate	---	WS		TVS(sc)
		Sulfide	---	0.002		

TABLE 1
ANIMAS RIVER BASIN
AQUATIC LIFE INDICATOR GOAL: BROOK TROUT

Segment 3a
Acute Standards

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Zn	720	780	1060	1200	760	410	280	340	380	440	510	590

Chronic Standards

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Cd	TVS	TVS	TVS	3.5	2.2	TVS	TVS	TVS	TVS	TVS	TVS	TVS
Mn	TVS	TVS	2571	2179	TVS	TVS	TVS	TVS	TVS	TVS	TVS	TVS
Zn	720	780	1060	1200	760	410	280	340	380	440	510	590

Segment 4a

Acute Standards

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Al(Trec)	3100	3550	2800	2020	1010	740	700	1360	1490	1610	2280	2570
Zn	460	520	620	570	430	250	170	240	290	340	380	420

Chronic Standards

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
pH	5.9-9.0	5.7-9.0	6.2-9.0	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	5.9-9.0
Al(Trec)	3100	3550	2800	2020	1010	740	700	1360	1490	1610	2280	2570
Fe	3473	2961	3776	3404	2015	1220	1286	1830	1623	2258	2631	3511
Zn	460	520	620	570	430	250	170	240	290	340	380	420

Segment 9

Acute Standards

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Al(Trec)	4680	4950	4560	3800	1390	1350	1290	2040	2570	2680	3450	4050

Chronic Standards

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
pH	4.9-9.0	4.8-9.0	4.9-9.0	5.9-9.0	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	6.2-9.0	5.4-9.0
Al(Trec)	4680	4950	4560	3800	1390	1350	1290	2040	2570	2680	3450	4050
Cu	TVS	TVS	TVS	18	20	TVS	TVS	TVS	TVS	TVS	TVS	TVS
Fe	3420	3800	4370	3370	3150	2210	2275	2280	3020	3580	3620	3490
Zn	TVS	TVS	TVS	TVS	230	TVS	TVS	TVS	TVS	TVS	TVS	TVS

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Office of the Attorney General

Tracking number: 2016-00378

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 01/09/2017

5 CCR 1002-34

**REGULATION NO. 34 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR SAN JUAN AND
DOLORES RIVER BASINS**

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 19, 2017 14:56:25

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-35

Rule title

5 CCR 1002-35 REGULATION NO. 35 - CLASSIFICATIONS AND NUMERIC
STANDARDS FOR GUNNISON AND LOWER DOLORES RIVER BASINS 1 - eff
06/30/2017

Effective date

06/30/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 35 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR GUNNISON AND LOWER DOLORES RIVER BASINS

5 CCR 1002-35

....

35.7 – 35.10 RESERVED

....

35.44 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 12, 2016 RULEMAKING; FINAL ACTION JANUARY 9, 2017; EFFECTIVE DATE JUNE 30, 2017

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

BASIS AND PURPOSE

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2018, to determine whether the temporary modification should be modified, eliminated or extended.

No action: The commission took no action on the temporary modifications on the following segments since they will be addressed in the basin wide hearing in June 2017.

Upper Gunnison Segment 12: temporary modification of the cadmium, copper and zinc standards (expire 12/31/2017).

Uncompahgre Segment 4b: temporary modification of the selenium standards (expire 12/31/2017).

New Temporary Modifications of the Arsenic Standard:

Consistent with the actions taken in 2013, the commission adopted a temporary modification of the arsenic standard on segments on the following list, with an expiration date of 12/31/2021. At the April 8, 2013 rulemaking, the commission heard testimony that concurred with the finding from a December 13, 2011 hearing that an initial reasonable lower limit of treatment technology for arsenic is 3.0 µg/L, pending further investigation by the division, dischargers and stakeholders. The temporary modification was established by the commission to allow for a temporarily less stringent application of the chronic arsenic standard in control requirements for both existing discharges and new or increased discharges.

Upper Gunnison Segment 15b
Upper Gunnison Segment 38

North Fork Segment 3
Uncompahgre Segment 1
Uncompahgre Segment 3c
Uncompahgre Segment 3f
Uncompahgre Segment 4a
Uncompahgre Segment 4b
Uncompahgre Segment 10
Uncompahgre Segment 11
Lower Gunnison Segment 7b
San Miguel Segment 8
Lower Dolores Segment 1a
Lower Dolores Segment 2

PARTIES TO THE RULEMAKING HEARING

1. Colorado Parks and Wildlife
2. Resurrection Mining Company
3. Public Service Company of Colorado
4. City of Pueblo
5. Peabody Sage Creek Mining Company and Seneca Coal Company
6. Tri-State Generation and Transmission Association, Inc.
7. Climax Molybdenum Company
8. Rio Grande Silver, Inc.
9. Mt. Emmons Mining Company
10. Plum Creek Water Reclamation Authority
11. Environmental Protection Agency
12. Raytheon Company
13. City of Boulder Open Space and Mountain Parks
14. High Country Conservation Advocates
15. City of Colorado Springs and Colorado Springs Utilities
16. City of Black Hawk and Black Hawk/Central City Sanitation District
17. Town of Crested Butte and Coal Creek Watershed Coalition
18. Parker Water and Sanitation District

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL COMMISSION**

5 CCR 1002-35

**REGULATION NO. 35
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
GUNNISON AND LOWER DOLORES RIVER BASINS**

**APPENDIX 35-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2017

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper Gunnison River Basin

12. Mainstem of Coal Creek, including all tributaries and wetlands from a point immediately below the Crested Butte Water Supply intake which is above the confluence with the Mount Emmons/Red Lady Basin drainage to the confluence with the Slate River, with the exception of Wildcat Creek.						
COGUUG12	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m²)	---	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
Cadmium(chronic) = 2.1		Inorganic (mg/L)			Iron	---
Copper(chronic) = current conditions			acute	chronic	Lead	TVS
Zinc(chronic) = 440		Ammonia	TVS	TVS	Manganese	191
Expiration Date of 12/31/2017		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	---	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

15b. South Beaver Creek, including all tributaries and wetlands, from the source to the Saguache/Gunnison County line.								
COGUUG15B	Classifications	Physical and Biological			Metals (ug/L)			
Designation	Agriculture	DM	MWAT	acute	chronic			
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	---	
	Recreation U	acute	chronic	Arsenic	340	0.02(T)		
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---	
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS	TVS	
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS	
		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS	TVS	
		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS	
					Iron	---	WS	
		Inorganic (mg/L)			Iron	---	1000(T)	
		acute	chronic	Lead	TVS	TVS		
		Ammonia	TVS	TVS	Manganese	TVS	TVS	
		Boron	---	0.75	Manganese	---	WS	
		Chloride	---	250	Mercury	---	0.01(t)	
		Chlorine	0.019	0.011	Molybdenum	---	160(T)	
		Cyanide	0.005	---	Nickel	TVS	TVS	
		Nitrate	10	---	Selenium	TVS	TVS	
		Nitrite	---	0.05	Silver	TVS	TVS	
		Phosphorus	---	---	Uranium	---	---	
		Sulfate	---	WS	Zinc	TVS	TVS	
		Sulfide	---	0.002				

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper Gunnison River Basin

38. Lake San Cristobal, Taylor Park Reservoir, Blue Mesa Reservoir, Morrow Point Reservoir, Crystal Reservoir, and Silver Jack Reservoir.						
COGUUG38	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	CLL	CLL	Aluminum	---	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	Copper	TVS	TVS
Expiration Date of 12/31/2021				Iron	---	WS
		Inorganic (mg/L)		Iron	---	1000(T)
		acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	Manganese	TVS	TVS
		Boron	---	Manganese	---	WS
		Chloride	---	Mercury	---	0.01(t)
		Chlorine	0.019	Molybdenum	---	160(T)
		Cyanide	0.005	Nickel	TVS	TVS
		Nitrate	10	Selenium	TVS	TVS
		Nitrite	---	Silver	TVS	TVS(tr)
		Phosphorus	---	Uranium	---	---
		Sulfate	---	Zinc	TVS	TVS
		Sulfide	---			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

North Fork of the Gunnison River Basin

3. Mainstem of North Fork of the Gunnison River from the Black Bridge (41.75 Drive) above Paonia to the confluence with the Gunnison River.									
COGUNF03	Classifications		Physical and Biological			Metals (ug/L)			
Designation	Agriculture		DM	MWAT	acute		chronic		
Reviewable	Aq Life Cold 1		Temperature °C	CS-II	CS-II	Aluminum	---	---	
	Recreation E	4/1 - 9/30		acute	chronic	Arsenic	340	0.02(T)	
	Recreation P	10/1 - 3/31	D.O. (mg/L)	---	6.0	Beryllium	---	---	
	Water Supply		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS	
Qualifiers:			pH	6.5 - 9.0	---	Chromium III	50(T)	TVS	
Other:			chlorophyll a (mg/m2)	---	---	Chromium VI	TVS	TVS	
Temporary Modification(s):			E. Coli (per 100 mL)	4/1 - 9/30	---	126	Copper	TVS	TVS
Arsenic(chronic) = hybrid			E. Coli (per 100 mL)	10/1 - 3/31	---	205	Iron	---	WS
Expiration Date of 12/31/2021			Inorganic (mg/L)			Iron	---	1000(T)	
				acute	chronic	Lead	TVS	TVS	
			Ammonia	TVS	TVS	Manganese	TVS	TVS	
			Boron	---	0.75	Manganese	---	WS	
			Chloride	---	250	Mercury	---	0.01(t)	
			Chlorine	0.019	0.011	Molybdenum	---	160(T)	
			Cyanide	0.005	---	Nickel	TVS	TVS	
			Nitrate	10	---	Selenium	TVS	TVS	
			Nitrite	---	0.05	Silver	TVS	TVS(tr)	
			Phosphorus	---	---	Uranium	---	---	
			Sulfate	---	WS	Zinc	TVS	TVS	
			Sulfide	---	0.002				

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Uncompahgre River Basin

1. All tributaries to the Uncompahgre River, including all wetlands, which are within the Mt. Sneffels or Uncompahgre Wilderness Areas.						
COGUUN01	Classifications	Physical and Biological			Metals (ug/L)	
Designation		DM	MWAT		acute	chronic
OW	Agriculture					
	Aq Life Cold 1	Temperature °C	CS-I CS-I	Aluminum	---	---
	Recreation E					
	Water Supply					
Qualifiers:		acute	chronic	Arsenic	340	0.02(T)
Other:		D.O. (mg/L)	---	6.0	Beryllium	---
Temporary Modification(s):		D.O. (spawning)	---	7.0	Cadmium	TVS(tr) TVS
Arsenic(chronic) = hybrid		pH	6.5 - 9.0	---	Chromium III	50(T) TVS
Expiration Date of 12/31/2021		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS TVS
					Iron	---
					Iron	---
		Inorganic (mg/L)			Lead	TVS TVS
		acute	chronic		Manganese	TVS TVS
		Ammonia	TVS	TVS	Manganese	---
		Boron	---	0.75	Mercury	---
		Chloride	---	250	Molybdenum	---
		Chlorine	0.019	0.011	Nickel	TVS TVS
		Cyanide	0.005	---	Selenium	TVS TVS
		Nitrate	10	---	Silver	TVS TVS(tr)
		Nitrite	---	0.05	Uranium	---
		Phosphorus	---	---	Zinc	TVS TVS
		Sulfate	---	WS		
		Sulfide	---	0.002		

3c. Mainstem of the Uncompahgre River from a point immediately above the confluence with Dexter Creek to a point immediately below the confluence with Dallas Creek.						
COGUUN03C	Classifications	Physical and Biological			Metals (ug/L)	
Designation		DM	MWAT		acute	chronic
Reviewable	Agriculture					
	Aq Life Cold 1	Temperature °C	CS-I CS-I	Aluminum	---	---
	Recreation E					
	Water Supply					
Qualifiers:		acute	chronic	Arsenic	340	0.02(T)
Other:		D.O. (mg/L)	---	6.0	Beryllium	---
Temporary Modification(s):		D.O. (spawning)	---	7.0	Cadmium	TVS(tr) TVS
Arsenic(chronic) = hybrid		pH	6.5 - 9.0	---	Chromium III	50(T) TVS
Expiration Date of 12/31/2021		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS TVS
		E. Coli (per 100 mL)	---	126	Copper	TVS TVS
					Iron	---
					Iron	---
		Inorganic (mg/L)			Lead	TVS TVS
		acute	chronic		Manganese	TVS TVS
		Ammonia	TVS	TVS	Manganese	---
		Boron	---	0.75	Mercury	---
		Chloride	---	250	Molybdenum	---
		Chlorine	0.019	0.011	Nickel	TVS TVS
		Cyanide	0.005	---	Selenium	TVS TVS
		Nitrate	10	---	Silver	TVS TVS(tr)
		Nitrite	---	0.05	Uranium	---
		Phosphorus	---	---	Zinc	TVS TVS
		Sulfate	---	WS		
		Sulfide	---	0.002		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Uncompahgre River Basin

3f. Mainstem of the Uncompahgre River from a point immediately above the outlet of the South Canal to a point immediately above the Highway 90 bridge in Montrose.					
COGUUN03F	Classifications	Physical and Biological		Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	126	Copper	TVS
Expiration Date of 12/31/2021		Inorganic (mg/L)		Iron	WS
		acute	chronic	Iron	1000(T)
		Ammonia	TVS	Lead	TVS
		Boron	0.75	Manganese	TVS
		Chloride	250	Manganese	WS
		Chlorine	0.019	Mercury	0.01(t)
		Cyanide	0.005	Molybdenum	160(T)
		Nitrate	10	Nickel	TVS
		Nitrite	0.05	Selenium	TVS
		Phosphorus	---	Silver	TVS(tr)
		Sulfate	WS	Uranium	---
		Sulfide	0.002	Zinc	TVS

4a. Mainstem of the Uncompahgre River from the Highway 90 bridge at Montrose to Gunnison Road.					
COGUUN04A	Classifications	Physical and Biological		Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic
Reviewable	Aq Life Warm 1	Temperature °C	WS-II	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	5.0	Beryllium	---
Qualifiers:		pH	6.5 - 9.0	Cadmium	TVS
Other:		chlorophyll a (mg/m2)	---	Chromium III	50(T)
Temporary Modification(s):		E. Coli (per 100 mL)	126	Chromium VI	TVS
Arsenic(chronic) = hybrid		Inorganic (mg/L)		Copper	TVS
Expiration Date of 12/31/2021		acute	chronic	Iron	WS
		Ammonia	TVS	Iron	1000(T)
		Boron	0.75	Lead	TVS
		Chloride	250	Manganese	TVS
		Chlorine	0.019	Manganese	WS
		Cyanide	0.005	Mercury	0.01(t)
		Nitrate	10	Molybdenum	160(T)
		Nitrite	0.5	Nickel	TVS
		Phosphorus	---	Selenium	TVS
		Sulfate	WS	Silver	TVS
		Sulfide	0.002	Uranium	---
				Zinc	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Uncompahgre River Basin

4b. Mainstem of the Uncompahgre River from Gunnison Road to the upstream boundary of Confluence Park.							
COGUUN04B	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
UP	Aq Life Warm 2	Temperature °C	WS-II	WS-II	Aluminum	---	---
	Recreation P		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
Other: Temporary Modification(s): Selenium(chronic) = current condition Expiration Date of 12/31/2017 Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		chlorophyll a (mg/m²)	---	---	Chromium III	50(T)	TVS
		E. Coli (per 100 mL)	---	205	Chromium VI	TVS	TVS
		Inorganic (mg/L)			Copper	TVS	TVS
			acute	chronic	Iron	---	WS
		Ammonia	TVS	TVS	Iron	---	1800(T)
		Boron	---	0.75	Lead	TVS	TVS
		Chloride	---	250	Manganese	TVS	TVS
		Chlorine	0.019	0.011	Manganese	---	WS
		Cyanide	0.005	---	Mercury	---	0.01(t)
		Nitrate	10	---	Molybdenum	---	160(T)
		Nitrite	---	0.5	Nickel	TVS	TVS
		Phosphorus	---	---	Selenium	TVS	TVS
		Sulfate	---	WS	Silver	TVS	TVS
		Sulfide	---	0.002	Uranium	---	---
					Zinc	TVS	TVS

10. All tributaries to the Uncompahgre River, including all wetlands, from a point immediately below the confluence with Dexter Creek to the South Canal near Uncompahgre, except for specific listings in Segments 1 and 11.						
COGUUN10	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation P	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		pH	6.5 - 9.0	---	Chromium III	50(T)
		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
		E. Coli (per 100 mL)	---	205	Copper	TVS
					Iron	---
		Inorganic (mg/L)			Iron	---
		acute	chronic	Lead	TVS	
		Ammonia	TVS	Manganese	TVS	
		Boron	---	Manganese	---	
		Chloride	---	Mercury	---	
		Chlorine	0.019	Molybdenum	---	
		Cyanide	0.005	Nickel	TVS	
		Nitrate	10	Selenium	TVS	
		Nitrite	---	Silver	TVS	
		Phosphorus	---	Uranium	---	
		Sulfate	---	Zinc	TVS	
		Sulfide	---	Zinc	---	

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Uncompahgre River Basin

11. Mainstem of Coal Creek from the source to the Park Ditch, mainstem of Dallas Creek from the source of the East and West Forks to the confluence with the Uncompahgre River; mainstem of Cow Creek, including all tributaries, from the Uncompahgre Wilderness Area boundary to the confluence with the Uncompahgre River; mainstems of Billy Creek, Onion Creek and Beaton Creek from their sources to their confluences with Uncompahgre River; mainstem of Beaver Creek from the source to the confluence with the East Fork of Dallas Creek; and mainstem of Pleasant Valley Creek from the source to the confluence with Dallas Creek.

COGUUN11	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	---
	Recreation P		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		pH	6.5 - 9.0	---	Chromium III	50(T)	TVS
		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS	TVS
		E. Coli (per 100 mL)	---	205	Copper	TVS	TVS
					Iron	---	WS
		Inorganic (mg/L)			Iron	---	1000(T)
					Lead	TVS	TVS
					Manganese	TVS	TVS
		Ammonia	TVS	TVS	Manganese	---	WS
		Boron	---	0.75	Mercury	---	0.01(t)
		Chloride	---	250	Molybdenum	---	160(T)
		Chlorine	0.019	0.011	Nickel	TVS	TVS
		Cyanide	0.005	---	Selenium	TVS	TVS
		Nitrate	10	---	Silver	TVS	TVS(tr)
		Nitrite	---	0.05	Uranium	---	---
		Phosphorus	---	---	Zinc	TVS	TVS
Sulfate	---	WS					
Sulfide	---	0.002					

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Gunnison Basin

7b. Mainstem of Surface Creek from the point of diversion of water supply to the confluence with Tongue Creek; mainstem of Tongue Creek from its inception at the confluence of Ward Creek and Dirty George Creek to the confluence with the Gunnison River; mainstem of Youngs Creek from the national forest boundary to the confluence with Kiser Creek; mainstem of Kiser Creek from the national forest boundary to the confluence with Youngs Creek.						
COGULG07B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation P		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		pH	6.5 - 9.0	---	Chromium III	50(T)
		chlorophyll a (mg/m2)	---	---	Chromium VI	TVS
		E. Coli (per 100 mL)	---	205	Copper	TVS
					Iron	---
		Inorganic (mg/L)			Iron	---
			acute	chronic	Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	---	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002	Zinc	---

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

San Miguel River Basin

8. Mainstem of the South Fork of the San Miguel River from its inception at the confluence of the Howard and Lake Forks to its confluence with the San Miguel River.						
COGUSM08	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture Aq Life Cold 1 Recreation E Water Supply	DM		MWAT	acute	chronic
Reviewable		CS-II		CS-II		
		acute		chronic		
Qualifiers:		D.O. (mg/L)		6.0	Beryllium	---
		D.O. (spawning)		7.0	Cadmium	TVS(tr)
		pH		6.5 - 9.0	Chromium III	50(T)
		chlorophyll a (mg/m2)		---	Chromium VI	TVS
		E. Coli (per 100 mL)		126	Copper	TVS
					Iron	---
		Inorganic (mg/L)			Iron	1000(T)
		acute		chronic	Lead	TVS
		Ammonia		TVS	Manganese	TVS
		Boron		0.75	Manganese	---
		Chloride		250	Mercury	0.01(t)
		Chlorine		0.019	Molybdenum	---
		Cyanide		0.005	Nickel	TVS
		Nitrate		10	Selenium	TVS
		Nitrite		0.05	Silver	TVS(tr)
		Phosphorus		---	Uranium	---
		Sulfate		WS	Zinc	TVS
		Sulfide		0.002		
Other:						
Temporary Modification(s):						
Arsenic(chronic) = hybrid						
Expiration Date of 12/31/2021						

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Dolores River Basin

1a. Mainstem of the Dolores River from the bridge at Bradfield Ranch (Forest Route 505, near Montezuma/Dolores County Line) to a point immediately above the confluence with Big Canyon Creek near Dove Creek.

COGULD01A	Classifications	Physical and Biological				Metals (ug/L)		
Designation	Agriculture	DM		MWAT		acute		chronic
Reviewable	Aq Life Cold 1	Temperature °C	11/1 - 3/22	13	9	Aluminum	---	---
	Recreation E	Temperature °C	3/23 - 10/31	26.6	23.8	Arsenic	340	0.02(T)
	Water Supply					Beryllium	---	---
Qualifiers:				acute	chronic	Cadmium	TVS(tr)	TVS
Other:		D.O. (mg/L)		---	6.0	Chromium III	50(T)	TVS
Temporary Modification(s):		D.O. (spawning)		---	7.0	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		pH	6.5 - 9.0	---		Copper	TVS	TVS
Expiration Date of 12/31/2021		chlorophyll a (mg/m2)		---	---	Iron	---	WS
		E. Coli (per 100 mL)		---	126	Iron	---	1000(T)
						Lead	TVS	TVS
		Inorganic (mg/L)				Manganese	TVS	TVS
				acute	chronic	Manganese	---	WS
		Ammonia		TVS	TVS	Mercury	---	0.01(t)
		Boron		---	0.75	Molybdenum	---	160(T)
		Chloride		---	250	Nickel	TVS	TVS
		Chlorine	0.019	0.011		Selenium	TVS	TVS
		Cyanide	0.005	---		Silver	TVS	TVS(tr)
		Nitrate	10	---		Uranium	TVS	16.8-30(T) ^A
		Nitrite	---	0.05		Zinc	TVS	TVS
		Phosphorus	---	---				
		Sulfate	---	WS				
		Sulfide	---	0.002				

2. Mainstem of the Dolores River from the Highway 141 road crossing near Slick Rock to the Colorado/Utah border.

COGULD02	Classifications	Physical and Biological				Metals (ug/L)		
Designation	Agriculture	DM		MWAT		acute		chronic
Reviewable	Aq Life Warm 1	Temperature °C	WS-II	WS-II		Aluminum	---	---
	Recreation E		acute	chronic		Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	5.0		Beryllium	---	---
Qualifiers:		pH	6.5 - 9.0	---		Cadmium	TVS	TVS
Other:		chlorophyll a (mg/m2)	---	---		Chromium III	50(T)	TVS
Temporary Modification(s):		E. Coli (per 100 mL)	---	126		Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		Inorganic (mg/L)				Copper	TVS	TVS
Expiration Date of 12/31/2021				acute	chronic	Iron	---	WS
		Ammonia		TVS	TVS	Iron	---	1000(T)
		Boron		---	0.75	Lead	TVS	TVS
		Chloride		---	250	Manganese	TVS	TVS
		Chlorine	0.019	0.011		Manganese	---	WS
		Cyanide	0.005	---		Mercury	---	0.01(t)
		Nitrate	10	---		Molybdenum	---	160(T)
		Nitrite	---	0.5		Nickel	TVS	TVS
		Phosphorus	---	---		Selenium	TVS	TVS
		Sulfate	---	WS		Silver	TVS	TVS
		Sulfide	---	0.002		Uranium	TVS	16.8-30(T) ^A
						Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

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Office of the Attorney General

Tracking number: 2016-00379

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 01/09/2017

5 CCR 1002-35

**REGULATION NO. 35 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR GUNNISON AND
LOWER DOLORES RIVER BASINS**

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 19, 2017 14:56:35

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-36

Rule title

5 CCR 1002-36 REGULATION NO. 36 - CLASSIFICATIONS AND NUMERIC
STANDARDS FOR RIO GRANDE BASIN 1 - eff 06/30/2017

Effective date

06/30/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 36 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR RIO GRANDE BASIN

5 CCR 1002-36

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36.7 – 36.9 RESERVED

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36.39 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 12, 2016 RULEMAKING; FINAL ACTION JANUARY 9, 2017; EFFECTIVE DATE JUNE 30, 2017

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

BASIS AND PURPOSE

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2018, to determine whether the temporary modification should be modified, eliminated or extended.

Temporary modifications of standards on Rio Grande Segment 4a and Segment 7 which expire 12/31/2018, were reviewed. The commission took no action on the temporary modifications on these two segments impacted by the historic Creede mining district. Both the Town of Creede and Rio Grande Silver continue to make progress on resolving the uncertainty.

New Temporary Modifications of the Arsenic Standard, Closed Basin segment 3. Consistent with the actions taken in 2013, the commission adopted a temporary modification of the arsenic standard on this segment with an expiration date of 12/31/2021. At the April 8, 2013 rulemaking, the commission heard testimony that concurred with the finding from a December 13, 2011 hearing that an initial reasonable lower limit of treatment technology for arsenic is 3.0 µg/L, pending further investigation by the division, dischargers and stakeholders. The temporary modification was established by the commission to allow for a temporarily less stringent application of the chronic arsenic standard in control requirements for both existing discharges and new or increased discharges.

Closed Basin Segment 3

PARTIES TO THE RULEMAKING HEARING

1. Colorado Parks and Wildlife
2. Resurrection Mining Company
3. Public Service Company of Colorado
4. City of Pueblo
5. Peabody Sage Creek Mining Company and Seneca Coal Company
6. Tri-State Generation and Transmission Association, Inc.

7. Climax Molybdenum Company
8. Rio Grande Silver, Inc.
9. Mt. Emmons Mining Company
10. Plum Creek Water Reclamation Authority
11. Environmental Protection Agency
12. Raytheon Company
13. City of Boulder Open Space and Mountain Parks
14. High Country Conservation Advocates
15. City of Colorado Springs and Colorado Springs Utilities
16. City of Black Hawk and Black Hawk/Central City Sanitation District
17. Town of Crested Butte and Coal Creek Watershed Coalition
18. Parker Water and Sanitation District

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL COMMISSION**

5 CCR 1002-36

**REGULATION NO. 36
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
RIO GRANDE BASIN**

**APPENDIX 36-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2017

REGULATION #36 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Rio Grande River Basin

4a. Mainstem of the Rio Grande from a point immediately above the confluence with Willow Creek to a point immediately above the confluence with the South Fork Rio Grande.					
CORGRG04A	Classifications	Physical and Biological		Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	7.0	Cadmium	varies*
Other:		pH	6.5 - 9.0	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	126	Copper	TVS
Expiration Date of 12/31/2021				Iron	WS
Cadmium(chronic) = current condition		Inorganic (mg/L)		Iron	1000(T)
Lead(chronic) = current condition		acute	chronic	Lead	TVS
Zinc(chronic) = current condition		Ammonia	TVS	Manganese	TVS
Ammonia(ac/ch) = current condition		Boron	0.75	Mercury	0.01(T)
Expiration Date of 12/31/2018		Chloride	250	Molybdenum	160(T)
*Cadmium(acute) = See 36.6(4) for site-specific standards and assessment locations.		Chlorine	0.019	Nickel	TVS
*Cadmium(chronic) = See 36.6(4) for site-specific standards and assessment locations.		Cyanide	0.005	Selenium	TVS
*Lead(chronic) = See 36.6(4) for site-specific standards and assessment locations.		Nitrate	10	Silver	TVS
*Manganese(chronic) = See 36.6(4) for site-specific standards and assessment locations.		Nitrite	0.05	Uranium	---
Zinc(acute) = See 36.6(4) for site-specific standards and assessment locations.		Phosphorus	---	Zinc	varies
*Zinc(chronic) = See 36.6(4) for site-specific standards and assessment locations.		Sulfate	WS		
		Sulfide	0.002		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr=trout
sc=sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 34.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #36 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Rio Grande River Basin

7. Mainstem of West Willow Creek from the Park Regent Mine dump to the confluence with East Willow Creek. Mainstem of Willow Creek, including all tributaries from the confluence of East and West Willow Creeks, to the confluence with the Rio Grande.					
CORGRG07	Classifications	Physical and Biological		Metals (ug/L)	
Designation		DM	MWAT	acute	chronic
UP	Agriculture				
	Aq Life Cold 2	Temperature °C	CS-II CS-II	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340 100(T)
Qualifiers:		D.O. (mg/L)	---	Beryllium	---
Other:		D.O. (spawning)	---	Cadmium	varies* varies*
Temporary Modification(s):		pH	6.5 - 9.0	Chromium III	TVS TVS
Cadmium(ac/ch) = varies*		chlorophyll a (mg/m ²)	---	Chromium III	---
Copper(ac/ch) = varies*		E. Coli (per 100 mL)	---	Chromium VI	TVS TVS
Lead(ac/ch) = varies*				Copper	varies* varies*
Silver(acute) = varies*				Iron	---
Zinc(ac/ch) = varies*		Inorganic (mg/L)		Lead	varies* varies*
Ammonia(ac/ch) = current condition			acute	Manganese	varies* varies*
Expiration Date of 12/31/2018		Ammonia	TVS	Mercury	---
		Boron	---	Molybdenum	---
		Chloride	---	Nickel	TVS TVS
		Chlorine	---	Selenium	TVS TVS
		Cyanide	0.005	Silver	varies* TVS
		Nitrate	100	Uranium	---
		Nitrite	---	Zinc	varies* varies*
		Phosphorus	---		
		Sulfate	---		
		Sulfide	---		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr=trout
sc=sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 34.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

REGULATION #36 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Closed Basin-San Luis Valley River Basin

3. All tributaries to the Closed Basin excluding the listings in segments 2a, 2b, 2c, and 4 through 13.						
CORGCBO3	Classifications	Physical and Biological			Metals (ug/L)	
Designation		DM	MWAT		acute	chronic
Reviewable	Aq Life Warm 1	WS-II	WS-II	Aluminum	---	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	---	5.0	Beryllium	---	---
Qualifiers:		pH	6.5 - 9.0	Cadmium	TVS	TVS
Other:		chlorophyll a (mg/m2)	---	Chromium III	50(T)	TVS
		E. Coli (per 100 mL)	---	Chromium VI	TVS	TVS
Temporary Modification(s):		Inorganic (mg/L)		Copper	TVS	TVS
Arsenic(chronic) = hybrid		acute	chronic	Iron	---	WS
Expiration Date of 12/31/2021		Ammonia	TVS	Iron	---	1000(T)
		Boron	---	Lead	TVS	TVS
		Chloride	---	Manganese	TVS	TVS
		Chlorine	0.019	Manganese	---	WS
		Cyanide	0.005	Mercury	---	0.01(t)
		Nitrate	10	Molybdenum	---	160(T)
		Nitrite	---	Nickel	TVS	TVS
		Phosphorus	---	Selenium	TVS	TVS
		Sulfate	---	Silver	TVS	TVS
		Sulfide	---	Uranium	---	---
				Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr=trout
sc=sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 34.6 for details on TVS, TVS(tr), TVS(sc), WS, temperature standards.

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Tracking number: 2016-00380

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 01/09/2017

5 CCR 1002-36

**REGULATION NO. 36 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR RIO GRANDE
BASIN**

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 19, 2017 14:56:46

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-37

Rule title

5 CCR 1002-37 REGULATION NO. 37 - CLASSIFICATIONS AND NUMERIC
STANDARDS FOR LOWER COLORADO RIVER BASIN 1 - eff 06/30/2017

Effective date

06/30/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 37 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR LOWER COLORADO RIVER BASIN

5 CCR 1002-37

....

37.7 – 37.9 RESERVED

....

37.37 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 12, 2016 RULEMAKING; FINAL ACTION JANUARY 9, 2017; EFFECTIVE DATE JUNE 30, 2017

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

BASIS AND PURPOSE

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2018, to determine whether the temporary modifications should be modified, eliminated or extended.

Lower Colorado Segment 4e: temporary modifications of the copper (expire 6/30/2017) and iron (expire 12/31/2017) standards on Lower Colorado Segment 4e were reviewed. Tri-State Generation and Transmission Association, Inc. presented evidence that it is making progress on the plan for eliminating the need for the temporary modifications.

IRON

The commission considered the temporary modification for iron on Lower Colorado Segment 4e, Dry Creek and all tributaries upstream of the Last Chance Ditch. Tri-State Generation and Transmission Association, Inc., originally proposed ambient-based site-specific standards for iron in this rulemaking. Preliminary data shows an ambient standard for iron is likely appropriate because in-stream conditions in minimally impacted sites exceed the table value standards (TVS) for chronic iron. The data also indicate that natural or irreversible sources of ambient iron are present within the upper reaches of Dry Creek, which are driving the instream concentrations of total recoverable iron detected at sample locations downstream of the Tri-State Rifle Station. However, due to challenges in obtaining data because of the limited/intermittent flow in Segment 4e, the dataset for this segment is small. More data is needed to accurately characterize the ambient-condition in this segment. Therefore, the commission extended the iron temporary modification on Lower Colorado Segment 4e until December 31, 2018, to allow Tri-State an additional year to collect data to calculate appropriate ambient-based iron standards.

COPPER

The commission considered the temporary modification for copper for Lower Colorado Segment 4e. Tri-State proposed extending the temporary modification. Tri-State submitted evidence that it has been collecting data to determine whether copper standards may be based on the Biotic Ligand Model (BLM).

The division recommends that a minimum of 24 samples be collected over a two-year period in order to fully capture seasonality before implementation of any BLM-based site-specific standard. The temporary modification for copper was set to expire June 30, 2017, with the assumption that since water quality data collection began in 2015, this would provide sufficient time for data to be collected prior to expiration of the temporary modification. However, due to the extremely intermittent nature of the discharge and an ephemeral stream which flows only in response to precipitation or discharge events, it has been challenging to develop a database containing a sufficient number of samples. Based on the limited number of samples available at this time, the commission determined that additional time was necessary and extended the temporary modification expiration to December 31, 2019. The extended timeframe will allow additional collection of samples in this difficult environment of limited flows. The expiration date is coordinated with the June 2019 basin hearing.

ANTIDEGRADATION

The commission reviewed the antidegradation designation for Segment 4e. Based on available water quality data that meet the requirements of Section 31.8(2)(b)(i)(B), the commission determined that Segment 4e should retain the Use Protected designation.

SUMMARY

An extension of the iron temporary modification was adopted of December 31, 2018, in order to collect additional data to develop appropriate ambient-based iron standards. An extension of the copper temporary modification was adopted of December 31, 2019, in order to continue building the existing database. The commission retained the Use Protected designation based on Section 31.8(2)(b)(i)(B).

New Temporary Modifications of the Arsenic Standard:

Consistent with the actions taken in 2013, the commission adopted a temporary modification of the arsenic standard on segments on the following list, with an expiration date of 12/31/2021. At the April 8, 2013 rulemaking, the commission heard testimony that concurred with the finding from a December 13, 2011 hearing that an initial reasonable lower limit of treatment technology for arsenic is 3.0 µg/L, pending further investigation by the division, dischargers and stakeholders. The temporary modification was established by the commission to allow for a temporarily less stringent application of the chronic arsenic standard in control requirements for both existing discharges and new or increased discharges.

Lower Yampa Segment 9
Lower Yampa Segment 12a
Lower Yampa Segment 12b
Lower Yampa Segment 12c
Lower Yampa Segment 15
White River Segment 4b
White River Segment 14a
White River Segment 20
Lower Colorado Segment 17b

PARTIES TO THE RULEMAKING HEARING

1. Colorado Parks and Wildlife
2. Resurrection Mining Company
3. Public Service Company of Colorado

4. City of Pueblo
5. Peabody Sage Creek Mining Company and Seneca Coal Company
6. Tri-State Generation and Transmission Association, Inc.
7. Climax Molybdenum Company
8. Rio Grande Silver, Inc.
9. Mt. Emmons Mining Company
10. Plum Creek Water Reclamation Authority
11. Environmental Protection Agency
12. Raytheon Company
13. City of Boulder Open Space and Mountain Parks
14. High Country Conservation Advocates
15. City of Colorado Springs and Colorado Springs Utilities
16. City of Black Hawk and Black Hawk/Central City Sanitation District
17. Town of Crested Butte and Coal Creek Watershed Coalition
18. Parker Water and Sanitation District

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL COMMISSION**

5 CCR 1002-37

**REGULATION NO. 37
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
LOWER COLORADO RIVER BASIN**

**APPENDIX 37-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2017

REGULATION #37 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Yampa/Green River

9. Mainstems of the East and South Forks of the Williams Fork River, including all wetlands and tributaries, which are within the boundary of Routt National Forest, except for the specific listings in Segment 8 and 12c.

COLCLY09	Classifications	Physical and Biological		Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I CS-I	Aluminum	---
	Recreation P	acute	chronic	Arsenic	340 0.02(T)
	Water Supply	D.O. (mg/L)	---	Beryllium	---
Qualifiers:		D.O. (spawning)	---	Cadmium	TVS(tr) TVS
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		pH	6.5 - 9.0	Chromium III	50(T) TVS
		chlorophyll a (mg/m2)	---	Chromium VI	TVS TVS
		E. Coli (per 100 mL)	---	Copper	TVS TVS
				Iron	---
				Iron	---
		Inorganic (mg/L)		Lead	TVS TVS
		acute	chronic	Manganese	TVS TVS
		Ammonia	TVS TVS	Manganese	---
		Boron	---	Mercury	---
		Chloride	---	Molybdenum	---
		Chlorine	0.019 0.011	Nickel	TVS TVS
		Cyanide	0.005	Selenium	TVS TVS
		Nitrate	10	Silver	TVS TVS(tr)
		Nitrite	---	Uranium	---
		Phosphorus	---	Zinc	TVS TVS
		Sulfate	---		
		Sulfide	---		

12a. Mainstem of the South Fork of the Williams Fork River and Beaver Creek, including all tributaries and wetlands, from the boundary of Routt National Forest to their mouths, Milk Creek including all tributaries and wetlands from its source to a point just below the confluence with Clear Creek. Morapos Creek including all wetlands and tributaries from the source to the confluence with the Williams Fork River.

COLCLY12A	Classifications	Physical and Biological		Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I CS-I	Aluminum	---
	Recreation P	acute	chronic	Arsenic	340 0.02(T)
	Water Supply	D.O. (mg/L)	---	Beryllium	---
Qualifiers:		D.O. (spawning)	---	Cadmium	TVS(tr) TVS
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021		pH	6.5 - 9.0	Chromium III	50(T) TVS
		chlorophyll a (mg/m2)	---	Chromium VI	TVS TVS
		E. Coli (per 100 mL)	---	Copper	TVS TVS
				Iron	---
				Iron	---
		Inorganic (mg/L)		Lead	TVS TVS
		acute	chronic	Manganese	TVS TVS
		Ammonia	TVS TVS	Manganese	---
		Boron	---	Mercury	---
		Chloride	---	Molybdenum	---
		Chlorine	0.019 0.011	Nickel	TVS TVS
		Cyanide	0.005	Selenium	TVS TVS
		Nitrate	10	Silver	TVS TVS(tr)
		Nitrite	---	Uranium	---
		Phosphorus	---	Zinc	TVS TVS
		Sulfate	---		
		Sulfide	---		

REGULATION #37 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Yampa/Green River

12b. Milk Creek including all tributaries and wetlands from a point just below the confluence with Clear Creek to Thornburgh (County Rd 15).						
COLCLY12B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation P	acute	chronic		Arsenic	340
Qualifiers:		D.O. (mg/L)	---	6.0	Beryllium	---
Other:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Temporary Modification(s):		pH	6.5 - 9.0	---	Chromium III	TVS
Arsenic(chronic) = hybrid		chlorophyll a (mg/m2)	---	150	Chromium III	---
Expiration Date of 12/31/2021		E. Coli (per 100 mL)	---	205	Chromium VI	TVS
					Copper	TVS
		Inorganic (mg/L)			Iron	---
		acute	chronic		Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Mercury	---
		Chloride	---	250	Molybdenum	---
		Chlorine	0.019	0.011	Nickel	TVS
		Cyanide	0.005	---	Selenium	TVS
		Nitrate	10	---	Silver	TVS
		Nitrite	---	0.05	Uranium	---
		Phosphorus	---	0.11	Zinc	TVS
		Sulfate	---	---		
		Sulfide	---	0.002		

12c. Mainstem of Beaver Creek, including all wetlands and tributaries, which are within the Routt National Forest.						
COLCLY12C	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
OW	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation P	acute	chronic		Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	205	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
		Inorganic (mg/L)			Iron	1000(T)
		acute	chronic		Lead	TVS
		Ammonia	TVS	TVS	Manganese	---
		Boron	---	0.75	Manganese	TVS
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

REGULATION #37 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Yampa/Green River

15. Those portions of the Little Snake River which are in Colorado, from its first crossing of the Colorado/Wyoming border to a point immediately above the confluence with Powder Wash (Moffatt County).						
COLCLY15	Classifications	Physical and Biological		Metals (ug/L)		
Designation		DM	MWAT	acute	chronic	
Reviewable	Agriculture					
	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
					Iron	WS
		Inorganic (mg/L)			Iron	---
		acute	chronic	Lead	TVS	1000(T)
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	WS
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	0.01(t)
		Nitrate	10	---	Selenium	---
		Nitrite	---	0.05	Silver	160(T)
		Phosphorus	---	0.11	Uranium	TVS
		Sulfate	---	WS	Zinc	TVS(tr)
		Sulfide	---	0.002	Zinc	---
						TVS(sc)

REGULATION #37 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

White River

4b. Mainstems of Lost Creek and Snell Creek, including all wetlands and tributaries, from the Flat Tops Wilderness area to the boundary of the White River National Forest.						
COLCWH04B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
OW	Aq Life Cold 1	Temperature °C	CS-I CS-I	Aluminum	---	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	Copper	TVS	TVS
Expiration Date of 12/31/2021				Iron	---	WS
		Inorganic (mg/L)		Iron	---	1000(T)
		acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	Manganese	TVS	TVS
		Boron	---	Manganese	---	WS
		Chloride	---	Mercury	---	0.01(t)
		Chlorine	0.019	Molybdenum	---	160(T)
		Cyanide	0.005	Nickel	TVS	TVS
		Nitrate	10	Selenium	TVS	TVS
		Nitrite	---	Silver	TVS	TVS(tr)
		Phosphorus	---	Uranium	---	---
		Sulfate	---	Zinc	TVS	TVS
		Sulfide	---			

14a. Mainstem of Piceance Creek from the source to a point just below the confluence with Hunter Creek.						
COLCWH14A	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I CS-I	Aluminum	---	---
	Recreation P	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	Chromium III	50(T)	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	Copper	TVS	TVS
Expiration Date of 12/31/2021				Iron	---	WS
		Inorganic (mg/L)		Iron	---	1000(T)
		acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	Manganese	TVS	TVS
		Boron	---	Manganese	---	WS
		Chloride	---	Mercury	---	0.01(t)
		Chlorine	0.019	Molybdenum	---	160(T)
		Cyanide	0.005	Nickel	TVS	TVS
		Nitrate	10	Selenium	TVS	TVS
		Nitrite	---	Silver	TVS	TVS(tr)
		Phosphorus	---	Uranium	---	---
		Sulfate	---	Zinc	TVS	TVS
		Sulfide	---			

REGULATION #37 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

White River

20. Mainstems of Black Sulphur Creek including all tributaries and wetlands from the source to the confluence with Piceance Creek.					
COLCWH20	Classifications	Physical and Biological		Metals (ug/L)	
Designation		DM	MWAT	acute	chronic
Reviewable	Agriculture				
	Aq Life Cold 1	Temperature °C	CS-I CS-I	Aluminum	--- ---
	Recreation P	acute	chronic	Arsenic	340 0.02(T)
	Water Supply	D.O. (mg/L)	--- 6.0	Beryllium	--- ---
Qualifiers:		D.O. (spawning)	--- 7.0	Cadmium	TVS(tr) TVS
Other:		pH	6.5 - 9.0 ---	Chromium III	50(T) TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	--- ---	Chromium VI	TVS TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	--- 205	Copper	TVS TVS
Expiration Date of 12/31/2021				Iron	--- WS
		Inorganic (mg/L)		Iron	--- 1000(T)
		acute	chronic	Lead	TVS TVS
		Ammonia	TVS TVS	Manganese	TVS TVS
		Boron	--- 0.75	Manganese	--- WS
		Chloride	--- 250	Mercury	--- 0.01(t)
		Chlorine	0.019 0.011	Molybdenum	--- 160(T)
		Cyanide	0.005 ---	Nickel	TVS TVS
		Nitrate	10 ---	Selenium	TVS TVS
		Nitrite	--- 0.05	Silver	TVS TVS(tr)
		Phosphorus	--- 0.11	Uranium	--- ---
		Sulfate	--- WS	Zinc	TVS TVS
		Sulfide	--- 0.002		

REGULATION #37 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Colorado River

4e. Mainstem of Dry Creek including all tributaries and wetlands from the source to immediately above the Last Chance Ditch.						
COLCLC04E	Classifications	Physical and Biological			Metals (ug/L)	
Designation		DM	MWAT		acute	chronic
UP	Agriculture					
	Aq Life Cold 2	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation N	acute	chronic		Arsenic	340
Qualifiers:		D.O. (mg/L)	---	5.0	Beryllium	---
Other:		pH	6.5 - 9.0	---	Cadmium	TVS
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	---	Chromium III	TVS
Copper(ac/ch) = current conditions		E. Coli (per 100 mL)	---	630	Chromium III	---
Expiration Date of 12/31/2019		Inorganic (mg/L)			Chromium VI	TVS
Iron(chronic) = current conditions		acute	chronic		Copper	TVS
Expiration Date of 12/31/2018		Ammonia	TVS	TVS	Iron	---
		Boron	---	0.75	Lead	TVS
		Chloride	---	---	Manganese	TVS
		Chlorine	0.019	0.011	Mercury	---
		Cyanide	0.005	---	Molybdenum	---
		Nitrate	100	---	Nickel	TVS
		Nitrite	---	0.05	Selenium	TVS
		Phosphorus	---	0.11*	Silver	TVS
		Sulfate	---	---	Uranium	---
		Sulfide	---	0.002	Zinc	TVS

17b. Rapid Creek, including all tributaries and wetlands, from a point immediately below the confluence with Cottonwood Creek to the confluence with the Colorado River.						
COLCLC17B	Classifications	Physical and Biological			Metals (ug/L)	
Designation		DM	MWAT		acute	chronic
Reviewable	Agriculture					
	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation P	acute	chronic		Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Chromium III	50(T)
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	150	Chromium VI	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	205	Copper	TVS
Expiration Date of 12/31/2021					Iron	---
		Inorganic (mg/L)			Iron	---
		acute	chronic		Lead	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Manganese	---
		Chloride	---	250	Mercury	---
		Chlorine	0.019	0.011	Molybdenum	---
		Cyanide	0.005	---	Nickel	TVS
		Nitrate	10	---	Selenium	TVS
		Nitrite	---	0.05	Silver	TVS
		Phosphorus	---	0.11	Uranium	---
		Sulfate	---	WS	Zinc	TVS
		Sulfide	---	0.002		

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Office of the Attorney General

Tracking number: 2016-00381

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 01/09/2017

5 CCR 1002-37

**REGULATION NO. 37 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR LOWER
COLORADO RIVER BASIN**

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 19, 2017 14:56:56

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-38

Rule title

5 CCR 1002-38 REGULATION NO. 38 - CLASSIFICATIONS AND NUMERIC
STANDARDS SOUTH PLATTE RIVER BASIN LARAMIE RIVER BASIN REPUBLICAN
RIVER BASIN SMOKY HILL RIVER BASIN 1 - eff 06/30/2017

Effective date

06/30/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 38 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR SOUTH PLATTE RIVER BASIN, LARAMIE RIVER BASIN, REPUBLICAN RIVER BASIN, SMOKY HILL RIVER BASIN

5 CCR 1002-38

....

38.8 – 38.9 RESERVED

....

38.94 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 12, 2016 RULEMAKING; FINAL ACTION JANUARY 9, 2017; EFFECTIVE DATE JUNE 30, 2017

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

BASIS AND PURPOSE

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2018, to determine whether the temporary modifications should be modified, eliminated or extended.

Current temporary modifications of standards on three segments were reviewed.

No action: The commission took no action on the temporary modifications on the following segments.

Upper South Platte Segment 3: temporary modification of the ammonia standards (expire 12/31/2017) below the Florissant Waste Water Treatment Facility. The Town of Florissant obtained funding to upgrade its facility and a progress report indicated the facility is on track to comply with ammonia effluent limits.

Upper South Platte Segment 10a: temporary modification of the copper standards (expire 12/31/2018) below the Plum Creek Water Reclamation facility outfall. PCWRA continues to make progress on data collection for a Biotic Ligand Model (BLM) based site specific standard.

Clear Creek Segment 13b: temporary modification of the cadmium standard (expire 12/31/2018). Black Hawk/Central City Sanitation District continues to make progress on resolving the uncertainty.

New Temporary Modifications

St Vrain Segments 6 and 7: temporary modifications of the total recoverable and dissolved iron standards and the dissolved manganese standard were added to these

segments. Raytheon presented evidence regarding uncertainty of these standards and a compliance problem. These temporary modifications will expire on 12/31/2020 and will be reviewed beginning in 2018.

New Temporary Modifications of the Arsenic Standard:

Consistent with the actions taken in 2013, the commission adopted a temporary modification of the arsenic standard on segments on the following list, with an expiration date of 12/31/2021. At the April 8, 2013 rulemaking, the commission heard testimony that concurred with the finding from a December 13, 2011 hearing that an initial reasonable lower limit of treatment technology for arsenic is 3.0 µg/L, pending further investigation by the division, dischargers and stakeholders. The temporary modification was established by the commission to allow for a temporarily less stringent application of the chronic arsenic standard in control requirements for both existing discharges and new or increased discharges.

Upper South Platte Segment 16b
Upper South Platte Segment 19
Cherry Creek Segment 2
Clear Creek Segment 2b
Clear Creek Segment 6
Clear Creek Segment 12b
Big Dry Creek Segment 2
Boulder Creek Segment 17
St Vrain Segment 4a
St Vrain Segment 12
Middle South Platte Segment 7
Big Thompson Segment 14
Big Thompson Segment 16
Big Thompson Segment 17
Cache la Poudre Segment 7
Republican Segment 1

PARTIES TO THE RULEMAKING HEARING

1. Colorado Parks and Wildlife
2. Resurrection Mining Company
3. Public Service Company of Colorado
4. City of Pueblo
5. Peabody Sage Creek Mining Company and Seneca Coal Company
6. Tri-State Generation and Transmission Association, Inc.
7. Climax Molybdenum Company
8. Rio Grande Silver, Inc.
9. Mt. Emmons Mining Company
10. Plum Creek Water Reclamation Authority
11. Environmental Protection Agency
12. Raytheon Company
13. City of Boulder Open Space and Mountain Parks
14. High Country Conservation Advocates
15. City of Colorado Springs and Colorado Springs Utilities
16. City of Black Hawk and Black Hawk/Central City Sanitation District
17. Town of Crested Butte and Coal Creek Watershed Coalition
18. Parker Water and Sanitation District

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL COMMISSION**

5 CCR 1002-38

**REGULATION NO. 38
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
SOUTH PLATTE RIVER BASIN, LARAMIE RIVER BASIN
REPUBLICAN RIVER BASIN, SMOKY HILL RIVER BASIN**

**APPENDIX 38-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2017

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper South Platte River Basin

3. All tributaries to the South Platte River, including all wetlands from a point immediately below the confluence with Tarryall Creek to a point immediately above the confluence with the North Fork of the South Platte River, except for specific listings in Segment 1b.

COSPUS03	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT		acute	chronic	
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	---
	Recreation E	acute	chronic		Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)	TVS
Other:		pH	6.5 - 9.0	---	Cadmium	5.0(T)	---
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	150*	Chromium III	50(T)	TVS
Ammonia(ac/ch) = current condition*		E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
Expiration Date of 12/31/2017					Copper	TVS	TVS
Arsenic(chronic) = hybrid		Inorganic (mg/L)			Iron	---	WS
Expiration Date of 12/31/2021			acute	chronic	Iron	---	1000(T)
*chlorophyll a (mg/m ²)(chronic) = applies only above the facilities listed at 38.5(4).		Ammonia	TVS	TVS	Lead	TVS	TVS
*Phosphorus(chronic) = applies only above the facilities listed at 38.5(4).		Boron	---	0.75	Lead	50(T)	---
*TempMod: Ammonia = below the Florissant Wastewater Treatment Facility outfall.		Chloride	---	250	Manganese	TVS	TVS
		Chlorine	0.019	0.011	Manganese	---	WS
		Cyanide	0.005	---	Mercury	---	0.01(t)
		Nitrate	10	---	Molybdenum	---	150(T)
		Nitrite	---	0.05	Nickel	TVS	TVS
		Phosphorus	---	0.11*	Nickel	---	100(T)
		Sulfate	---	WS	Selenium	TVS	TVS
		Sulfide	---	0.002	Silver	TVS	TVS(tr)
					Uranium	---	---
					Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper South Platte River Basin

10a. Mainstems of East Plum Creek, West Plum Creek, and Plum Creek from the boundary of National Forest lands to Chatfield Reservoir, mainstems of Stark Creek and Gove Creek from the boundary of National Forest lands to their confluence.

COSPUS10A	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT		acute	chronic	
Reviewable	Aq Life Warm 1	Temperature °C	WS-I	WS-I	Aluminum	---	---
	Recreation E	acute	chronic		Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
Other:		chlorophyll a (mg/m ²)	---	150*	Cadmium	5.0(T)	---
Temporary Modification(s):		E. Coli (per 100 mL)	---	126	Chromium III	50(T)	TVS
Arsenic(chronic) = hybrid		Inorganic (mg/L)			Chromium VI	TVS	TVS
Expiration Date of 12/31/2021		acute	chronic		Copper	TVS	TVS
Copper(ac/ch) = current condition*		Ammonia	TVS	TVS	Iron	---	WS
Expiration Date of 12/31/2018		Boron	---	0.75	Iron	---	1000(T)
Manganese(chronic) = current condition*		Chloride	---	250	Lead	TVS	TVS
Expiration Date of 6/30/2019		Chlorine	0.019	0.011	Lead	50(T)	---
temperature(DM/MWAT) = current condition*	12/1 - 2/29	Cyanide	0.005	---	Manganese	TVS	TVS
Expiration Date of 12/31/2020		Nitrate	10	---	Manganese	---	WS
*chlorophyll a (mg/m ²)(chronic) = applies only above the facilities listed at 38.5(4).		Nitrite	---	0.5	Mercury	---	0.01(t)
Phosphorus(chronic) = applies only above the facilities listed at 38.5(4).		Phosphorus	---	0.17	Molybdenum	---	150(T)
*TempMod: Copper = East Plum Creek and Plum Creek below the PCWRA discharge.		Sulfate	---	WS	Nickel	TVS	TVS
*TempMod: Manganese = applies to the manganese WS standard.		Sulfide	---	0.002	Nickel	---	100(T)
*TempMod: temperature(12/1 - 2/29) = East Plum Creek and Plum Creek below the PCWRA discharge.					Selenium	TVS	TVS
					Silver	TVS	TVS
					Uranium	---	---
					Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper South Platte River Basin

16b. Aurora Reservoir.						
COSPUS16B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute chronic		
Reviewable	Aq Life Warm 1	Temperature °C	WL	WL	Aluminum	--- ---
	Recreation E		acute	chronic	Arsenic	340 0.02(T)
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	--- ---
	DUWS	pH	6.5 - 9.0	---	Cadmium	TVS TVS
Qualifiers:		chlorophyll a (ug/L)	---	---	Cadmium	5.0(T) ---
Other:		E. Coli (per 100 mL)	---	126	Chromium III	50(T) TVS
Temporary Modification(s):		Inorganic (mg/L)			Chromium VI	TVS TVS
Arsenic(chronic) = hybrid			acute	chronic	Copper	TVS TVS
Expiration Date of 12/31/2021		Ammonia	TVS	TVS	Iron	--- WS
		Boron	---	0.75	Iron	--- 1000(T)
		Chloride	---	250	Lead	TVS TVS
		Chlorine	0.019	0.011	Lead	50(T) ---
		Cyanide	0.005	---	Manganese	--- TVS
		Nitrate	10	---	Manganese	TVS WS
		Nitrite	---	0.5	Mercury	--- 0.01(t)
		Phosphorus	---	---	Molybdenum	--- 150(T)
		Sulfate	---	WS	Nickel	TVS TVS
		Sulfide	---	0.002	Nickel	--- 100(T)
					Selenium	TVS TVS
					Silver	TVS TVS
					Uranium	--- ---
					Zinc	TVS TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

Upper South Platte River Basin

19. Lakes and reservoirs in the South Platte River system from headwaters to Chatfield Reservoir, except for specific listings in Segment 18. Includes Antero, Spinney Mountain, Elevenmile, Cheesman, and Strontia Springs.

COSPUS19	Classifications	Physical and Biological				Metals (ug/L)		
Designation	Agriculture			DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	3/1 - 12/31	CLL *	25.0*	Aluminum	---	---
	Recreation E	Temperature °C	4/1 - 12/31	CLL *	19.6*	Arsenic	340	0.02(T)
	Water Supply	Temperature °C	4/1 - 12/31	CLL *	19.8* ^B	Beryllium	---	---
	DUWS*	Temperature °C	4/1 - 12/31	CLL *	20.2*	Cadmium	TVS(tr)	TVS
Qualifiers:		Temperature °C	4/1 - 12/31	CLL *	21.9*	Cadmium	5.0(T)	---
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021 *chlorophyll a (ug/L)(chronic) = applies only above the facilities listed at 38.5(4), applies only to lakes and reservoirs larger than 25 acres surface area. *Classification: DUWS applies to Strontia Springs only. *Phosphorus(chronic) = applies only above the facilities listed at 38.5(4), applies only to lakes and reservoirs larger than 25 acres surface area. *Temperature(3/1 - 12/31) = Platte Canyon Res (MWAT=25.0) *Temperature(4/1 - 12/31) = Antero Reservoir (MWAT=19.6) *Temperature(4/1 - 12/31) = Elevenmile Reservoir (MWAT=19.8) *Temperature(4/1 - 12/31) = Spinney Mt Reservoir (MWAT=20.2) *Temperature(4/1 - 12/31) = Cheesman Reservoir (MWAT=21.9) *Temperature(4/1 - 12/31) = Strontia Springs Res (MWAT=22.6)		Temperature °C	4/1 - 12/31	CLL *	22.6*	Chromium III	50(T)	TVS
		Temperature °C		CL,CLL	CL,CLL	Chromium VI	TVS	TVS
				acute	chronic	Copper	TVS	TVS
		D.O. (mg/L)	---	6.0	Iron	---	WS	
		D.O. (spawning)	---	7.0	Iron	---	1000(T)	
		pH	6.5 - 9.0	---	Lead	TVS	TVS	
		chlorophyll a (ug/L)	---	8*	Lead	50(T)	---	
		E. Coli (per 100 mL)	---	126	Manganese	TVS	TVS	
					Manganese	---	WS	
		Inorganic (mg/L)				Mercury	---	0.01(t)
				acute	chronic	Molybdenum	---	150(T)
		Ammonia	TVS	TVS	Nickel	TVS	TVS	
		Boron	---	0.75	Nickel	---	100(T)	
		Chloride	---	250	Selenium	TVS	TVS	
		Chlorine	0.019	0.011	Silver	TVS	TVS(tr)	
		Cyanide	0.005	---	Uranium	---	---	
Nitrate	10	---	Zinc	TVS	TVS			
Nitrite	---	0.05						
Phosphorus	---	0.025*						
Sulfate	---	WS						
Sulfide	---	0.002						

T = total recoverable

t = total

| tr = trout |

DM = daily maximum

MWAT = maximum weekly average temperature

See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Cherry Creek Basin

2. Cherry Creek Reservoir.						
COSPC02	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM		MWAT	acute	chronic
Reviewable	Aq Life Warm 1	Temperature °C	WL	WL	Aluminum	---
	Recreation E	acute	chronic		Arsenic	340
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS
Other:		chlorophyll a (ug/L)	7/1 - 9/30	---	Cadmium	5.0(T)
Temporary Modification(s):		E. Coli (per 100 mL)	---	126	Chromium III	50(T)
Arsenic(chronic) = hybrid		Inorganic (mg/L)			Chromium VI	TVS
Expiration Date of 12/31/2021		acute	chronic		Copper	TVS
		Ammonia	TVS	TVS	Iron	---
		Boron	---	0.75	Iron	---
		Chloride	---	250	Lead	TVS
		Chlorine	0.019	0.011	Lead	50(T)
		Cyanide	0.005	---	Manganese	TVS
		Nitrate	10	---	Manganese	---
		Nitrite	---	0.5	Mercury	---
		Phosphorus	---	---	Molybdenum	---
		Sulfate	---	WS	Nickel	TVS
		Sulfide	---	0.002	Nickel	---
					Selenium	TVS
					Silver	TVS
					Uranium	---
					Zinc	TVS

*chlorophyll a (ug/L)(chronic) = Season mean concentration measured in the upper three meters of the water column for the months of July through September with an exceedance frequency of once in five years.

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Clear Creek Basin

2b. Mainstem of Clear Creek, including all tributaries and wetlands, from the confluence with West Fork Clear Creek to a point just below the confluence with Mill Creek, except for specific listings in Segments 4 through 8.

COSPCL02B	Classifications	Physical and Biological		Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic
Reviewable*	Aq Life Cold 1	Temperature °C	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	Cadmium	5.0(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	150*	Chromium III	50(T)
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	126	Chromium VI	TVS
Expiration Date of 12/31/2021		Inorganic (mg/L)		Copper	TVS
		acute	chronic	Iron	WS
*chlorophyll a (mg/m2)(chronic) = applies only above the facilities listed at 38.5(4).		Ammonia	TVS	Iron	1000(T)
*Designation: 9/30/00 Baseline does not apply		Boron	0.75	Lead	TVS
*Phosphorus(chronic) = applies only above the facilities listed at 38.5(4).		Chloride	250	Lead	50(T)
		Chlorine	0.019	Manganese	TVS
		Cyanide	0.005	Manganese	WS
		Nitrate	10	Mercury	0.01(t)
		Nitrite	0.05	Molybdenum	150(T)
		Phosphorus	0.11*	Nickel	TVS
		Sulfate	WS	Nickel	100(T)
		Sulfide	0.002	Selenium	TVS
				Silver	TVS(tr)
				Uranium	---
				Zinc	TVS

All metals are dissolved unless otherwise noted.

T = total recoverable

t = total

tr = trout

D.O. = dissolved oxygen

DM = daily maximum

MWAT = maximum weekly average temperature

See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Clear Creek Basin

6. All tributaries to West Fork Clear Creek, including all wetlands, from the source to the confluence with Clear Creek, except for specific listings in Segments 7 and 8.						
COSPCLO6	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture		DM	MWAT		
Reviewable*	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other: Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021 *Designation: 9/30/00 Baseline does not apply		pH	6.5 - 9.0	---	Cadmium	5.0(T)
		chlorophyll a (mg/m2)	---	150	Chromium III	50(T)
		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
					Copper	TVS
		Inorganic (mg/L)			Iron	---
			acute	chronic	Iron	---
		Ammonia	TVS	TVS	Lead	TVS
		Boron	---	0.75	Lead	50(T)
		Chloride	---	250	Manganese	TVS
		Chlorine	0.019	0.011	Manganese	---
		Cyanide	0.005	---	Mercury	---
		Nitrate	10	---	Molybdenum	---
		Nitrite	---	0.05	Nickel	TVS
		Phosphorus	---	0.11	Nickel	---
		Sulfate	---	WS	Selenium	TVS
		Sulfide	---	0.002	Silver	TVS
					Uranium	---
					Zinc	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Clear Creek Basin

12b. Beaver Brook from the source to Highway 40.						
COSPCL12B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable*	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	0.02
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Cadmium	5.0(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium III	50(T)
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
Expiration Date of 12/31/2021					Copper	TVS
		Inorganic (mg/L)			Iron	---
		acute	chronic	Iron	---	WS
		Ammonia	TVS	TVS	Lead	TVS
		Boron	---	0.75	Lead	50(T)
		Chloride	---	250	Manganese	TVS
		Chlorine	0.019	0.011	Manganese	---
		Cyanide	0.005	---	Mercury	---
		Nitrate	10	---	Molybdenum	---
		Nitrite	---	0.05	Nickel	TVS
		Phosphorus	---	0.11	Nickel	---
		Sulfate	---	WS	Selenium	TVS
		Sulfide	---	0.002	Silver	TVS
					Uranium	---
					Zinc	TVS

13b. Mainstem of North Clear Creek including all tributaries and wetlands from a point just below the confluence with Chase Gulch to the confluence with Clear Creek, except for the specific listings in Segment 13a.						
COSPCL13B	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
UP	Aq Life Cold 2	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340	100(T)
Qualifiers:		D.O. (mg/L)	---	6.0	Beryllium	---
Other:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Temporary Modification(s):		pH	6.5 - 9.0	---	Chromium III	TVS
Cadmium(chronic) = 4.7		chlorophyll a (mg/m ²)	---	150*	Chromium III	---
Expiration Date of 12/31/2018		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
temperature(DM/MWAT) = current condition					Copper	---
Expiration Date of 12/31/2020		Inorganic (mg/L)			Iron	---
		acute	chronic	Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS
		Boron	---	0.75	Mercury	---
		Chloride	---	---	Molybdenum	---
		Chlorine	0.019	0.011	Nickel	TVS
		Cyanide	0.005	---	Selenium	TVS
		Nitrate	100	---	Silver	TVS
		Nitrite	---	0.05	Uranium	---
		Phosphorus	---	0.11*	Zinc	---
		Sulfate	---	---		740
		Sulfide	---	0.002		

All metals are dissolved unless otherwise noted.

T = total recoverable

t = total

tr = trout

D.O. = dissolved oxygen

DM = daily maximum

MWAT = maximum weekly average temperature

See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Big Dry Creek Basin

2. Standley Lake.					
COSPBD02	Classifications	Physical and Biological		Metals (ug/L)	
Designation		DM	MWAT	acute	chronic
Reviewable	Agriculture	WL	WL	Aluminum	---
	Aq Life Warm 1	Temperature °C		Arsenic	340
	Recreation E	acute	chronic	Beryllium	0.02(T)
	Water Supply	D.O. (mg/L)	5.0		4.0
	DUWS	pH	6.5 - 9.0	Cadmium	TVS
Qualifiers:		chlorophyll a (ug/L)	4.0*	Cadmium	5.0(T)
Other:		E. Coli (per 100 mL)	126	Chromium III	50(T)
Temporary Modification(s): Arsenic(chronic) = hybrid Expiration Date of 12/31/2021 *chlorophyll a (ug/L)(chronic) = The trophic status of Standley Lake shall be maintained as mesotrophic as measured by a combination of common indicator parameters such as total phosphorus, chlorophyll a, secchi depth, and dissolved oxygen. Refer to Section 38.6(4)(e). *Uranium(chronic) = 3(t) Picocuries/Liter. See attached table 2 for additional standards for segment 2.		Inorganic (mg/L)		Chromium VI	TVS
		acute	chronic	Copper	TVS
		Ammonia	TVS	Iron	WS
		Boron	0.75	Iron	1000(T)
		Chloride	250	Lead	TVS
		Chlorine	0.019	Lead	50(T)
		Cyanide	0.005	Manganese	TVS
		Nitrate	10	Manganese	WS
		Nitrite	0.5	Mercury	0.01(t)
		Phosphorus	---	Molybdenum	150(T)
		Sulfate	WS	Nickel	TVS
		Sulfide	0.002	Nickel	100(T)
				Selenium	TVS
				Silver	TVS
				Uranium	3(t)*
				Zinc	TVS

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr = trout

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Boulder Creek Basin

17. All lakes and reservoirs tributary to Boulder Creek from a point immediately below the confluence with South Boulder Creek to the confluence with St. Vrain Creek, except as specified in Segments 15 and 16.									
COSPBO17	Classifications	Physical and Biological			Metals (ug/L)				
Designation	Agriculture		DM	MWAT		acute	chronic		
Reviewable	Aq Life Warm 2	Temperature °C	WL	WL	Aluminum	---	---		
	Recreation E		acute	chronic	Arsenic	340	0.02(T)		
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---	---		
	DUWS*	pH	6.5 - 9.0	---	Cadmium	TVS	TVS		
		chlorophyll a (ug/L)	---	---	Cadmium	5.0(T)	---		
Qualifiers:					Chromium III	50(T)	TVS		
Water + Fish Standards		E. Coli (per 100 mL)			---	126	Chromium VI	TVS	TVS
Other:		Inorganic (mg/L)			Copper	TVS	TVS		
						acute	chronic		
Temporary Modification(s):		Ammonia	TVS	TVS	Iron	---	WS		
Arsenic(chronic) = hybrid		Boron	---	0.75	Iron	---	1000(T)		
Expiration Date of 12/31/2021		Chloride	---	250	Lead	TVS	TVS		
		Chlorine	0.019	0.011	Lead	50(T)	---		
		Cyanide	0.005	---	Manganese	TVS	TVS		
		Nitrate	10	---	Manganese	---	WS		
		Nitrite	---	0.5	Mercury	---	0.01(t)		
		Phosphorus	---	---	Molybdenum	---	150(T)		
		Sulfate	---	WS	Nickel	TVS	TVS		
		Sulfide	---	0.002	Nickel	---	100(T)		
					Selenium	TVS	TVS		
					Silver	TVS	TVS		
					Uranium	---	---		
					Zinc	TVS	TVS		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

St. Vrain Creek Basin

4a. Mainstem of Left Hand Creek, including all tributaries and wetlands, from the source to a point immediately below the confluence with James Creek, except for specific listings in Segment 4b.						
COSPSV04A	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
UP	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---
	Recreation E	acute	chronic		Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Cadmium	5.0(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150	Chromium III	50(T)
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
Expiration Date of 12/31/2021		Inorganic (mg/L)			Copper	TVS
		acute	chronic		Iron	---
		Ammonia	TVS	TVS	Iron	---
		Boron	---	0.75	Lead	TVS
		Chloride	---	250	Lead	50(T)
		Chlorine	0.019	0.011	Manganese	TVS
		Cyanide	0.005	---	Manganese	---
		Nitrate	10	---	Mercury	---
		Nitrite	---	0.05	Mercury	0.01(t)
		Phosphorus	---	0.11	Molybdenum	---
		Sulfate	---	WS	Nickel	150(T)
		Sulfide	---	0.002	Nickel	TVS
					Selenium	TVS
					Silver	TVS
					Uranium	TVS(tr)
					Uranium	---
					Zinc	---
					Zinc	TVS

6. All tributaries to St. Vrain Creek, including wetlands from Hygiene Road to the confluence with the South Platte River, except for specific listings in the Boulder Creek subbasin and in Segments 4a, 4b, 4c and 5.						
COSPSV06	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
UP	Aq Life Warm 2	Temperature °C	WS-II	WS-II	Aluminum	---
	Recreation E	acute	chronic		Arsenic	---
Qualifiers:		D.O. (mg/L)	---	5.0	Beryllium	100(T)
Other:		pH	6.5 - 9.0	---	Cadmium	---
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Cadmium	TVS
Iron(chronic) = current condition		E. Coli (per 100 mL)	---	126	Chromium III	TVS
Manganese(ac/ch) = current condition		Inorganic (mg/L)			Chromium III	---
Expiration Date of 12/31/2020		acute	chronic		Chromium VI	100(T)
		Ammonia	TVS	TVS	Copper	TVS
		Boron	---	0.75	Iron	TVS
		Chloride	---	---	Lead	---
		Chlorine	0.019	0.011	Manganese	1000(T)
		Cyanide	0.005	---	Lead	TVS
		Nitrate	100	---	Manganese	TVS
		Nitrite	---	0.5	Mercury	---
		Phosphorus	---	---	Mercury	0.01(t)
		Sulfate	---	---	Molybdenum	---
		Sulfide	---	0.002	Molybdenum	150(T)
					Nickel	TVS
					Nickel	TVS
					Selenium	TVS
					Silver	TVS
					Uranium	TVS
					Uranium	---
					Zinc	---
					Zinc	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

St. Vrain Creek Basin

7. Boulder Reservoir, Coot Lake, Left Hand Valley Reservoir and Spurgeon Reservoir.						
COSPSV07	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT		acute	chronic
Reviewable	Aq Life Warm 1	WL	WL	Aluminum	---	---
	Recreation E	acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	Beryllium	---	---
	DUWS*	pH	6.5 - 9.0	Cadmium	TVS	TVS
Qualifiers:		chlorophyll a (ug/L)	---	Cadmium	5.0(T)	---
Other:		E. Coli (per 100 mL)	---	Chromium III	50(T)	TVS
Temporary Modification(s):		Inorganic (mg/L)		Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		acute	chronic	Copper	TVS	TVS
Expiration Date of 12/31/2021		Ammonia	TVS	Iron	---	WS
Iron(TREC and dissolved) = current condition		Boron	---	Iron	---	1000(T)
Manganese(ac/ch) = current condition		Chloride	---	Lead	TVS	TVS
Expiration Date of 12/31/2020		Chlorine	0.019	Lead	50(T)	---
*Classification: DUWS applies to Boulder, Spurgeon and Left Hand Valley Reservoirs only.		Cyanide	0.005	Manganese	TVS	TVS
		Nitrate	10	Manganese	---	WS
		Nitrite	---	Mercury	---	0.01(t)
		Phosphorus	---	Molybdenum	---	150(T)
		Sulfate	---	Nickel	TVS	TVS
		Sulfide	---	Nickel	---	100(T)
				Selenium	TVS	TVS
				Silver	TVS	TVS
				Uranium	---	---
				Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

St. Vrain Creek Basin

12. All lakes and reservoirs tributary to Left Hand Creek from Highway 36 to the confluence with St. Vrain Creek, except as specified in Segment 7.					
COSPSV12	Classifications	Physical and Biological		Metals (ug/L)	
Designation		DM	MWAT	acute	chronic
Reviewable	Agriculture				
	Aq Life Warm 2	WL	WL	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340
	Water Supply			Beryllium	0.02(T)
Qualifiers:	Water + Fish Standards	D.O. (mg/L)	---	Cadmium	---
		pH	5.0	Cadmium	TVS
Other:		chlorophyll a (ug/L)	6.5 - 9.0	Cadmium	TVS
		E. Coli (per 100 mL)	---	Chromium III	5.0(T)
		Inorganic (mg/L)	126	Chromium VI	50(T)
		acute	chronic	Copper	TVS
		Ammonia	TVS	Iron	TVS
		Boron	---	Iron	WS
		Chloride	0.75	Lead	1000(T)
		Chlorine	250	Lead	TVS
		Cyanide	0.019	Lead	TVS
		Nitrate	0.011	Manganese	TVS
		Nitrite	0.005	Manganese	TVS
		Phosphorus	10	Mercury	WS
		Sulfate	---	Mercury	0.01(t)
		Sulfide	0.5	Molybdenum	---
			WS	Nickel	150(T)
			0.002	Nickel	TVS
				Selenium	TVS
				Silver	TVS
				Uranium	---
				Zinc	---
					TVS
					TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Middle South Platte River Basin

7. All lakes and reservoirs tributary to the South Platte River from a point immediately below the confluence with Big Dry Creek to the Weld/Morgan County line, except for specific listings in the subbasins of the South Platte River, and in Segment 4.

COSPMS07	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
Reviewable	Aq Life Warm 2	Temperature °C	WL	WL	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	0.02(T)
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
Water + Fish Standards		chlorophyll a (mg/m2)	---	---	Cadmium	5.0(T)	---
Other:		E. Coli (per 100 mL)	---	126	Chromium III	50(T)	TVS
Temporary Modification(s):		Inorganic (mg/L)			Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid			acute	chronic	Copper	TVS	TVS
Expiration Date of 12/31/2021		Ammonia	TVS	TVS	Iron	---	WS
		Boron	---	0.75	Iron	---	1000(T)
		Chloride	---	250	Lead	TVS	TVS
		Chlorine	0.019	0.011	Lead	50(T)	---
		Cyanide	0.005	---	Manganese	TVS	TVS
		Nitrate	10	---	Manganese	---	WS
		Nitrite	---	0.5	Mercury	---	0.01(t)
		Phosphorus	---	---	Molybdenum	---	150(T)
		Sulfate	---	WS	Nickel	TVS	TVS
		Sulfide	---	0.002	Nickel	---	100(T)
					Selenium	TVS	TVS
					Silver	TVS	TVS
					Uranium	---	---
					Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Big Thompson River Basin

14. Welch Reservoir, Lonetree Reservoir, Boedecker Lake, Lon Hagler Reservoir.						
COSPBT14	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture Aq Life Warm 1 Recreation E Water Supply DUWS*	DM	MWAT	acute	chronic	
Reviewable		Temperature °C	WL	WL	Aluminum	---
			acute	chronic	Arsenic	340
		D.O. (mg/L)	---	5.0	Beryllium	---
		pH	6.5 - 9.0	---	Cadmium	TVS
Qualifiers:		chlorophyll a (ug/L)	---	---	Cadmium	5.0(T)
Other:		E. Coli (per 100 mL)	---	126	Chromium III	50(T)
Temporary Modification(s):		Inorganic (mg/L)			Chromium VI	TVS
Arsenic(chronic) = hybrid			acute	chronic	Copper	TVS
Expiration Date of 12/31/2021		Ammonia	TVS	TVS	Iron	---
*Classification: DUWS applies to Lonetree Reservoir only.		Boron	---	0.75	Iron	---
		Chloride	---	250	Lead	TVS
		Chlorine	0.019	0.011	Lead	50(T)
		Cyanide	0.005	---	Manganese	TVS
		Nitrate	10	---	Manganese	---
		Nitrite	---	0.5	Mercury	---
		Phosphorus	---	---	Molybdenum	---
		Sulfate	---	WS	Nickel	TVS
		Sulfide	---	0.002	Nickel	---
					Selenium	TVS
					Silver	TVS
					Uranium	---
			Zinc	TVS		

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Big Thompson River Basin

16. All lakes and reservoirs tributary to the Big Thompson River from the boundary of Rocky Mountain National Park to the Home Supply Canal diversion. This segment includes Lake Estes and St Mary's Lake.						
COSPBT16	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM		MWAT	acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CL,CLL	CL,CLL	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
	DUWS*	D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	5.0(T)
Other:		chlorophyll a (ug/L)	---	---	Chromium III	50(T)
Temporary Modification(s):		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
Arsenic(chronic) = hybrid					Copper	TVS
Expiration Date of 12/31/2021					Iron	---
					Iron	---
					Lead	TVS
					Lead	50(T)
					Manganese	TVS
					Manganese	---
					Mercury	---
					Mercury	0.01(t)
					Molybdenum	---
					Molybdenum	150(T)
					Nickel	TVS
					Nickel	---
					Nickel	100(T)
					Selenium	TVS
					Selenium	TVS
					Silver	TVS
					Silver	TVS(tr)
					Uranium	---
					Uranium	---
					Zinc	TVS
					Zinc	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Big Thompson River Basin

17. All lakes and reservoirs tributary to the Big Thompson River from the Home Supply Canal diversion to the confluence with the South Platte River, except for specific listings in Segments 12 and 14.						
COSPBT17	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM		MWAT	acute	chronic
Reviewable	Aq Life Warm 2	Temperature °C	WL	WL	Aluminum	---
	Recreation E	acute	chronic		Arsenic	340
	Water Supply	D.O. (mg/L)	---	5.0	Beryllium	---
Qualifiers:		pH	6.5 - 9.0	---	Cadmium	TVS
Water + Fish Standards		chlorophyll a (ug/L)	---	---	Cadmium	5.0(T)
Other:		E. Coli (per 100 mL)	---	126	Chromium III	50(T)
Temporary Modification(s):		Inorganic (mg/L)			Chromium VI	TVS
Arsenic(chronic) = hybrid		acute	chronic		Copper	TVS
Expiration Date of 12/31/2021		Ammonia	TVS	TVS	Iron	---
		Boron	---	0.75	Iron	1000(T)
		Chloride	---	250	Lead	TVS
		Chlorine	0.019	0.011	Lead	50(T)
		Cyanide	0.005	---	Manganese	TVS
		Nitrate	10	---	Manganese	---
		Nitrite	---	0.5	Mercury	0.01(t)
		Phosphorus	---	---	Molybdenum	150(T)
		Sulfate	---	WS	Nickel	TVS
		Sulfide	---	0.002	Nickel	100(T)
					Selenium	TVS
					Silver	TVS
					Uranium	---
					Zinc	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Cache La Poudre River Basin

7. Mainstem of the North Fork of the Cache La Poudre River from the inlet of Halligan Reservoir to the confluence with the Cache La Poudre River, except for specific listings in Segment 20.						
COSPCP07	Classifications	Physical and Biological			Metals (ug/L)	
Designation		DM	MWAT		acute	chronic
Reviewable	Agriculture					
	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Aluminum	---
	Recreation E		acute	chronic	Arsenic	340
	Water Supply	D.O. (mg/L)	---	6.0	Beryllium	---
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium	TVS(tr)
Other:		pH	6.5 - 9.0	---	Cadmium	5.0(T)
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium III	50(T)
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Chromium VI	TVS
Expiration Date of 12/31/2021					Copper	TVS
					Iron	---
		Inorganic (mg/L)			Iron	1000(T)
			acute	chronic	Lead	TVS
		Ammonia	TVS	TVS	Lead	50(T)
		Boron	---	0.75	Manganese	TVS
		Chloride	---	250	Manganese	---
		Chlorine	0.019	0.011	Mercury	---
		Cyanide	0.005	---	Molybdenum	---
		Nitrate	10	---	Nickel	TVS
		Nitrite	---	0.05	Nickel	---
		Phosphorus	---	---	Selenium	TVS
		Sulfate	---	WS	Silver	TVS
		Sulfide	---	0.002	Uranium	---
					Zinc	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Republican River Basin

1. Mainstem of the South Fork of the Republican River from a point 23 miles above the Colorado-Kansas border (39.582154°, -102.350838°) to the Colorado-Kansas border.					
COSPRE01	Classifications	Physical and Biological		Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic
Reviewable	Aq Life Warm 1	WS-I	WS-I	Aluminum	---
	Recreation E	acute	chronic	Arsenic	340
	Water Supply	---	5.0	Beryllium	---
Qualifiers:		pH	6.5 - 9.0	Cadmium	TVS
Other:		chlorophyll a (mg/m2)	---	Cadmium	5.0(T)
Temporary Modification(s):		E. Coli (per 100 mL)	---	Chromium III	50(T)
Arsenic(chronic) = hybrid		Inorganic (mg/L)		Chromium VI	TVS
Expiration Date of 12/31/2021		acute	chronic	Copper	TVS
		Ammonia	TVS	Iron	---
		Boron	---	Iron	1000(T)
		Chloride	---	Lead	TVS
		Chlorine	0.019	Lead	50(T)
		Cyanide	0.005	Manganese	TVS
		Nitrate	10	Manganese	---
		Nitrite	---	Mercury	---
		Phosphorus	---	Molybdenum	---
		Sulfate	---	Nickel	TVS
		Sulfide	---	Nickel	100(T)
			0.002	Selenium	TVS
				Silver	TVS
				Uranium	---
				Zinc	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for details on TVS, TVS(tr), WS, temperature standards.

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Tracking number: 2016-00382

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 01/09/2017

5 CCR 1002-38

**REGULATION NO. 38 - CLASSIFICATIONS AND NUMERIC STANDARDS SOUTH PLATTE RIVER
BASIN LARAMIE RIVER BASIN REPUBLICAN RIVER BASIN SMOKY HILL RIVER BASIN**

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 18, 2017 17:11:25

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-42

Rule title

5 CCR 1002-42 REGULATION NO. 42 - SITE-SPECIFIC WATER QUALITY
CLASSIFICATIONS AND STANDARDS FOR GROUND WATER 1 - eff 03/02/2017

Effective date

03/02/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 42 - SITE-SPECIFIC WATER QUALITY CLASSIFICATIONS AND STANDARDS FOR GROUND WATER

5 CCR 1002-42

42.1 AUTHORITY

These regulations are promulgated pursuant to section 25-8-202, 25-8-203, and 25-8-204 of the Colorado Water Quality Control Act, and the provisions of "The Basic Standards for Ground Water Regulation No. 41 (5 CCR 1002-41)."

42.2 PURPOSE

The purpose of these regulations is to apply the framework for ground water classifications and water quality standards, as set forth in "The Basic Standards for Ground Water, Regulation No. 41 (5 CCR 1002-41)" to specific ground waters in the state, and to adopt an interim narrative standards to protect these ground waters prior to the adoption of use classifications and numerical standards for specific areas.

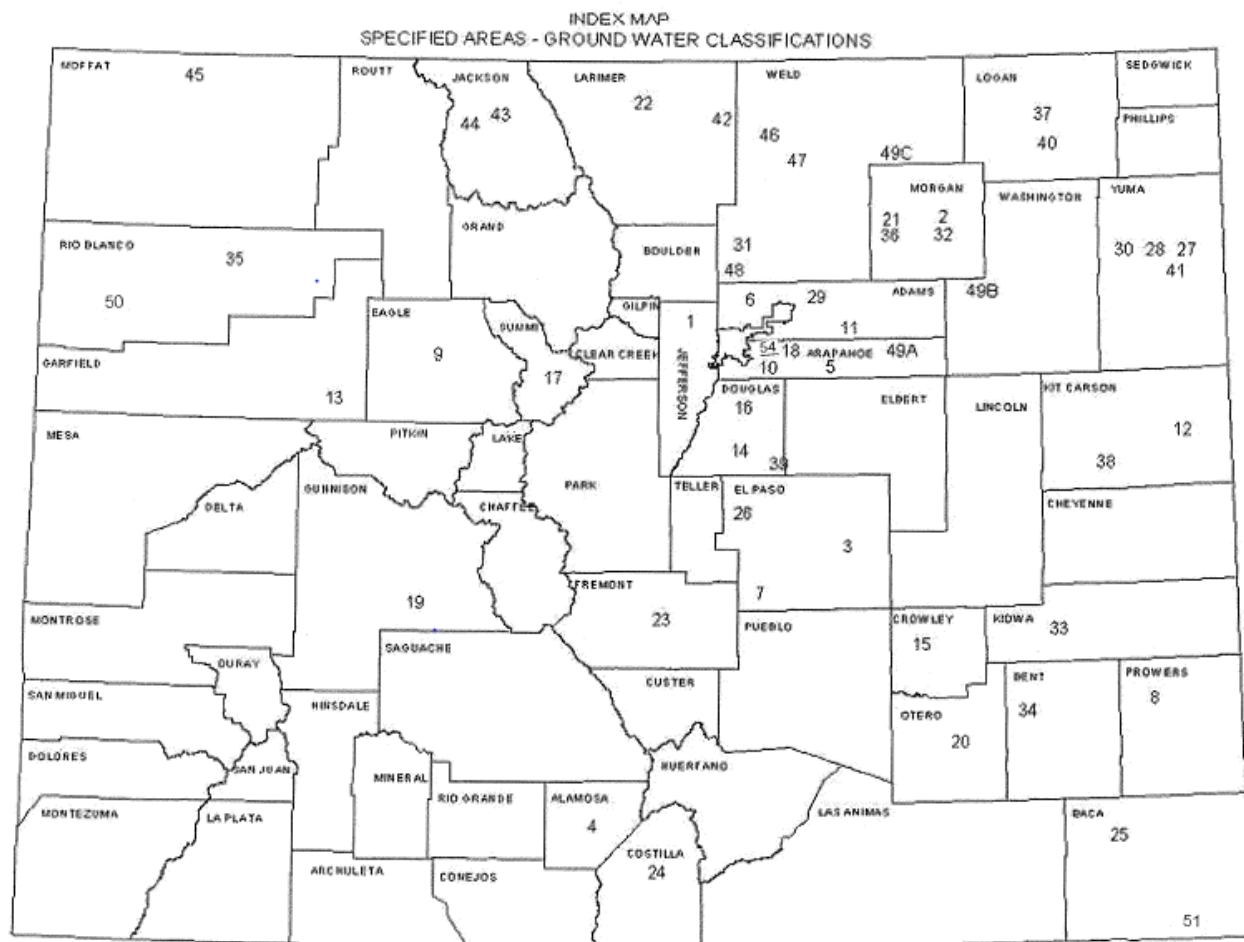
42.3 INDEX OF CLASSIFIED AREAS

GROUND WATER TO WHICH QUALITY CONTROL COMMISSION HAS
ASSIGNED USE CLASSIFICATIONS AND WATER QUALITY STANDARDS

LOCATION	COUNTY	DATE ADOPTED	FIGURE #	NARRATIVE PAGE #	FIGURE PAGE #
Alamosa	Alamosa	05/93	4	6	41
Bennett	Adams	06/94	11	9	48
Brighton	Adams	11/94	29	14	66
Brush	Morgan	05/91	2	6	39
Burlington	Kit Carson	06/94	12	9	49
Carbondale	Garfield	06/94	13	9	50
Castle Rock	Douglas	06/94	14	10	51
Co. Oil & Gas Fields	Logan, N Washington & NE Morgan	09/97	40	18	77
Crowley County	Crowley	06/94	15	10	52
Denver SE Suburban W & SD	Douglas	06/94	16	10	53
E. Cherry Creek Valley W & SD	Arapahoe	05/93	5	7	42
E. Dillon WD	Summit	06/94	17	11	54
Eckley	Yuma	11/94	30	15	67
Federal Heights WD	Adams	05/93	6	7	43
Fort Lupton	Weld	11/94	31	15	68
Fort Morgan	Morgan	11/94	32	15	69
Fountain/Security/Stratmoor Hills/Widefield	El Paso	05/93	7	7	44
Glendale/Cherry Creek Valley W & SD	Arapahoe	06/94	18	11	55

LOCATION	COUNTY	DATE ADOPTED	FIGURE #	NARRATIVE PAGE #	FIGURE PAGE #
Gunnison	Gunnison	06/94	19	11	56
Haswell	Kiowa	11/94	33	16	70
Lamar	Prowers	05/93	8	8	45
La Junta	Otero	06/94	20	12	57
Las Animas	Bent	11/94	34	16	71
Lowry Air Force Base (Former)/City and County of Denver/City of Aurora	Arapahoe and Denver	06/14	54A/54B	23	94/95
Meeker	Rio Blanco	11/94	35	16	72
Morgan County Qual WD	Morgan	06/94	21	12	58
“ “ “ “	“	11/94	36	17	73
No CO Water Assn	Larimer	06/94	22	12	59
Park Center WD	Fremont	06/94	23	13	60
Oil & Gas Fields	Larimer	12/99	42	19	79
Oil & Gas Fields East-Central Jackson County	Jackson	12/99	43	19	80
Oil & Gas Fields West-Central Jackson County	Jackson	12/99	44	19	81
Oil & Gas Fields Northern Moffat County	Moffat	12/99	45	20	82
Oil & Gas Fields Weld County	Weld	12/00	46	20	83
Oil & Gas Fields Weld County	Weld	12/00	47	21	84
Oil & Gas Fields Weld County	Weld	12/00	48	21	85
Oil & Gas Fields Adams, Arapahoe Morgan, Washington Weld Counties	Adams, Arapahoe Morgan, Washington Weld	12/00 12/00 12/00	49A 49B 49C	21 21 21	86 87 88
Oil & Gas Fields Rio Blanco County	Rio Blanco	12/01	50	22	89
Oil & Gas Fields Baca County	Baca	09/02	51	22	89
Oil & Gas Fields Cheyenne and Kit Carson Counties	Cheyenne Kit Carson	12/03 12/03	52A 52B	23 23	91 92
Oil and Gas Field (Hiawatha) Moffat County	Moffat	03/04	53	23	93
Rangely Oil & Gas Field	Rio Blanco	04/98	41	18	78
Rocky Flats	Jeff/Boulder	02/91	1	4	38
San Luis W & SD	Costilla	06/94	24	13	61
SW Protection Area	Kit Carson	10/95	38	17	75
Springfield	Baca	06/94	25	13	62
Sterling	Logan	11/94	37	17	74

LOCATION	COUNTY	DATE ADOPTED	FIGURE #	NARRATIVE PAGE #	FIGURE PAGE #
Upper Black Squirrel	El Paso	05/91	3	6	40
Upper Cherry Crk & Denver Basins	El Paso/Douglas/ Arapahoe	01/96	39	17	76
Vail Valley	Eagle	05/93	9	8	46
Willows/Centennial Class Area	Arapahoe & Douglas	05/93	10	8	47
Woodmoor W&S	El Paso	06/94	26	13	63
Wray	Yuma	06/94	27	14	64
Yuma	Yuma	06/94	28	14	65



42.4 RESERVED

42.5 DEFINITIONS

The following definitions are applicable to these regulations:

- (1) "Alluvium" is clay, silt, sand or gravel, or similar unconsolidated detrital material deposited during comparatively recent geologic time by a stream or other body of running water as a sorted or

semisorted sediment in the bed of the stream or on its flood plain or delta, or as a cone or fan at the base of a mountain slope.

- (2) "Confined Ground Water" is ground water under greater than atmospheric pressure beneath or between layers of relatively impermeable material; the static water level rises above the bottom of the confining layer.
- (3) "River Alluvium and Terrace Gravel System" are aquifers located within those alluvium formations mapped on the "Geologic Map of Colorado" (Ogden Tweto, 1979) as "Qa-Modern Alluvium." (includes Piney Creek Alluvium and younger deposits) and "Qg-Pinedale and Bull Lake Age Gravels and Alluvium." (includes Broadway and Louviers Alluvium).
- (4) "Saturated Zone" is a subsurface zone in which all of the interstices are filled with water under pressure greater than that of the atmosphere. This zone is separated from the zone of aeration by the water table.
- (5) "State" is defined in the Constitution of the State of Colorado, article 1 as commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north, on said meridian to the forty-first parallel of north latitude; thence along said parallel, west, to the thirty-second meridian of longitude west from Washington; thence south, on said meridian, to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.
- (6) "Unconfined Ground Water" is ground water that has a free water table; i.e., water not confined under pressure beneath relatively impermeable rocks.
- (7) "Upper Hydro-Stratigraphic Unit" is the uppermost layer of ground water incorporating any aquifer or other zone of ground water occurrence which is the first encountered beneath the ground surface and includes all saturated geologic formations, unconsolidated alluvium and colluvium, and hydraulically connected zones in bedrock.

42.6 RESERVED

42.7 SITE-SPECIFIC GROUND WATER CLASSIFICATIONS AND WATER QUALITY STANDARDS

The statewide standards for organic chemicals and radioactive materials set forth in section 41.5 C of The Basic Standards for Ground Water apply to all ground water for which site specific classifications and standards have been adopted, unless the Commission specifies otherwise in the site-specific standards for a particular specified area.

The following classifications and standards shall not be interpreted so as to cause material injury to water rights in accordance with 25-8-104 C.R.S. (1989):

(1) ROCKY FLATS AREA, JEFFERSON AND BOULDER COUNTIES

- (a) Specified Area: All unconfined ground waters within i) the Upper Hydro-Stratigraphic Unit (UHSU), including the unconsolidated Quaternary and Rocky Flats alluvium, colluvium and valley fill alluvium, and weathered claystone and hydraulically connected sandstone bedrock of the Arapahoe and Upper Laramie formations; ii) the Arapahoe and Upper Laramie aquifers not hydraulically connected to the UHSU; and iii) the Laramie-Fox Hill aquifer, within the area shown on Figure 1.
- (b) Classification: The classification of the ground waters within the specified area is:
 1. Upper Hydro-Stratigraphic Unit:

- Surface Water Protection

(c) Water Quality Standards:

- (i) The water quality standards included in section 31.11(2) (statewide surface water radioactive materials standards), section 31.11(3) (statewide surface water interim organic pollutant standards), and the site-specific surface water quality standards for segments 4a, 4b and 5 of Big Dry Creek (in section 38.6 of the South Platte Basin Classifications and Standards) are assigned to UHSU ground water described in 42.7(1)(a).
- (ii) An agency implementing the standards may, if it has authority, set a compliance standard different from the listed standard and equal to the background level if the implementing agency has the authority to exceed that standard.
- (iii) Where a toxic substance for which no numerical standard has been established is found in a detectable amount, notification shall be given as soon as possible to the operator of the Rocky Flats Environmental Technology Site; the United States Department of Energy; the United States Environmental Protection Agency; and the Water Quality Control Division, which will consult as necessary with other components of the Colorado Department of Public Health and Environment. Those entities will meet and attempt to reach a consensus concerning the appropriate numerical protection level for that substance. If consensus is a numerical protection level. Where consensus cannot be reached, the Division will determine the appropriate numerical protection level.

In setting a numerical protection level, the entities listed above will consider the existing and any reasonably probable future beneficial uses of ground water that need to be protected in the vicinity of the discharge, and establish the appropriate corresponding numerical protection levels for specific contaminants, based on those beneficial uses, as outlined in section 41.5(b) of "The Basic Standards for Ground Water." The entities will take into account reasonably available information.

A determination made by these entities or the Division in accordance with the procedure described above will not be deemed to constitute a ground water quality standard and will not be applicable outside the specified area for this hearing.

If numerical protection levels are established by agreement of the entities, they will jointly petition the Commission for rulemaking to set a standard at the numerical protection level. If the Division establishes a numerical protection level without agreement of all entities, the Division shall ask the Commission to set a standard consistent with the numerical protection level.

If any interested person disagrees with a determination made by the Division in accordance with the procedure described above, it may petition the Commission to adopt a site-specific standard different from the numerical protection level. Any determination made by the Commission during the hearing process would then become binding on the Division, the Department of Energy, and the operator of the Rocky Flats Environmental Technology Site. At the request of the Department of Energy or the operator of the Rocky Flats Site or an interested person, the Commission will consider such a hearing to be mandatory and de novo.

SITE-SPECIFIC RADIONUCLIDE STANDARDS* (in Picocuries/Liter)

- A. Ambient based site-specific standards for ground waters in the UHSU hydraulically connected to the surface streams shown:

	Segment 4 Segment 5 Woman Creek	Segment 4 Segment 5 Walnut Creek
Gross alpha	7	11
Gross Beta	8	19
Tritium	500	500
Uranium	11	10

* Statewide Standards also apply for radionuclides not listed above.

(2) CITY OF BRUSH WELLFIELD, MORGAN COUNTY

- (a) Specified Area: All unconfined ground waters within the saturated zone underlying that area as illustrated in Figure 2.
- (b) Classification: The classifications of the unconfined ground water in the specified area are:
- Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all unconfined ground water in the specified area.

(3) UPPER BLACK SQUIRREL CREEK ALLUVIAL AQUIFER, EL PASO COUNTY

- (a) Specified Area: All unconfined ground waters within the saturated zone underlying that area of El Paso County shown on Figure 3.
- (b) Classification: The classifications of the unconfined ground water in the specified area are:
- Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all unconfined ground water in the specified area.

(4) CITY OF ALAMOSA WELLFIELD, ALAMOSA COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 4. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
- Domestic Use-Quality
 - Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(5) EAST CHERRY CREEK VALLEY WATER & SANITATION DISTRICT, ARAPAHOE COUNTY

- (a) Specified Area: All ground water underlying the area illustrated in Figure 5 within the saturated zone of the Denver Basin aquifers to include the Denver, Arapahoe, and Laramie-Fox Hills aquifers as defined by the Colorado Division of Water Resources' Denver Basin Rules (2 CCR 402-6); also the Dawson aquifer as defined by the Colorado Division of Water Resources' Denver Basin Rules (2 CCR 402-6), and all of the alluvial and unconfined ground water overlying the Denver Basin aquifers and underlying the area illustrated in Figure 5. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the ground water in the Denver, Arapahoe, and Laramie-Fox Hills aquifers within the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all ground water in the Denver, Arapahoe, and Laramie-Fox Hills aquifers within the specified area.

The interim narrative standard, as specified in the "Classifications and Water Quality Standards for Ground Water" 42.0 (5 CCR 1002-42), shall be applicable to the ground water in the Dawson aquifer and all of the alluvial and unconfined ground water overlying the Denver Basin Aquifers within the specified area:

(6) FEDERAL HEIGHTS WATER DISTRICT WELLFIELD, ADAMS COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 6. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(7) CITY OF FOUNTAIN, SECURITY WATER & SANITATION DISTRICT, STRATMOOR HILLS WATER DISTRICT, AND WIDFIELD HOMES WATER COMPANY WELLFIELDS, EL PASO COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 7. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
- Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(8) CITY OF LAMAR WELLFIELD, PROWERS COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 8. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
- Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(9) VAIL VALLEY CONSOLIDATED WATER DISTRICT WELLFIELDS, EAGLE COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 9. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
- Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(10) WILLOWS, AND CENTENNIAL GROUND WATER CLASSIFICATION AREA, ARAPAHOE AND DOUGLAS COUNTIES

- (a) Specified Area: All ground waters underlying the area illustrated in Figure 10 and within the saturated zone of the Denver Basin aquifer system as defined by the Colorado Division of Water Resources' Denver Basin Rules (2 CCR 402-6) to include the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers and all the alluvial and unconfined ground water overlying the Denver Basin aquifers. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the ground water in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

The classification of the alluvial and unconfined ground water overlying the Denver Basin aquifers in the specified area is:

- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all ground water in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers in the specified area.

The ground water quality standards included in the Tables 3 and 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all alluvial and unconfined ground water overlying the Denver Basin aquifers in the specified area.

(11) TOWN OF BENNETT WELLFIELD, ADAMS COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 11. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(12) CITY OF BURLINGTON WELLFIELD, KIT CARSON COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 12. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(13) TOWN OF CARBONDALE WELLFIELD, GARFIELD COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 13. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(14) TOWN OF CASTLE ROCK WELLFIELD, DOUGLAS COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 14. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(15) CROWLEY COUNTY WATER SYSTEM WELLFIELD, CROWLEY COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 15. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1-4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(16) DENVER SOUTHEAST SUBURBAN WATER & SANITATION DISTRICT WELLFIELD, DOUGLAS COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 16. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
- Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1-4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(17) EAST DILLON WATER DISTRICT WELLFIELD, SUMMIT COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 17. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
- Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(18) CITY OF GLENDALE AND CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT GROUND WATER CLASSIFICATION AREA, ARAPAHOE COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 18. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
- Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(19) CITY OF GUNNISON WELLFIELD, GUNNISON COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 19. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(20) CITY OF LA JUNTA WELLFIELD, OTERO COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 20. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(21) MORGAN COUNTY QUALITY WATER DISTRICT WELLFIELD, MORGAN COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 21. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(22) NORTHERN COLORADO WATER ASSOCIATION WELLFIELD, LARIMER COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 22. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(23) PARK CENTER WATER DISTRICT WELLFIELD, FREMONT COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 23. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classification: The classification of the confined and unconfined ground water in the specified area is:

- Domestic Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(24) SAN LUIS WATER & SANITATION DISTRICT WELLFIELD, COSTILLA COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 24. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality

- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(25) TOWN OF SPRINGFIELD WELLFIELD, BACA COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 25. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality

- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(26) WOODMOOR WATER AND SANITATION DISTRICT WELLFIELD, EL PASO COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 26.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(27) CITY OF WRAY WELLFIELD, YUMA COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 27.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(28) CITY OF YUMA WELLFIELD, YUMA COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 28. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(29) CITY OF BRIGHTON WELLFIELD, ADAMS COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 29. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(30) TOWN OF ECKLEY WELLFIELD, YUMA COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 30. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(31) CITY OF FORT LUPTON WELLFIELD, WELD COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 31. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(32) CITY OF FORT MORGAN WELLFIELD, MORGAN COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 32. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(33) TOWN OF HASWELL WELLFIELD, KIOWA COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 33. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(34) TOWN OF LAS ANIMAS WELLFIELD, BENT COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 34. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(35) TOWN OF MEEKER WELLFIELD, RIO BLANCO COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 35. Maps depicting each specified area on a larger scale are available in the Commission Office.

- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:

- Domestic Use-Quality
- Agricultural Use-Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(36) MORGAN COUNTY QUALITY WATER DISTRICT, (SAN ARROYO CREEK BASIN), MORGAN COUNTY

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 36. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(37) CITY OF STERLING WELLFIELD, LOGAN COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area, EXCEPT FOR THE GROUND WATER CONTAINED WITHIN THE LOWER CRETACEOUS DAKOTA GROUP D, J, AND O SANDSTONES, as illustrated in Figure 37. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(38) SOUTHWEST WATER PROTECTION AREA, KIT CARSON COUNTY

- (a) Specified Area: All confined and unconfined ground water within the saturated zone underlying the area as illustrated in Figure 38. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(39) UPPER CHERRY CREEK BASIN AND DENVER BASIN ALLUVIAL AQUIFERS AND TRIBUTARIES, PORTIONS OF EL PASO, DOUGLAS AND ARAPAHOE COUNTIES

- (a) Specified Area: All confined and unconfined ground waters within the saturated zone underlying the area as illustrated in Figure 39. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classifications of the confined and unconfined ground water in the specified area are:
 - Domestic Use-Quality
 - Agricultural Use-Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Tables 1 - 4 of the "Basic Standards for Ground Water" 41.0 (5 CCR 1002-41) are assigned to all confined and unconfined ground water in the specified area.

(40) COLORADO OIL AND GAS FIELDS OF LOGAN, NORTHERN WASHINGTON, AND NORTHEASTERN MORGAN COUNTIES, COLORADO

- (a) Specified Area: The confined ground waters within the Lower Cretaceous aged Dakota Group including the D, J, and O Sandstones underlying the area illustrated in Figure 40. Maps depicting each specified area on a larger scale are available in the Commission Office.
- (b) Classifications: The classification of the ground water in the D, J, and O Sandstones is:
 - Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water Regulation No. 41 (5 CCR 1002-41) will not apply to the confined ground water of the D, J, and O Sandstones in the specified area.

The ground water organic chemical standards included in Table A of the section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water of the D, J, and O Sandstones in the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(41) RANGLEY OIL AND GAS FIELD OF RIO BLANCO COUNTY

- (a) Specified Area: The confined ground waters within the Weber Formation and the Navajo Sandstone underlying the area illustrated in Figure 41.
- (b) Classifications: The classification of the ground water in the Weber Formation and the Navajo Sandstone is:
 - Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water Regulation No. 41 (5 CCR 1002-41) will not apply to the confined ground water of the Weber Formation and the Navajo Sandstone within the specified area.

The ground water organic chemical standards included in Table A of the section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene,

xylene, and benzo(a)pyrene will not apply to the ground water in the Weber Formation and the Navajo Sandstone within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(42) OIL AND GAS FIELDS OF EASTERN LARIMER COUNTY, COLORADO

- (a) Specified Area: The confined ground water in the Entrada Sandstone and Muddy Sandstone (J Sand) underlying the area illustrated in Figure 42.
- (b) Classifications: The classification of the ground water in the Entrada Sandstone and Muddy Sandstone (J Sand) is:
 - Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) will not apply to the confined ground water of the Entrada Sandstone and Muddy Sandstone (J Sand) within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene, xylene, and benzo(a)pyrene will not apply to the ground water in the Entrada Sandstone and Muddy Sandstone (J Sand) within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(43) OIL AND GAS FIELDS OF EAST-CENTRAL JACKSON COUNTY, COLORADO

- (a) Specified Area: The confined ground water in the Dakota and Lakota Sandstones and the Pierre B Sandstone Member of the Pierre Shale underlying the area illustrated in Figure 43.
- (b) Classifications: The classification of the ground water in the Dakota and Lakota Sandstones and the Pierre B Sandstone Member of the Pierre Shale is:
 - Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) will not apply to the confined ground water of the Dakota and Lakota Sandstones and the Pierre B Sandstone Member of the Pierre Shale within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene, xylene, and benzo(a)pyrene will not apply to the ground water in the Dakota and Lakota Sandstones and the Pierre B Sandstone Member of the Pierre Shale within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(44) OIL AND GAS FIELD OF WEST-CENTRAL JACKSON COUNTY, COLORADO

- (a) Specified Area: The confined ground water in the Dakota and Lakota Sandstones underlying the area illustrated in Figure 44.

- (b) Classifications: The classification of the ground water in the Dakota and Lakota Sandstones is:
- Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) will not apply to the confined ground water of the Dakota and Lakota Sandstones within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the Dakota and Lakota Sandstones within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(45) OIL AND GAS FIELDS OF NORTHERN MOFFAT COUNTY, COLORADO

- (a) Specified Area: The confined ground water within the Fort Union Formation underlying the area illustrated in Figure 45.
- (b) Classifications: The classification of the ground water in the Fort Union Formation is:
- Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) will not apply to the confined ground water of the Fort Union Formation within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the Fort Union Formation within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(46) OIL AND GAS FIELDS OF WELD COUNTY, COLORADO

- (a) Specified Area: The confined ground water in the Lyons Sandstone underlying the area illustrated in Figure 46.
- (b) Classifications: The classification of the ground water in the Lyons Sandstone is:
- Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) will not apply to the confined ground water of the Lyons Sandstone within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the Lyons Sandstone within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field

operations associated with the exploration, development, or production of crude oil and natural gas.

(47) OIL AND GAS FIELDS OF WELD COUNTY, COLORADO

- (a) Specified Area: The confined ground water in the Parkman Sandstone underlying the area illustrated in Figure 47.
- (b) Classifications: The classification of the ground water in the Parkman Sandstone is:
 - Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) will not apply to the confined ground water of the Parkman Sandstone within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the Parkman Sandstone within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(48) OIL AND GAS FIELDS OF WELD COUNTY, COLORADO

- (a) Specified Area: The confined ground water in the Sussex Sandstone underlying the area illustrated in Figure 48.
- (b) Classifications: The classification of the ground water in the Sussex Sandstone is:
 - Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) will not apply to the confined ground water of the Sussex Sandstone within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the Sussex Sandstone within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(49) OIL AND GAS FIELDS OF ADAMS, ARAPAHOE, MORGAN, WASHINGTON, AND WELD COUNTIES, COLORADO

- (1) Specified Area: The confined ground water in the D and J Sandstones underlying the areas illustrated in Figures 49A, 49B, 49C.
- (2) Classifications: The classification of the ground water in the D and J Sandstones is:
 - Limited Use and Quality

- (3) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) will not apply to the confined ground water of the D and J Sandstones within the specified areas.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the D and J Sandstones within the specified areas. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(50) OIL AND GAS FIELD OF RIO BLANCO COUNTY, COLORADO

- (1) Specified Area: The confined ground water in the Morrison and Sundance Formations underlying the area illustrated in Figure 50.

- (2) Classifications: The classification of the ground water in the Morrison and Sundance Formations are:

- Limited Use and Quality

- (3) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) will not apply to the confined ground water of the Morrison and Sundance Formations within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the Morrison and Sundance Formations within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or

wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(51) OIL AND GAS FIELD OF BACA COUNTY, COLORADO

- (a) Specified Area: The confined ground water in the Lansing Formation underlying the area illustrated in Figure 51.

- (b) Classifications: The classification of the ground water in the Lansing Formation are:

- Limited Use and Quality

- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5CCR1002-41) will not apply to the confined ground water of the Lansing Formation within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the Lansing Formation within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(52) OIL AND GAS FIELD OF CHEYENNE COUNTY AND KIT CARSON COUNTIES, COLORADO

- (a) Specified Area: The confined ground water in the Morrow Formation underlying the area illustrated in Figures 52A AND 52B.
- (b) Classifications: The classification of the ground water in the Morrow Formation are:
- Limited Use and Quality
- (c) Ground Water Quality Standards: The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5CCR 1002-41) will not apply to the confined ground water of the Morrow Formation within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5CCR1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the Morrow Formation within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(53) HIAWATHA OIL AND GAS FIELD OF MOFFAT COUNTY, COLORADO

- (a) Specified Area : The confined ground water in a portion of the Tertiary Wasatch Formation (Middle Oil Sand Zone) underlying the area illustrated in Figure 53.
- (b) Classifications: The classification of the confined ground water in the Middle Oil Sand portion of the Tertiary Wasatch Formation is: Limited Use and Quality
- (c) Ground Water Quality Standards : The ground water quality standards included in Table 1 through 4 of the Basic Standards for Ground Water 41.0 (5CCR 1002-41) will not apply to the confined ground water of the Middle Oil Sand zone of the Tertiary Wasatch Formation within the specified area.

The ground water organic chemical standards included in Table A of the Section 41.5.C.3 of the Basic Standards for Ground Water (5CCR 1002-41) for benzene, toluene, ethylbenzene, xylenes, and benzo(a)pyrene will not apply to the ground water in the Middle Oil Sand portion of the Tertiary Wasatch Formation within the specified area. This exception applies to these compounds only when their source is crude oil, condensate, or produced water, or wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil and natural gas.

(54) FORMER LOWRY AIR FORCE BASE, CITY AND COUNTY OF DENVER AND CITY OF AURORA, ARAPAHOE COUNTY, COLORADO

- (a) Specified Areas: The unconfined ground water in the following locations:
- i. On-Base
 - 1. Alluvial ground water underlying the areas illustrated and described in Figure 54A as HQ Plume. Main Plume On-Base, and 1432 Source Area.
 - 2. The upper 50 feet of Denver Aquifer ground water underlying the areas illustrated and described in Figure 54B as HQ Plume. FTZ Plume. OFR Source Area. Main Plume On-Base. 1432 Source Area and CT Source Area.

ii. Off-Base

1. Alluvial ground water underlying the area illustrated and described in Figure 54A as 11th Avenue to 17th Avenue and North of 17th Avenue.
2. The upper 50 feet of the Denver Aquifer ground water underlying the area illustrated and described in Figure 54B as Main Plume Off-Base.

(b) Classifications: The classification of each of the Specified Areas identified in Section 54(a). above is: Potentially Usable Quality.

(c) Ground Water Quality Standards: For the Specified Areas, the ground water quality standards included in Tables 1 – 4, the Radioactive Materials Standards Table, and the organic chemical standards in Table A of the Basic Standards for Ground Water 41.0 (5 CCR 1002-41) are assigned to all ground water, except for the organic chemicals identified below, the following site-specific standards shall apply in the Specified Areas and the organic chemical standard set forth in Table A. Section 41.5.C.3 of the Basic Standards for Ground Water (5 CCR 1002-41) shall not apply.

Site Specific Concentrations and Classifications				
On-Base				
Area	Classification	Geologic Unit	Parameter	Site Specific Standard
HQ Plume	Potentially Usable Quality	Alluvium	<i>Trichloroethylene</i>	11 µg/l
			<i>1,4-Dioxane</i>	3.2 µg/l
Main Plume		Alluvium	<i>Trichloroethylene</i>	11 µg/l
			<i>1,4-Dioxane</i>	3.2 µg/l
1432 Source Area		Alluvium	<i>Trichloroethylene</i>	11 µg/l
			<i>1,4-Dioxane</i>	3.2 µg/l

Site Specific Concentrations and Classifications				
On-Base				
Area	Classification	Geologic Unit	Parameter	Site Specific Standard
HQ Plume	Potentially Usable Quality	Bedrock	<i>Trichloroethylene</i>	11 µg/l
			<i>1,4-Dioxane</i>	3.2 µg/l
FTZ Plume		Bedrock	<i>Trichloroethylene</i>	11 µg/l
			<i>1,4-Dioxane</i>	3.2 µg/l
OFR Source Area		Bedrock	<i>Trichloroethylene</i>	11 µg/l
			<i>1,4-Dioxane</i>	3.2 µg/l
Main Plume		Bedrock	<i>Trichloroethylene</i>	11 µg/l
			<i>1,4-Dioxane</i>	3.2 µg/l
1432 Source Area		Bedrock	<i>Trichloroethylene</i>	11 µg/l
			<i>1,4-Dioxane</i>	3.2 µg/l
CT Source Area		Bedrock	<i>Trichloroethylene</i>	11 µg/l
			<i>1,4-Dioxane</i>	3.2 µg/l

Site Specific Concentrations and Classification				
Off-Base				
Area	Classification	Geologic Unit	Parameter	Site Specific Standard
Main Plume North of 17th Avenue	Potentially Usable Quality	Alluvium	<i>Trichloroethylene</i>	12 µg/l

Main Plume 11th Ave to 17th Avenue			<i>1,4 Dioxane</i>	3.2 µg/l
Main Plume	Potentially Usable Quality	Alluvium	<i>Trichloroethylene</i>	12 µg/l
			<i>1,4 Dioxane</i>	3.2 µg/l
		Bedrock	<i>Trichloroethylene</i>	12 µg/l
			<i>1,4 Dioxane</i>	3.2 µg/l

DESCRIPTION - FIGURE 54A
HQ Plume

A part of the Northeast Quarter of Section 8 and a part of the West Half of Section 9, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the West Quarter Corner of said Section 9;
thence North 00°10'10" East, along the west line of the Northwest Quarter of said Section 9, a distance of 37.00 feet;
thence South 89°49'04" East, parallel with the south line of said Northwest Quarter, a distance of 30.00 feet to the easterly line of Quebec Street and the Point of Beginning;
thence North 00°10'10" East, along said easterly line, a distance of 1,142.90 feet to a point of non-tangent curve; thence along the arc of a curve to the right having a radius of 3125.00 feet, a central angle of 4°44'39", an arc length of 258.75 feet and whose chord bears North 22°08'58" West a distance of 258.68 feet;
thence North 00°00'00" East a distance of 973.55 feet;
thence South 21°07'18" East a distance of 278.47 feet to a corner on the west line of Area 4 as described at Reception Number 9800174373 in the Clerk and Records Office of said City and County of Denver;

thence along the southwesterly line of said Area 4 the following seven (7) courses:

1. South 09°41'03" East a distance of 185.07 feet;
2. South 26°06'15" East a distance of 317.47 feet;
3. South 00°30'20" West a distance of 120.51 feet;
4. South 61°54'11" East a distance of 363.78 feet;
5. South 00°01'05" East a distance of 258.88 feet;
6. South 36°27'47" East a distance of 216.39 feet;
7. South 74°49'56" East a distance of 156.06 feet to the northwest corner of a parcel of land as described at Reception Number 2000013500 in said Clerk and Records Office;

thence South 36°28'38" East, along the southwesterly line of said parcel of land described at Reception Number 2000013500, a distance of 608.42 feet to a point on the northerly line of Area 2 as described at Reception Number 9800087078 in said Clerk and Records Office;

thence along said northerly line of Area 2 the following eight (8) courses:

1. South 53°32'18" West a distance of 744.29 feet;
2. North 35°20'40" West a distance of 74.00 feet to a point of non-tangent curvature;
3. along the arc of a curve to the right having a central angle of 35°31'36", a radius of 263.00 feet, an arc length of 163.08 feet and whose chord bears South 72°25'08" West a distance of 160.48 feet;
4. North 89°49'04" West a distance of 81.42 feet to a point of curvature;
5. along the arc of a curve to the right having a central angle of 20°15'00", a radius of 263.00 feet, an arc length of 92.95 feet and whose chord bears North 79°41'34" West a distance of 92.47 feet;
6. North 69°34'04" West a distance of 52.93 feet to a point of curvature;
7. along the arc of a curve to the left having a central angle of 20°15'00", a radius of 337.00 feet, an arc length of 119.11 feet and whose chord bears North 79°41'34" West a distance of 118.49 feet;
8. North 89°49'04" West a distance of 4.92 feet to the **Point of Beginning**;

Containing 1,279,711 square feet or 29.378 acres, more or less.

DESCRIPTION - FIGURE 54A
Main Plume On-Base

A part of the South Half of Section 4, a part of the Northeast Quarter of Section 9, and a part of the Northwest Quarter of Section 10, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the East Quarter Corner of said Section 4;
thence North 89°52'18" West, along the north line of the Southeast Quarter of said Section 4, a distance of 2370.92 feet;
thence South 00°07'42" West a distance of 30.00 feet to northerly line of Main TCE Plume-Groundwater within Parcel 4(A) described at Reception Number 2006011845 in the Clerk and Records Office of said City and County of Denver being the Northeast corner of Lowry Filing No. 11 of said City and County of Denver and the Point of Beginning;

thence along said northerly line and easterly line of said Main TCE Plume-Groundwater within Parcel 4(A) the following five (5) courses:

1. South 89°52'18" East a distance of 89.47 feet;
2. South 23°44'40" East a distance of 769.35 feet;
3. South 72°21'45" East a distance of 501.04 feet;
4. South 25°49'44" East a distance of 631.58 feet;
5. South 15°28'41" West a distance of 151.29 feet to a point of non-tangent curvature on the northerly line of a Parcel of Land described at Reception Number 2000137528 in said Clerk and Recorder's Office;

thence along said northerly line of a Parcel of Land described at Reception Number 2000137528 the following four (4) courses:

1. along the arc of a curve to the right having a central angle of 30°58'08", a radius of 712.50 feet, an arc length of 385.11 feet and whose chord bears North 87°23'44" East a distance of 380.44 feet;
2. South 06°32'39" East a distance of 34.74 feet;
3. South 89°50'19" East a distance of 35.51 feet to a point of non-tangent curvature;
4. along the arc of a curve to the left having a central angle of 43°39'25", a radius of 490.00 feet, an arc length of 373.36 feet and whose chord bears South 14°40'04" East a distance of 364.39 feet to the northwest corner of Main TCE Plume-Groundwater within Parcel 4(B) described at said Reception Number 2006011845;

thence along the northerly line, easterly line, southerly line and the westerly line of said Main TCE Plume-Groundwater within Parcel 4(B) the following twenty-six (26) courses:

1. South 36°29'47" East a distance of 128.17 feet;
2. South 90°00'00" East a distance of 155.49 feet;
3. South 36°29'47" East a distance of 704.82 feet;
4. South 57°31'52" East a distance of 703.51 feet;
5. North 53°24'05" East a distance of 68.43 feet;
6. South 64°33'43" East a distance of 156.02 feet;
7. South 53°27'42" West a distance of 58.01 feet;
8. South 36°17'24" East a distance of 381.43 feet;
9. South 17°56'49" East a distance of 238.64 feet;
10. South 32°44'51" East a distance of 356.26 feet;
11. South 67°06'32" East a distance of 309.90 feet;
12. North 82°51'23" East a distance of 511.06 feet;
13. South 38°32'02" East a distance of 355.36 feet;
14. North 55°13'32" East a distance of 139.45 feet to a point of non-tangent curve;

15. along the arc of a curve to the right having a central angle of 72°03'49", a radius of 380.00 feet, an arc length of 477.94 feet and whose chord bears South 07°29'33" West a distance of 447.06 feet;
16. South 43°31'28" West a distance of 549.19 feet to a point of curvature;
17. along the arc of a curve to the right having a central angle of 93°09'47", a radius of 150.00 feet, an arc length of 243.90 feet and whose chord bears North 89°53'39" West a distance of 217.91 feet;
18. North 43°18'45" West a distance of 343.85 feet;
19. North 40°43'41" West a distance of 761.58 feet;
20. North 35°04'31" West a distance of 417.42 feet;
21. North 39°16'25" West a distance of 600.98 feet;
22. South 53°24'05" West a distance of 58.18 feet;
23. North 43°35'10" West a distance of 146.09 feet;
24. North 52°26'55" West a distance of 623.56 feet;
25. North 41°13'02" West a distance of 75.00 feet;
26. North 45°55'58" West a distance of 470.27 feet to the southeast corner of a Parcel of Land described at Reception Number 2000137528 in said Clerk and Recorder's Office;

thence North 89°44'10" West, along the southerly line of said Parcel of Land described at Reception Number 2000137528, a distance of 433.18 feet;

thence North 05°24'59" West a distance of 371.02 feet;

thence South 70°19'10" West a distance of 434.55 feet;

thence South 00°00'00" East a distance of 444.24 feet;

thence North 88°55'43" East a distance of 464.42 feet;

thence North 05°24'59" West a distance of 12.49 feet to the easterly line of Main TCE Plume-Groundwater within Parcel 4(A) described at said Reception Number 2006011845;

thence along said easterly line, southerly line and the westerly line of said Main TCE Plume-Groundwater within Parcel 4(A) the following sixteen (16) courses:

1. South 89°44'10" East a distance of 134.18 feet;
2. South 00°04'42" West a distance of 502.15 feet;
3. North 89°44'58" West a distance of 431.06 feet;
4. North 00°19'49" West a distance of 130.06 feet;
5. North 89°57'23" West a distance of 91.72 feet;
6. North 00°00'00" West a distance of 87.47 feet;
7. North 50°16'15" West a distance of 238.52 feet;
8. North 40°45'51" West a distance of 165.09 feet;
9. North 03°40'12" West a distance of 150.35 feet;
10. North 19°29'51" East a distance of 132.64 feet;
11. North 24°50'04" West a distance of 162.56 feet;
12. North 89°36'09" West a distance of 210.32 feet;
13. North 00°28'46" East a distance of 12.84 feet to a point of curvature;
14. along the arc of a curve to the left having a central angle of 08°45'59", a radius of 734.75 feet, an arc length of 112.42 feet and whose chord bears North 03°54'13" West a distance of 112.31 feet;
15. North 06°12'02" West a distance of 630.98 feet;
16. North 06°12'02" West a distance of 238.38 feet to the most southerly corner of Main TCE Plume-Groundwater within Parcel 1 described at said Reception Number 2006011845;

thence along the westerly line and northerly line of said Main TCE Plume-Groundwater within Parcel 1 the following nine (9) courses:

1. North 41°30'47" West a distance of 553.53 feet;
2. North 12°41'48" West a distance of 49.74 feet to a point of non-tangent curvature;
3. along the arc of a curve to the right having a central angle of 1°09'17", a radius of 530.00 feet, an arc length of 10.68 feet and whose chord bears North 48°46'25" East a distance of 10.68 feet;
4. North 41°46'02" West a distance of 46.17 feet;
5. North 14°53'14" West a distance of 187.00 feet to a point of curvature;

6. along the arc of a curve to the left having a central angle of 53°13'20", a radius of 330.00 feet, an arc length of 306.54 feet and whose chord bears North 41°29'54" West a distance of 295.64 feet;
7. North 68°06'34" West a distance of 64.74 feet to a point of curvature;
8. along the arc of a curve to the right having a central angle of 71°39'12", a radius of 380.00 feet, an arc length of 475.22 feet and whose chord bears North 32°16'58" West a distance of 444.85 feet;
9. South 89°52'56" East a distance of 506.86 feet to the most westerly corner of Main TCE Plume-Groundwater within Parcel 4(A) described at said Reception Number 2006011845;

thence along the westerly line and northerly line of said Main TCE Plume-Groundwater within Parcel 1 the following two (2) courses:

1. South 89°52'56" East a distance of 6.99 feet;
2. South 89°52'18" East a distance of 268.42 feet to the Point of Beginning;

Containing 4,926,271 square feet or 113.092 acres, more or less.

DESCRIPTION - FIGURE 54A
1432 Source Area

A part of the Southeast Quarter of Section 4 and a part of the Northeast Quarter of Section 9, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 4;
thence South 82°44'48" East, a distance of 1012.91 feet to the Point of Beginning;

thence North 00°00'00" East a distance of 444.24 feet;
thence North 70°19'10" East a distance of 434.55 feet;
thence South 05°24'59" East a distance of 584.51 feet;
thence South 88°55'43" West a distance of 464.42 feet to the Point of Beginning;

Containing 226,222 square feet or 5.193 acres, more or less.

DESCRIPTION - FIGURE 54A
Main Plume Off-Base North of 17th Ave.

A part of the Southwest Quarter of Section 28, a part of the Southeast Quarter of Section 29, a part of the Northeast Quarter of Section 32 and a part of Section 33, Township 3 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Commencing at the South Quarter Corner of said Section 33;
thence North 31°22'38" East a distance of 1552.30 feet to a point 1325.00 feet north of the south line of the Southeast Quarter of said Section 33 and the **Point of Beginning**;

thence South 89°58'46" West, parallel with and 1325.00 feet north of said south line of the Southeast Quarter of Section 33, a distance of 1187.41 feet;
thence North 09°46'56" West a distance of 335.67 feet to a point of curve;
thence along the arc of a curve to the left having a radius of 2900.00 feet, a central angle of 30°17'20", an arc length of 1533.06 feet and whose chord bears North 24°55'36" West a distance of 1515.27 feet;
thence North 40°04'16" West a distance of 792.77 feet;
thence North 41°38'26" West a distance of 972.28 feet to a point of curve;
thence along the arc of a curve to the right having a radius of 2500.00 feet, a central angle of 22°50'51", an arc length of 996.92 feet and whose chord bears North 30°13'00" West a distance of 990.32 feet to a point of compound curve;

thence along the arc of a curve to the right having a radius of 1300.00 feet, a central angle of 33°47'26", an arc length of 766.68 feet and whose chord bears North 01°53'52" West a distance of 755.62 feet to a point of compound curve;

thence along the arc of a curve to the right having a radius of 350.00 feet, a central angle of 18°07'24", an arc length of 110.71 feet and whose chord bears North 24°03'33" East a distance of 110.25 feet to a point of compound curve;

thence along the arc of a curve to the right having a radius of 270.00 feet, a central angle of 67°42'57", an arc length of 319.10 feet and whose chord bears North 66°58'43" East a distance of 300.85 feet to a point of compound curve;

thence along the arc of a curve to the right having a radius of 575.00 feet, a central angle of 20°48'09", an arc length of 208.77 feet and whose chord bears South 71°31'48" East a distance of 207.62 feet;

thence South 61°07'44" East a distance of 184.24 feet to a point of curve;

thence along the arc of a curve to the right having a radius of 3000.00 feet, a central angle of 15°24'06", an arc length of 806.43 feet and whose chord bears South 53°25'41" East a distance of 804.01 feet;

thence South 45°43'38" East a distance of 1161.69 feet to a point of curve;

thence along the arc of a curve to the right having a radius of 3665.00 feet, a central angle of 29°14'21", an arc length of 1870.32 feet and whose chord bears South 31°06'28" East a distance of 1850.09 feet;

thence South 16°29'17" East a distance of 850.36 feet to a point of curve;

thence along the arc of a curve to the right having a radius of 6000.00 feet, a central angle of 9°58'50", an arc length of 1045.16 feet and whose chord bears South 11°29'52" East a distance of 1043.84 feet to the **Point of Beginning**.

Containing 7,201,575 square feet or 165.325 acres, more or less.

DESCRIPTION - FIGURE 54A
Main Plume Off-Base 11th to 17th Ave.

A part of Section 4 and a part of the South Half of Section 33, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Commencing at the North Quarter corner of said Section 4;
thence North 31°22'38" East a distance of 1552.30 feet to a point 1325.00 feet north of the north line of said Northeast Quarter of Section 4 and the **Point of Beginning**;

thence along the arc of a curve to the right having a radius of 6000.00 feet, a central angle of 2°47'10", an arc length of 291.77 feet and whose chord bears South 5°06'52" East a distance of 291.74 feet;

thence South 03°43'17" East a distance of 800.48 feet to a point of curve;

thence along the arc of a curve to the right having a radius of 4500.00 feet, a central angle of 19°27'27", an arc length of 1528.19 feet and whose chord bears South 06°00'27" West a distance of 1520.86 feet;

thence South 15°44'10" West a distance of 294.78 feet;

thence South 17°45'05" West a distance of 639.10 feet to a point of curve;

thence along the arc of a curve to the left having a radius of 1200.00 feet, a central angle of 25°03'48", an arc length of 524.93 feet and whose chord bears South 05°13'11" West a distance of 520.75 feet;

thence North 89°52'18" West, parallel with and 30.00 feet south of the south line of said Northeast Quarter of Section 4, a distance of 419.51 feet;

thence North 89°52'56" West, parallel with and 30.00 feet south of the south line of the Northwest Quarter of said Section 4, a distance of 450.35 feet;

thence North 30°49'24" West a distance of 463.33 feet;

thence along the arc of a curve to the right having a radius of 1500.00 feet, a central angle of 14°30'57", an arc length of 380.03 feet and whose chord bears North 23°33'55" West a distance of 379.01 feet;

thence North 16°18'26" West a distance of 512.11 feet to a point of curve;

thence along the arc of a curve to the right having a radius of 300.00 feet, a central angle of 28°46'36", an arc length of 150.67 feet and whose chord bears North 01°55'08" West a distance of 149.10 feet to a point of compound curve;

thence along the arc of a curve to the right having a radius of 105.00 feet, a central angle of 131°07'49", an arc length of 240.31 feet and whose chord bears North 78°02'04" East a distance of 191.19 feet;
 thence South 36°24'02" East a distance of 347.82 feet;
 thence South 32°39'29" East a distance of 250.06 feet to a point of curve;
 thence along the arc of a curve to the left having a radius of 215.00 feet, a central angle of 65°16'55", an arc length of 244.97 feet and whose chord bears South 65°17'57" East a distance of 231.93 feet;
 thence North 82°03'36" East a distance of 35.54 feet;
 thence along the arc of a curve to the left having a radius of 200.00 feet, a central angle of 69°29'20", an arc length of 242.56 feet and whose chord bears North 47°18'55" East a distance of 227.97 feet;
 thence North 12°34'15" East a distance of 8.49 feet to a point of curve;
 thence along the arc of a curve to the left having a radius of 2150.00 feet, a central angle of 20°16'07", an arc length of 760.57 feet and whose chord bears North 02°26'12" East a distance of 756.61 feet;
 thence North 07°41'52" West a distance of 958.60 feet;
 thence North 09°46'56" West a distance of 1318.05 feet;
 thence North 89°58'46" East, parallel with and 1325.00 feet north of said north line of the Northeast Quarter of Section 4, a distance of 1187.41 feet to the **Point of Beginning**.

Containing 4,221,670 square feet or 96.916 acres, more or less.

DESCRIPTION - FIGURE 54B HQ Plume

A part of the West Half of Section 9, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the West Quarter Corner of said Section 9;
 thence North 00°10'10" East, along the west line of the Northwest Quarter of said Section 9, a distance of 37.00 feet;
 thence South 89°49'04" East, parallel with the south line of said Northwest Quarter, a distance of 30.00 feet to the easterly line of Quebec Street and the Point of Beginning;

thence North 00°10'10" East, along said easterly line, a distance of 2,096.27 feet to a corner on the west line of Area 4 as described at Reception Number 9800174373 in the Clerk and Records Office of said City and County of Denver;

thence along the southwesterly line of said Area 4 the following seven (7) courses:

1. South 09°41'03" East a distance of 185.07 feet;
2. South 26°06'15" East a distance of 317.47 feet;
3. South 00°30'20" West a distance of 120.51 feet;
4. South 61°54'11" East a distance of 363.78 feet;
5. South 00°01'05" East a distance of 258.88 feet;
6. South 36°27'47" East a distance of 216.39 feet;
7. South 74°49'56" East a distance of 156.06 feet to the northwest corner of Area 9 as described at Reception Number 2000013500 in said Clerk and Records Office;

thence South 36°28'38" East, along the southwesterly line of said Area 9, a distance of 608.42 feet to a point on the northerly line of Area 2 as described at Reception Number 9800087078 in said Clerk and Records Office;

thence along said northerly line the following eight (8) courses:

1. South 53°32'18" West a distance of 744.29 feet;
2. North 35°20'40" West a distance of 74.00 feet to a point of non-tangent curvature;
3. along the arc of a curve to the right having a central angle of 35°31'36", a radius of 263.00 feet, an arc length of 163.08 feet and whose chord bears South 72°25'08" West a distance of 160.48 feet;
4. North 89°49'04" West a distance of 81.42 feet to a point of curvature;

5. along the arc of a curve to the right having a central angle of 20°15'00", a radius of 263.00 feet, an arc length of 92.95 feet and whose chord bears North 79°41'34" West a distance of 92.47 feet;
6. North 69°34'04" West a distance of 52.93 feet to a point of curvature;
7. along the arc of a curve to the left having a central angle of 20°15'00", a radius of 337.00 feet, an arc length of 119.11 feet and whose chord bears North 79°41'34" West a distance of 118.49 feet;
8. North 89°49'04" West a distance of 4.92 feet to the **Point of Beginning**;

Containing 1,183,575 square feet or 27.171 acres, more or less.

**DESCRIPTION - FIGURE 54B
FTZ Plume (North)**

A part of the Southeast Quarter of Section 10, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 10;
thence South 87°25'19" West a distance of 1374.75 feet to a point 50,000 feet west of the east line of the Northwest Quarter of said Southeast Quarter of Section 10 and the **Point of Beginning**;

Thence South 00°06'26" West, parallel with and 50.00 west of said east line, a distance of 300.00 feet;
thence North 89°53'34" West a distance of 275.00 feet;
thence North 00°06'26" East a distance of 300.00 feet;

thence South 89°53'34" East a distance of 275.00 feet to the **Point of Beginning**.

Containing 82,500 square feet or 1.894 acres, more or less.

**DESCRIPTION - FIGURE 54B
FTZ Plume (South)**

A part of the Southeast Quarter of Section 10, Township 4 South, Range 67 West of the Sixth Principal Meridian, City of Aurora, County of Arapahoe, State of Colorado, more particularly described as follows:

Commencing at the East Quarter corner of said Section 10;
thence South 49°32'32" West a distance of 1583.91 feet to the **Point of Beginning**;

thence South 89°53'34" East a distance of 225.00 feet;
thence South 00°06'26" West a distance of 225.00 feet;
thence North 89°53'34" West a distance of 225.00 feet;
thence North 00°06'26" East a distance of 225.00 feet to the **Point of Beginning**.

Containing 50,625 square feet or 1.162 acres, more or less.

**DESCRIPTION - FIGURE 54B
OFR Source Area**

A part of the Northwest Quarter of Section 10, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the Northwest Corner of said Section 10;
thence South 42°12'35" East a distance of 1714.55 feet to the intersection of the centerline of 5th Avenue and the easterly line of Main TCE Plume-Groundwater within Parcel 4(B) described at Reception Number 2006011845 in the Clerk and Records Office of said City and County of Denver and the Point of Beginning;

thence along said easterly line and southerly line of said Main TCE Plume-Groundwater within Parcel 4(B) the following ten (10) courses:

1. South 67°06'32" East a distance of 307.11 feet;
2. North 82°51'23" East a distance of 511.06 feet;
3. South 38°32'02" East a distance of 355.36 feet;
4. North 55°13'32" East a distance of 139.45 feet;
5. along the arc of a curve to the right having a central angle of 72°03'49", a radius of 380.00 feet, an arc length of 477.94 feet and whose chord bears South 07°29'33" West a distance of 447.06 feet;
6. South 43°31'28" West a distance of 549.19 feet to a point of curvature;
7. along the arc of a curve to the right having a central angle of 93°09'47", a radius of 150.00 feet, an arc length of 243.90 feet and whose chord bears North 89°53'39" West a distance of 217.91 feet;
8. North 43°18'45" West a distance of 343.85 feet;
9. North 40°43'41" West a distance of 761.58 feet;
10. North 35°04'31" West a distance of 59.86 feet to said centerline of 5th Avenue;

thence North 53°27'42" East, along said centerline, a distance of 367.97 feet to the Point of Beginning;

Containing 978,055 square feet or 22.453 acres, more or less.

DESCRIPTION - FIGURE 54B
Main Plume On-Base

A part of the South Half of Section 4, a part of the Northeast Quarter of Section 9, and a part of the Northwest Quarter of Section 10, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the East Quarter Corner of said Section 4;

thence North 89°52'18" West, along the north line of the Southeast Quarter of said Section 4, a distance of 2370.92 feet;

thence South 00°07'42" West a distance of 30.00 feet to northerly line of Main TCE Plume-Groundwater within Parcel 4(A) described at Reception Number 2006011845 in the Clerk and Records Office of said City and County of Denver being the Northeast corner of Lowry Filing No. 11 of said City and County of Denver and the Point of Beginning;

thence along said northerly line and easterly line of said Main TCE Plume-Groundwater within Parcel 4(A) the following five (5) courses:

1. South 89°52'18" East a distance of 89.47 feet;
2. South 23°44'40" East a distance of 769.35 feet;
3. South 72°21'45" East a distance of 501.04 feet;
4. South 25°49'44" East a distance of 631.58 feet;
5. South 15°28'41" West a distance of 151.29 feet to a point of non-tangent curvature on the northerly line of a Parcel of Land described at Reception Number 2000137528 in said Clerk and Recorder's Office;

thence along said northerly line of a Parcel of Land described at Reception Number 2000137528 the following four (4) courses:

1. along the arc of a curve to the right having a central angle of 30°58'08", a radius of 712.50 feet, an arc length of 385.11 feet and whose chord bears North 87°23'44" East a distance of 380.44 feet;
2. South 06°32'39" East a distance of 34.74 feet;
3. South 89°50'19" East a distance of 35.51 feet to a point of non-tangent curvature;
4. along the arc of a curve to the left having a central angle of 43°39'25", a radius of 490.00 feet, an arc length of 373.36 feet and whose chord bears South 14°40'04" East a distance of 364.39 feet

to the northwest corner of Main TCE Plume-Groundwater within Parcel 4(B) described at said Reception Number 2006011845;

thence along the northerly line, easterly line, southerly line and the westerly line of said Main TCE Plume-Groundwater within Parcel 4(B) the following twenty-six (26) courses:

1. South 36°29'47" East a distance of 128.17 feet;
2. South 90°00'00" East a distance of 155.49 feet;
3. South 36°29'47" East a distance of 704.82 feet;
4. South 57°31'52" East a distance of 703.51 feet;
5. North 53°24'05" East a distance of 68.43 feet;
6. South 64°33'43" East a distance of 156.02 feet;
7. South 53°27'42" West a distance of 58.01 feet;
8. South 36°17'24" East a distance of 381.43 feet;
9. South 17°56'49" East a distance of 238.64 feet;
10. South 32°44'51" East a distance of 356.26 feet;
11. South 67°06'32" East a distance of 309.90 feet;
12. North 82°51'23" East a distance of 511.06 feet;
13. South 38°32'02" East a distance of 355.36 feet;
14. North 55°13'32" East a distance of 139.45 feet to a point of non-tangent curve;
15. along the arc of a curve to the right having a central angle of 72°03'49", a radius of 380.00 feet, an arc length of 477.94 feet and whose chord bears South 07°29'33" West a distance of 447.06 feet;
16. South 43°31'28" West a distance of 549.19 feet to a point of curvature;
17. along the arc of a curve to the right having a central angle of 93°09'47", a radius of 150.00 feet, an arc length of 243.90 feet and whose chord bears North 89°53'39" West a distance of 217.91 feet;
18. North 43°18'45" West a distance of 343.85 feet;
19. North 40°43'41" West a distance of 761.58 feet;
20. North 35°04'31" West a distance of 417.42 feet;
21. North 39°16'25" West a distance of 600.98 feet;
22. South 53°24'05" West a distance of 58.18 feet;
23. North 43°35'10" West a distance of 146.09 feet;
24. North 52°26'55" West a distance of 623.56 feet;
25. North 41°13'02" West a distance of 75.00 feet;
26. North 45°55'58" West a distance of 470.27 feet to the southeast corner of a Parcel of Land described at Reception Number 2000137528 in said Clerk and Recorder's Office;

thence North 89°44'10" West, along the southerly line of said Parcel of Land described at Reception Number 2000137528, a distance of 433.18 feet;

thence North 05°24'59" West a distance of 371.02 feet;

thence South 70°19'10" West a distance of 434.55 feet;

thence South 00°00'00" East a distance of 444.24 feet;

thence North 88°55'43" East a distance of 464.42 feet;

thence North 05°24'59" West a distance of 12.49 feet to the easterly line of Main TCE Plume-Groundwater within Parcel 4(A) described at said Reception Number 2006011845;

thence along said easterly line, southerly line and the westerly line of said Main TCE Plume-Groundwater within Parcel 4(A) the following sixteen (16) courses:

1. South 89°44'10" East a distance of 134.18 feet;
2. South 00°04'42" West a distance of 502.15 feet;
3. North 89°44'58" West a distance of 431.06 feet;
4. North 00°19'49" West a distance of 130.06 feet;
5. North 89°57'23" West a distance of 91.72 feet;
6. North 00°00'00" West a distance of 87.47 feet;
7. North 50°16'15" West a distance of 238.52 feet;
8. North 40°45'51" West a distance of 165.09 feet;

9. North 03°40'12" West a distance of 150.35 feet;
10. North 19°29'51" East a distance of 132.64 feet;
11. North 24°50'04" West a distance of 162.56 feet;
12. North 89°36'09" West a distance of 210.32 feet;
13. North 00°28'46" East a distance of 12.84 feet to a point of curvature;
14. along the arc of a curve to the left having a central angle of 08°45'59", a radius of 734.75 feet, an arc length of 112.42 feet and whose chord bears North 03°54'13" West a distance of 112.31 feet;
15. North 06°12'02" West a distance of 630.98 feet;
16. North 06°12'02" West a distance of 238.38 feet to the most southerly corner of Main TCE Plume-Groundwater within Parcel 1 described at said Reception Number 2006011845;

thence along the westerly line and northerly line of said Main TCE Plume-Groundwater within Parcel 1 the following nine (9) courses:

1. North 41°30'47" West a distance of 553.53 feet;
2. North 12°41'48" West a distance of 49.74 feet to a point of non-tangent curvature;
3. along the arc of a curve to the right having a central angle of 1°09'17", a radius of 530.00 feet, an arc length of 10.68 feet and whose chord bears North 48°46'25" East a distance of 10.68 feet;
4. North 41°46'02" West a distance of 46.17 feet;
5. North 14°53'14" West a distance of 187.00 feet to a point of curvature;
6. along the arc of a curve to the left having a central angle of 53°13'20", a radius of 330.00 feet, an arc length of 306.54 feet and whose chord bears North 41°29'54" West a distance of 295.64 feet;
7. North 68°06'34" West a distance of 64.74 feet to a point of curvature;
8. along the arc of a curve to the right having a central angle of 71°39'12", a radius of 380.00 feet, an arc length of 475.22 feet and whose chord bears North 32°16'58" West a distance of 444.85 feet;
9. South 89°52'56" East a distance of 506.86 feet to the most westerly corner of Main TCE Plume-Groundwater within Parcel 4(A) described at said Reception Number 2006011845;

thence along the westerly line and northerly line of said Main TCE Plume-Groundwater within Parcel 1 the following two (2) courses:

1. South 89°52'56" East a distance of 6.99 feet;
2. South 89°52'18" East a distance of 268.42 feet to the Point of Beginning;

Containing 4,926,271 square feet or 113.092 acres, more or less.

Excepting therefrom (CT Source Area):

A part of the Southeast Quarter of Section 4, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 4;
thence North 40°32'20" East, a distance of 1211.63 feet to the **Point of Beginning**;

thence North 04°07'47" West a distance of 635.58 feet;
thence North 88°59'02" East a distance of 303.02 feet;
thence South 03°29'14" East a distance of 638.04 feet;
thence South 89°31'37" West a distance of 296.02 feet to the **Point of Beginning**;
Containing 190,459 square feet or 4.372 acres, more or less.

Excepting therefrom (OFR Source Area):

A part of the Northwest Quarter of Section 10, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the Northwest Corner of said Section 10;

thence South 42°12'35" East a distance of 1714.55 feet to the intersection of the centerline of 5th Avenue and the easterly line of Main TCE Plume-Groundwater within Parcel 4(B) described at Reception Number 2006011845 in the Clerk and Records Office of said City and County of Denver and the **Point of Beginning**;

thence along said easterly line and southerly line of said Main TCE Plume-Groundwater within Parcel 4(B) the following ten (10) courses:

1. South 67°06'32" East a distance of 307.11 feet;
2. North 82°51'23" East a distance of 511.06 feet;
3. South 38°32'02" East a distance of 355.36 feet;
4. North 55°13'32" East a distance of 139.45 feet;
5. along the arc of a curve to the right having a central angle of 72°03'49", a radius of 380.00 feet, an arc length of 477.94 feet and whose chord bears South 07°29'33" West a distance of 447.06 feet;
6. South 43°31'28" West a distance of 549.19 feet to a point of curvature;
7. along the arc of a curve to the right having a central angle of 93°09'47", a radius of 150.00 feet, an arc length of 243.90 feet and whose chord bears North 89°53'39" West a distance of 217.91 feet;
8. North 43°18'45" West a distance of 343.85 feet;
9. North 40°43'41" West a distance of 761.58 feet;
10. North 35°04'31" West a distance of 59.86 feet to said centerline of 5th Avenue;

thence North 53°27'42" East, along said centerline, a distance of 367.97 feet to the **Point of Beginning**;

Containing 978,055 square feet or 22.453 acres, more or less.

Resulting Area contains 3,757,757 square feet or 86.267 acres, more or less.

DESCRIPTION - FIGURE 54B
1432 Source Area

A part of the Southeast Quarter of Section 4 and a part of the Northeast Quarter of Section 9, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 4;
thence South 82°44'48" East, a distance of 1012.91 feet to the Point of Beginning;

thence North 00°00'00" East a distance of 444.24 feet;
thence North 70°19'10" East a distance of 434.55 feet;
thence South 05°24'59" East a distance of 584.51 feet;
thence South 88°55'43" West a distance of 464.42 feet to the Point of Beginning;

Containing 226,222 square feet or 5.193 acres, more or less.

DESCRIPTION - FIGURE 54B
CT Source Area

A part of the Southeast Quarter of Section 4, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 4;
thence North 40°32'20" East, a distance of 1211.63 feet to the Point of Beginning;

thence North 04°07'47" West a distance of 635.58 feet;

thence North 88°59'02" East a distance of 303.02 feet;
thence South 03°29'14" East a distance of 638.04 feet;
thence South 89°31'37" West a distance of 296.02 feet to the Point of Beginning;

Containing 190,459 square feet or 4.372 acres, more or less.

DESCRIPTION - FIGURE 54B
Main Plume Off-Base

(Main Plume Off-Base North of 17th Ave.):

A part of the Southwest Quarter of Section 28, a part of the Southeast Quarter of Section 29, a part of the Northeast Quarter of Section 32 and a part of Section 33, Township 3 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Commencing at the South Quarter Corner of said Section 33;
thence North 31°22'38" East a distance of 1552.30 feet to a point 1325.00 feet north of the south line of the Southeast Quarter of said Section 33 and the Point of Beginning;

thence South 89°58'46" West, parallel with and 1325.00 feet north of said south line of the Southeast Quarter of Section 33, a distance of 1187.41 feet;
thence North 09°46'56" West a distance of 335.67 feet to a point of curve;
thence along the arc of a curve to the left having a radius of 2900.00 feet, a central angle of 30°17'20", an arc length of 1533.06 feet and whose chord bears North 24°55'36" West a distance of 1515.27 feet;
thence North 40°04'16" West a distance of 792.77 feet;
thence North 41°38'26" West a distance of 972.28 feet to a point of curve;
thence along the arc of a curve to the right having a radius of 2500.00 feet, a central angle of 22°50'51", an arc length of 996.92 feet and whose chord bears North 30°13'00" West a distance of 990.32 feet to a point of compound curve;
thence along the arc of a curve to the right having a radius of 1300.00 feet, a central angle of 33°47'26", an arc length of 766.68 feet and whose chord bears North 01°53'52" West a distance of 755.62 feet to a point of compound curve;
thence along the arc of a curve to the right having a radius of 350.00 feet, a central angle of 18°07'24", an arc length of 110.71 feet and whose chord bears North 24°03'33" East a distance of 110.25 feet to a point of compound curve;
thence along the arc of a curve to the right having a radius of 270.00 feet, a central angle of 67°42'57", an arc length of 319.10 feet and whose chord bears North 66°58'43" East a distance of 300.85 feet to a point of compound curve;
thence along the arc of a curve to the right having a radius of 575.00 feet, a central angle of 20°48'09", an arc length of 208.77 feet and whose chord bears South 71°31'48" East a distance of 207.62 feet;
thence South 61°07'44" East a distance of 184.24 feet to a point of curve;
thence along the arc of a curve to the right having a radius of 3000.00 feet, a central angle of 15°24'06", an arc length of 806.43 feet and whose chord bears South 53°25'41" East a distance of 804.01 feet;
thence South 45°43'38" East a distance of 1161.69 feet to a point of curve;
thence along the arc of a curve to the right having a radius of 3665.00 feet, a central angle of 29°14'21", an arc length of 1870.32 feet and whose chord bears South 31°06'28" East a distance of 1850.09 feet;
thence South 16°29'17" East a distance of 850.36 feet to a point of curve;
thence along the arc of a curve to the right having a radius of 6000.00 feet, a central angle of 9°58'50", an arc length of 1045.16 feet and whose chord bears South 11°29'52" East a distance of 1043.84 feet to the **Point of Beginning**.

Containing 7,201,575 square feet or 165.325 acres, more or less.

Together with (Main Plume Off-Base 11th to 17th Ave.):

A part of Section 4 and a part of the South Half of Section 33, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Commencing at the North Quarter corner of said Section 4;
thence North 31°22'38" East a distance of 1552.30 feet to a point 1325.00 feet north of the north line of said Northeast Quarter of Section 4 and the **Point of Beginning**;

thence along the arc of a curve to the right having a radius of 6000.00 feet, a central angle of 2°47'10", an arc length of 291.77 feet and whose chord bears South 5°06'52" East a distance of 291.74 feet;
thence South 03°43'17" East a distance of 800.48 feet to a point of curve;
thence along the arc of a curve to the right having a radius of 4500.00 feet, a central angle of 19°27'27", an arc length of 1528.19 feet and whose chord bears South 06°00'27" West a distance of 1520.86 feet;
thence South 15°44'10" West a distance of 294.78 feet;
thence South 17°45'05" West a distance of 639.10 feet to a point of curve;
thence along the arc of a curve to the left having a radius of 1200.00 feet, a central angle of 25°03'48", an arc length of 524.93 feet and whose chord bears South 05°13'11" West a distance of 520.75 feet;
thence North 89°52'18" West, parallel with and 30.00 feet south of the south line of said Northeast Quarter of Section 4, a distance of 419.51 feet;
thence North 89°52'56" West, parallel with and 30.00 feet south of the south line of the Northwest Quarter of said Section 4, a distance of 450.35 feet;
thence North 30°49'24" West a distance of 463.33 feet;
thence along the arc of a curve to the right having a radius of 1500.00 feet, a central angle of 14°30'57", an arc length of 380.03 feet and whose chord bears North 23°33'55" West a distance of 379.01 feet;
thence North 16°18'26" West a distance of 512.11 feet to a point of curve;
thence along the arc of a curve to the right having a radius of 300.00 feet, a central angle of 28°46'36", an arc length of 150.67 feet and whose chord bears North 01°55'08" West a distance of 149.10 feet to a point of compound curve;
thence along the arc of a curve to the right having a radius of 105.00 feet, a central angle of 131°07'49", an arc length of 240.31 feet and whose chord bears North 78°02'04" East a distance of 191.19 feet;
thence South 36°24'02" East a distance of 347.82 feet;
thence South 32°39'29" East a distance of 250.06 feet to a point of curve;
thence along the arc of a curve to the left having a radius of 215.00 feet, a central angle of 65°16'55", an arc length of 244.97 feet and whose chord bears South 65°17'57" East a distance of 231.93 feet;
thence North 82°03'36" East a distance of 35.54 feet;
thence along the arc of a curve to the left having a radius of 200.00 feet, a central angle of 69°29'20", an arc length of 242.56 feet and whose chord bears North 47°18'55" East a distance of 227.97 feet;
thence North 12°34'15" East a distance of 8.49 feet to a point of curve;
thence along the arc of a curve to the left having a radius of 2150.00 feet, a central angle of 20°16'07", an arc length of 760.57 feet and whose chord bears North 02°26'12" East a distance of 756.61 feet;
thence North 07°41'52" West a distance of 958.60 feet;
thence North 09°46'56" West a distance of 1318.05 feet;
thence North 89°58'46" East, parallel with and 1325.00 feet north of said north line of the Northeast Quarter of Section 4, a distance of 1187.41 feet to the **Point of Beginning**.

Containing 4,221,670 square feet or 96.916 acres, more or less.

Total Area contains 11,434,245 square feet or 262.241 acres, more or less.

42.8 FIGURES

[NOTE: ADD MAPS HERE]

42.9 RESERVED

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42.35 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE: JANUARY 9, 2017 RULEMAKING; FINAL ACTION JANUARY 9, 2017; EFFECTIVE DATE MARCH 1, 2017

The provisions of C.R.S. sections 25-8-202; 25-8-203; 25-8-204; 25-8-402, provide the specific statutory authority for adoption of this regulation. The Commission also adopted, in compliance with section 24-4-103(4) the following statement of basis and purpose.

BASIS AND PURPOSE

In today's action, the Commission updated the maps to an electronic format in ArcGIS, which are publicly available. The geographic regions in Regulation No. 42 represent where the Water Quality Control Commission has assigned use classifications and site specific water quality standards. No changes were made to the actual boundaries. These changes were made to better communicate all of the specified areas within Regulation No. 42 with external stakeholders. The maps are found in Figures 1 through 54B in the regulation.

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Figure 1. Specified Area for Rocky Flats Environmental Technology Site.

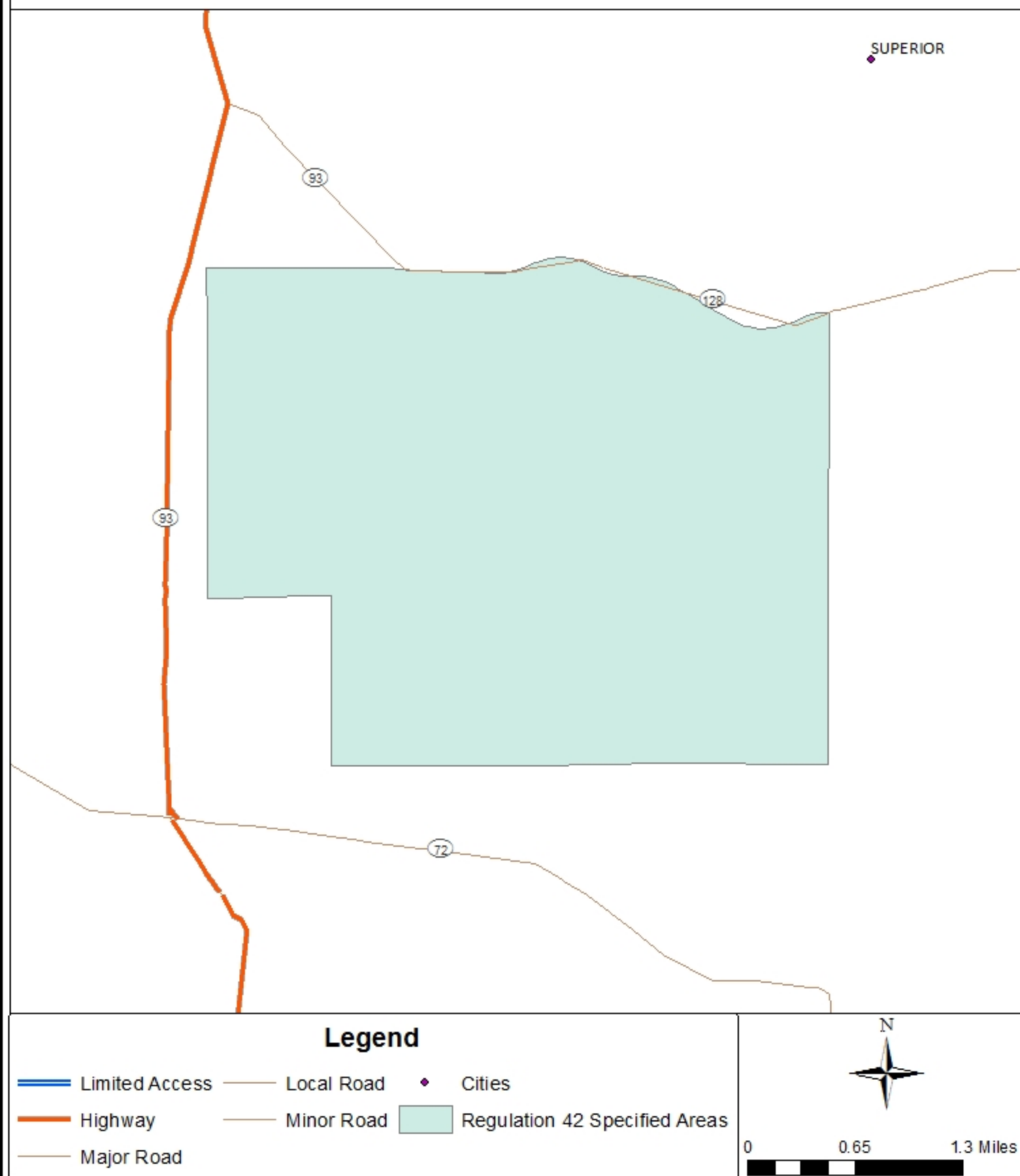
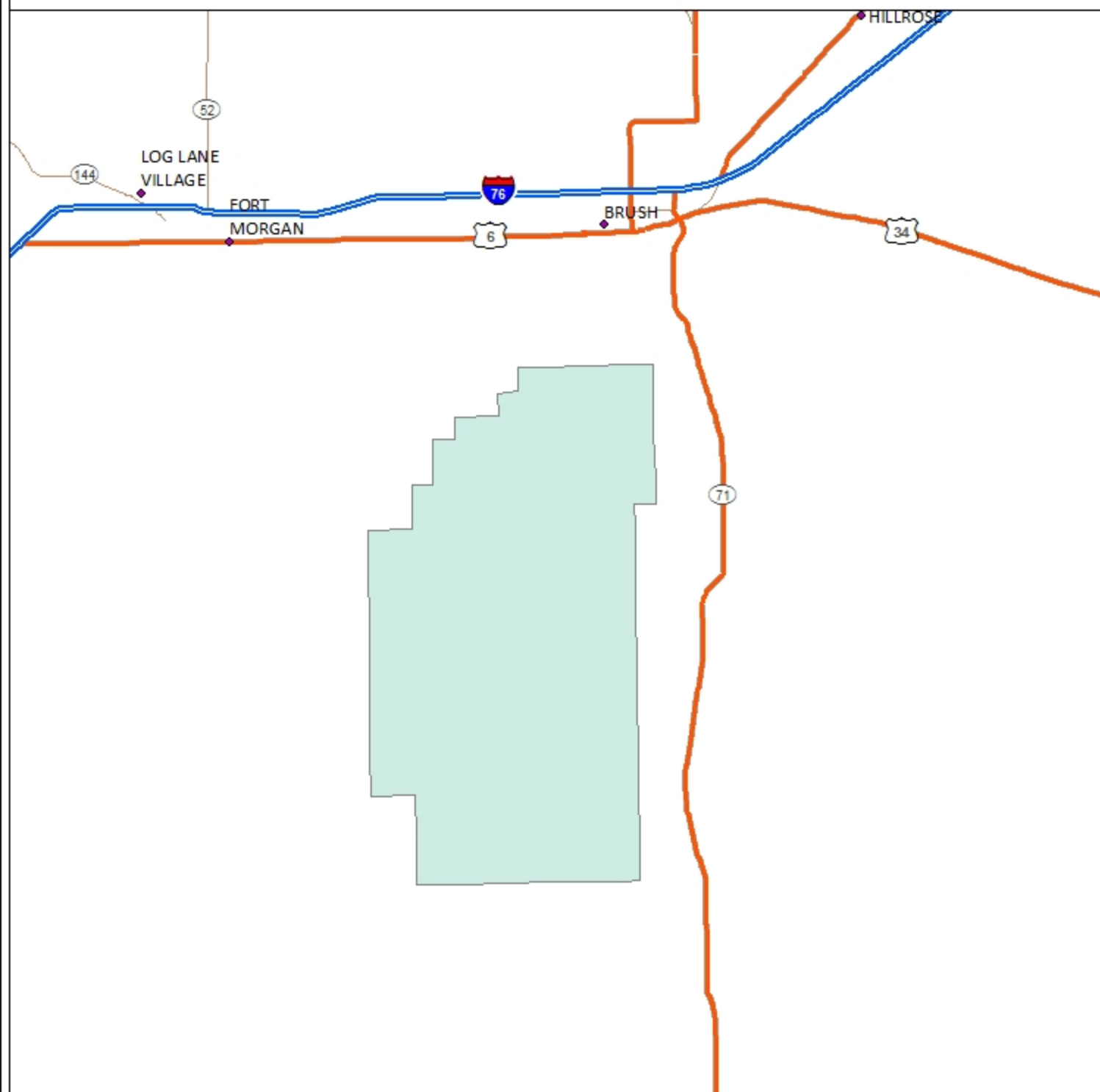


Figure 2. Specified Area for Brush Wellfield.



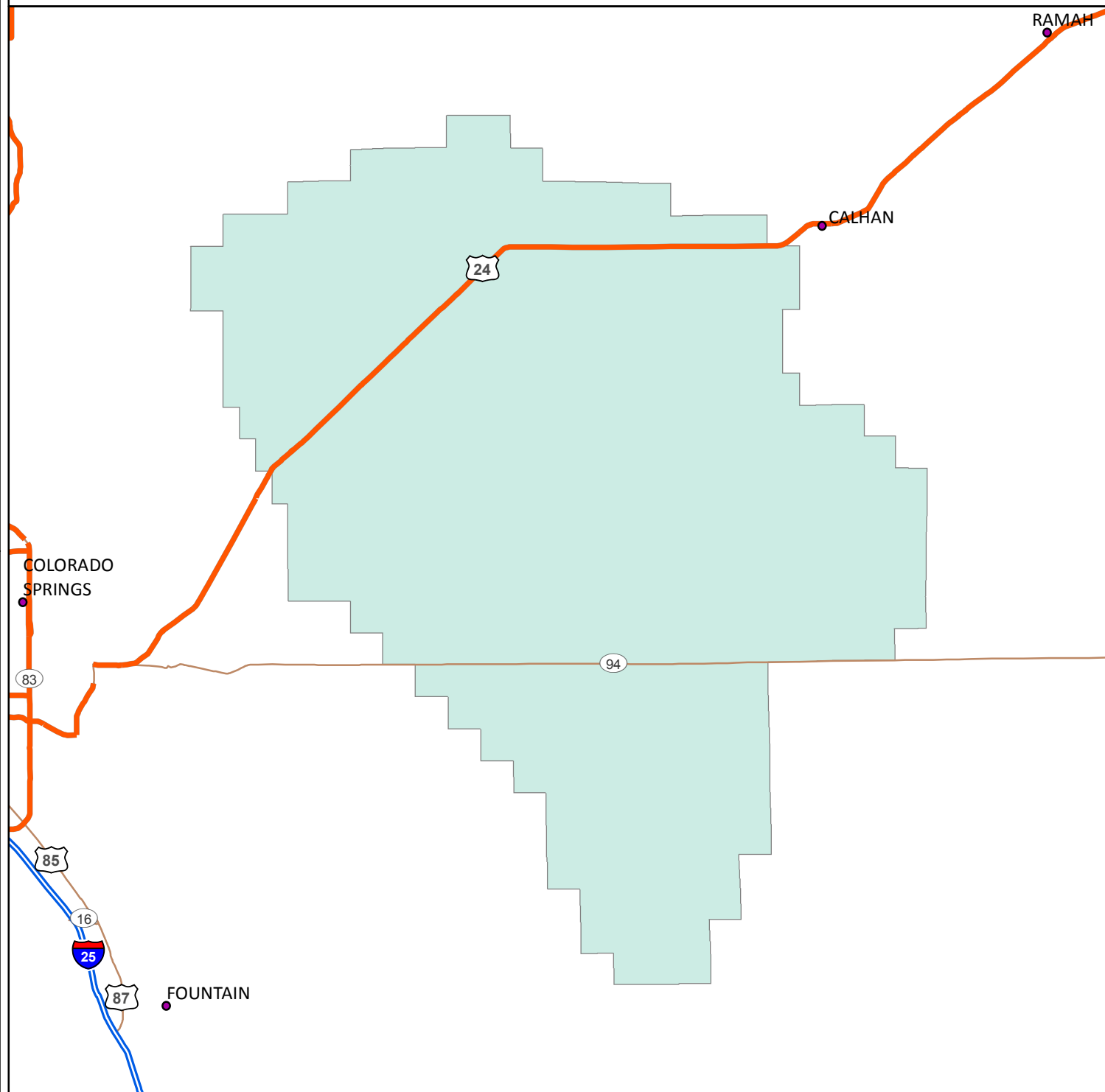
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 2.5 5 Miles

Figure 3. Specified Area for Upper Black Squirrel Creek Alluvial Aquifer.



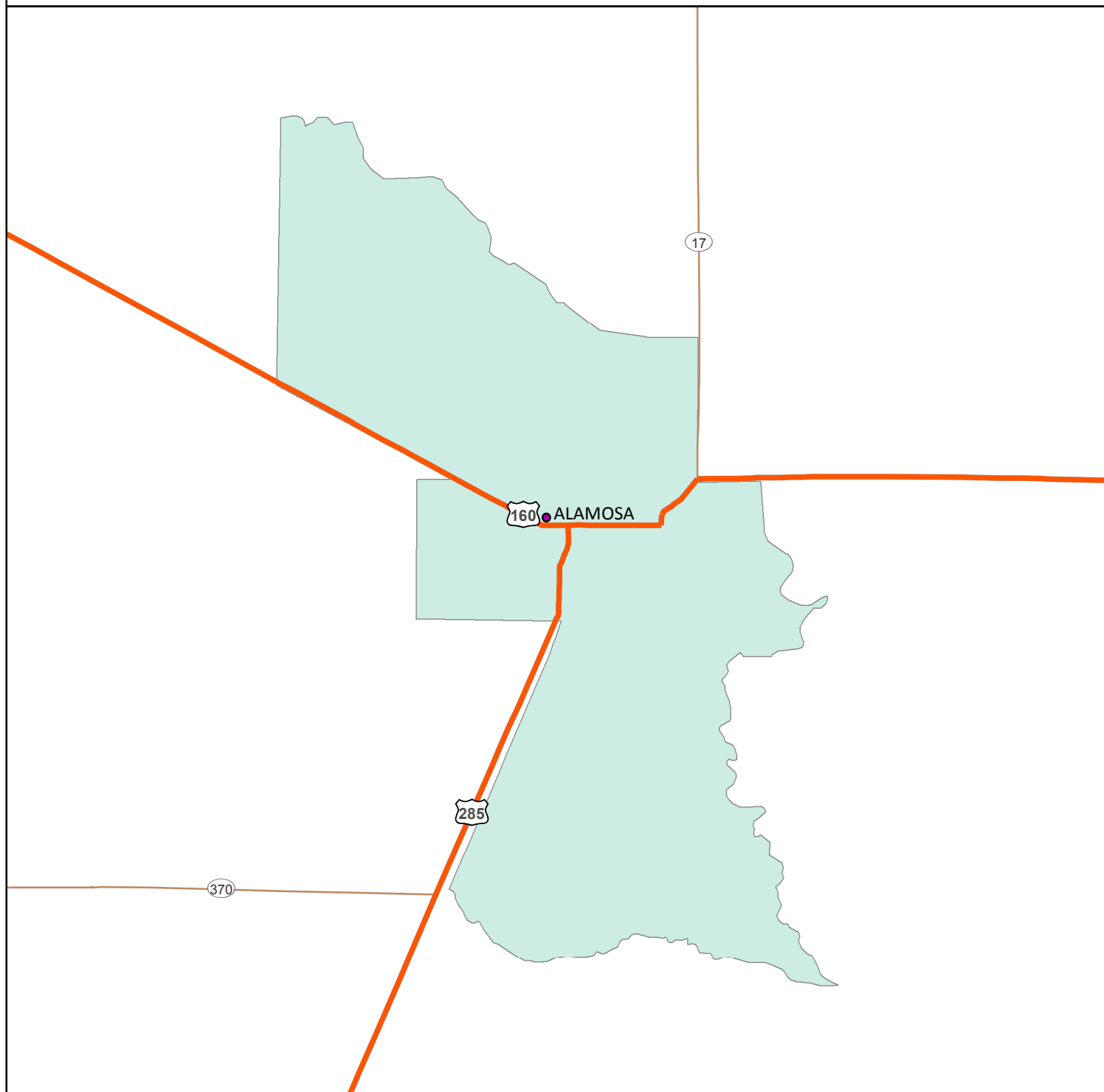
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- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 3.5 7 Miles

Figure 4. Specified Area for Alamosa Wellfield.



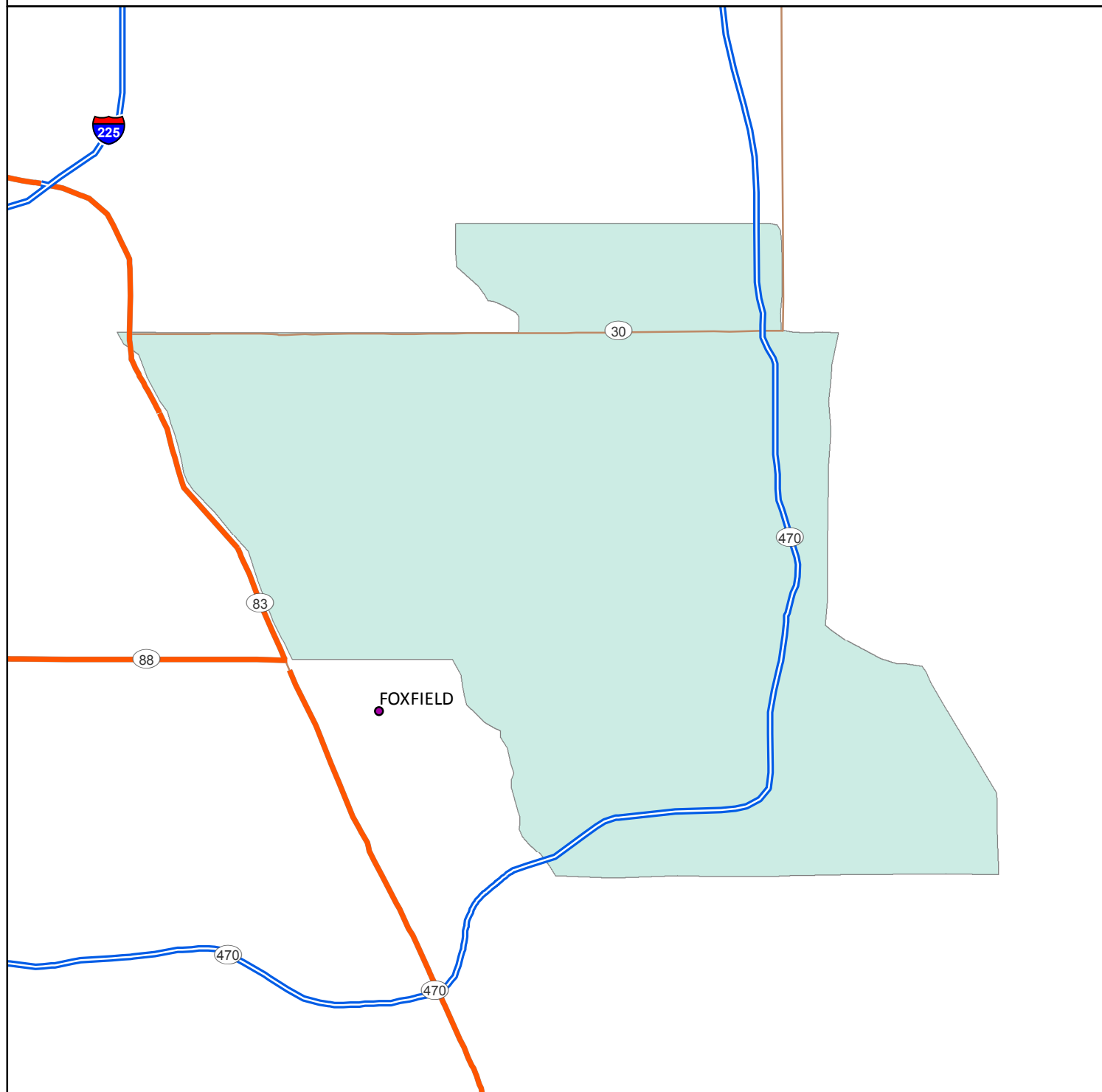
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 0.85 1.7 Miles

Figure 5. Specified Area for East Cherry Creek Valley Wellfield.



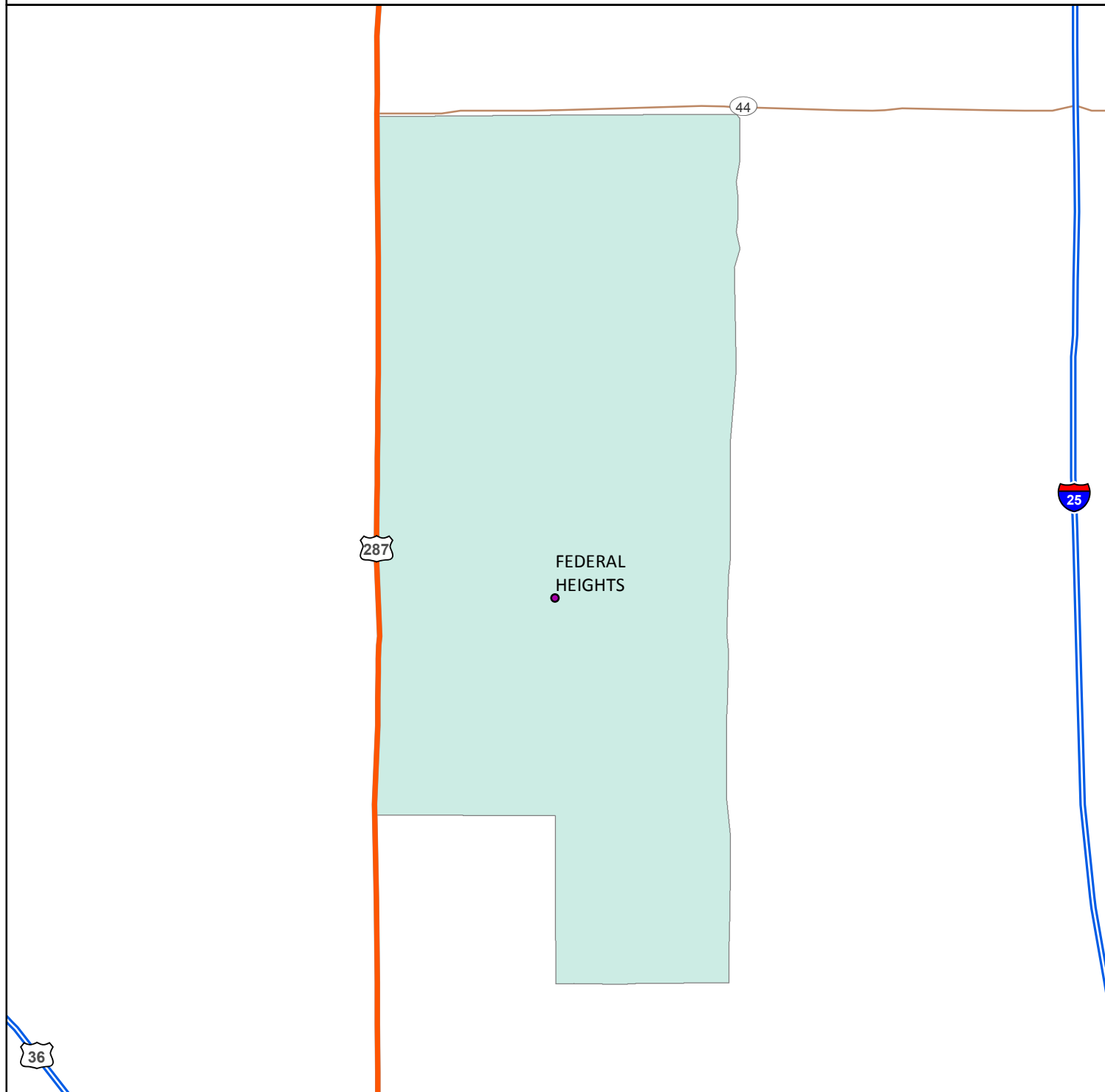
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 1 2 Miles

Figure 6. Specified Area for Federal Heights Wellfield.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |

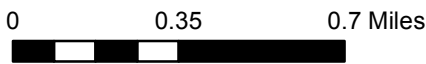
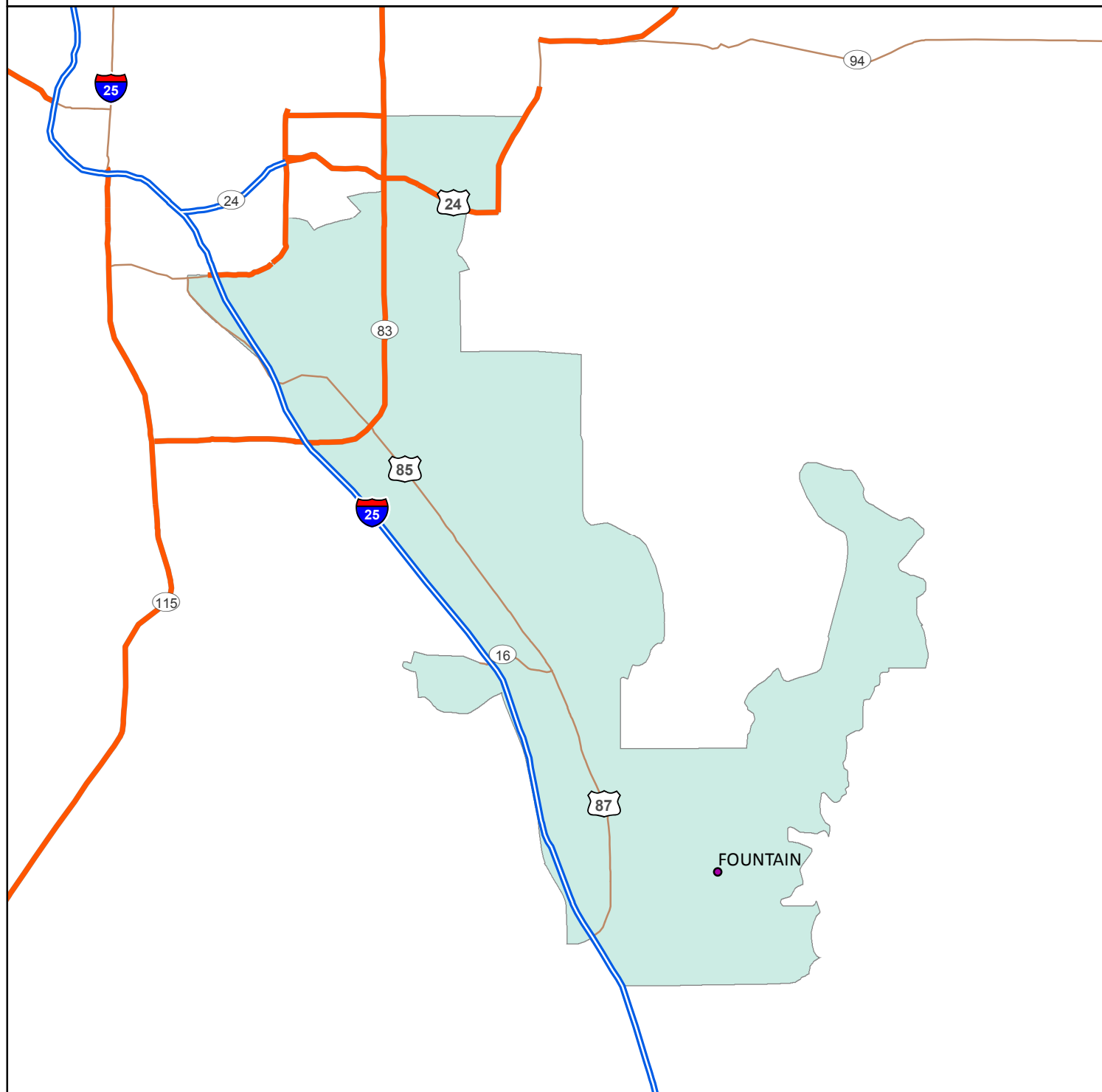


Figure 7. Specified Area for Fountain, Security, Stratmoor Hills, and Widefield Wellfields.



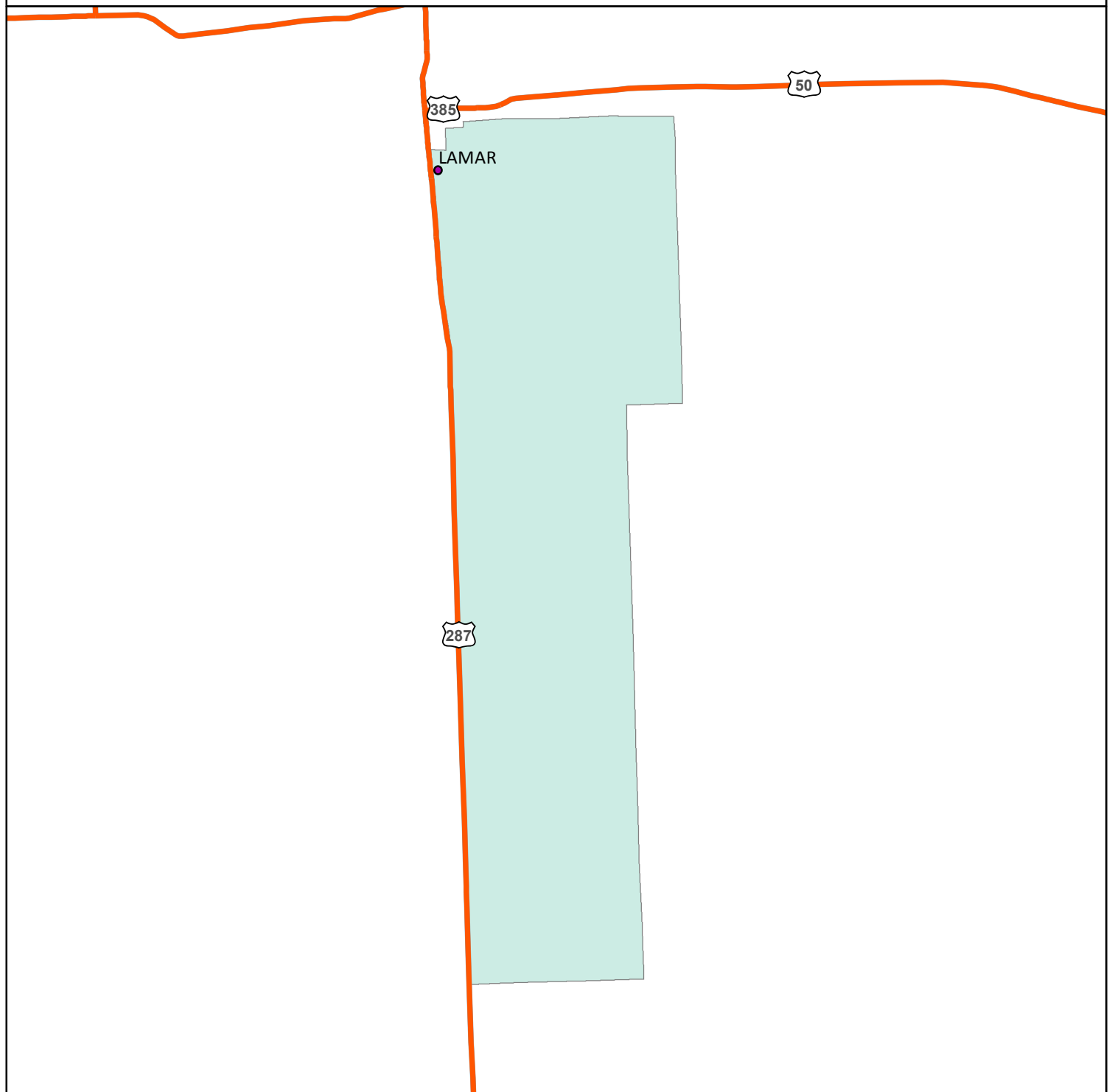
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 1.5 3 Miles

Figure 8. Specified Area for Lamar Wellfield.



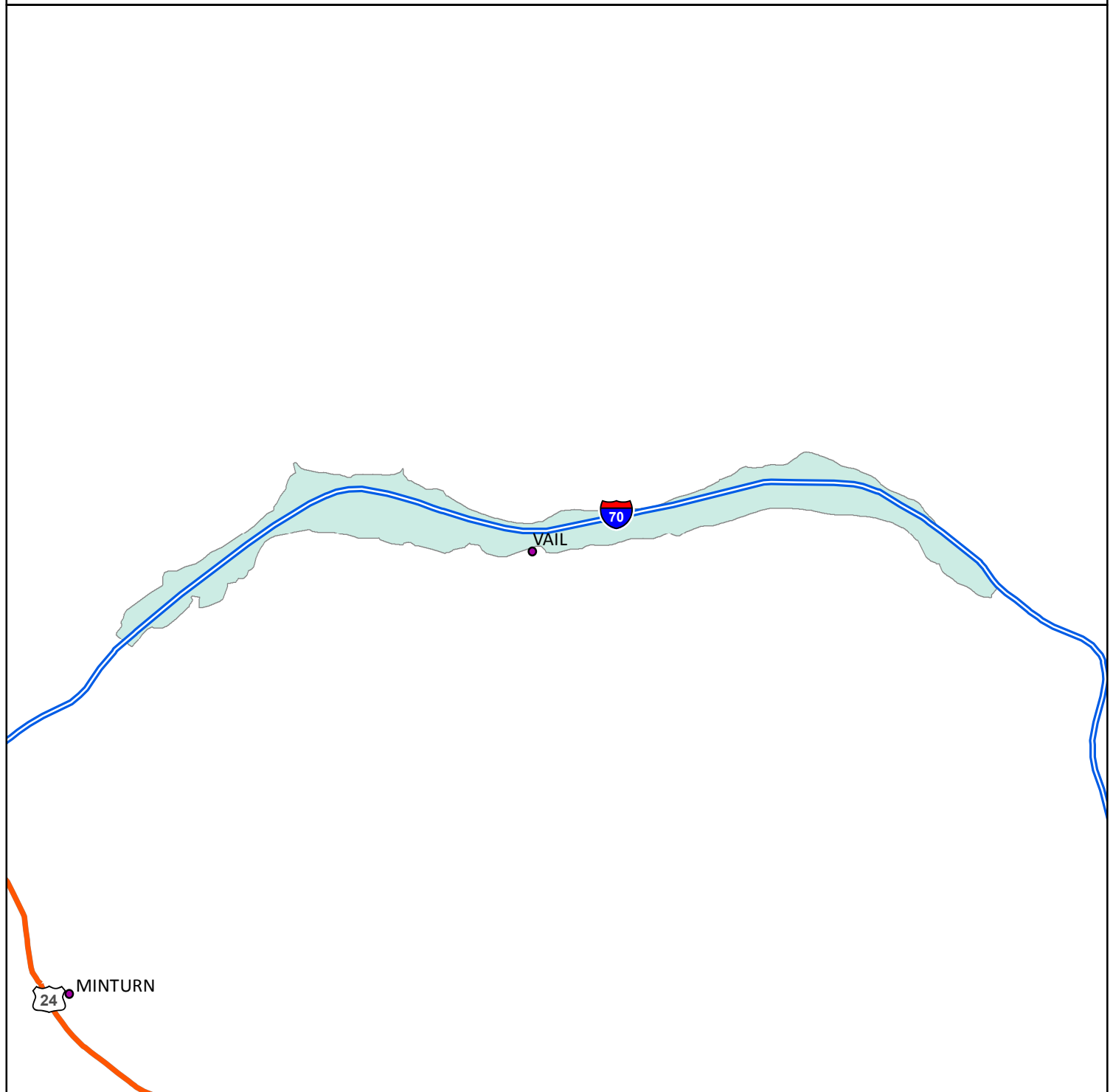
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |










0 2 4 Miles

Figure 9. Specified Area for Vail Valley Wellfield.



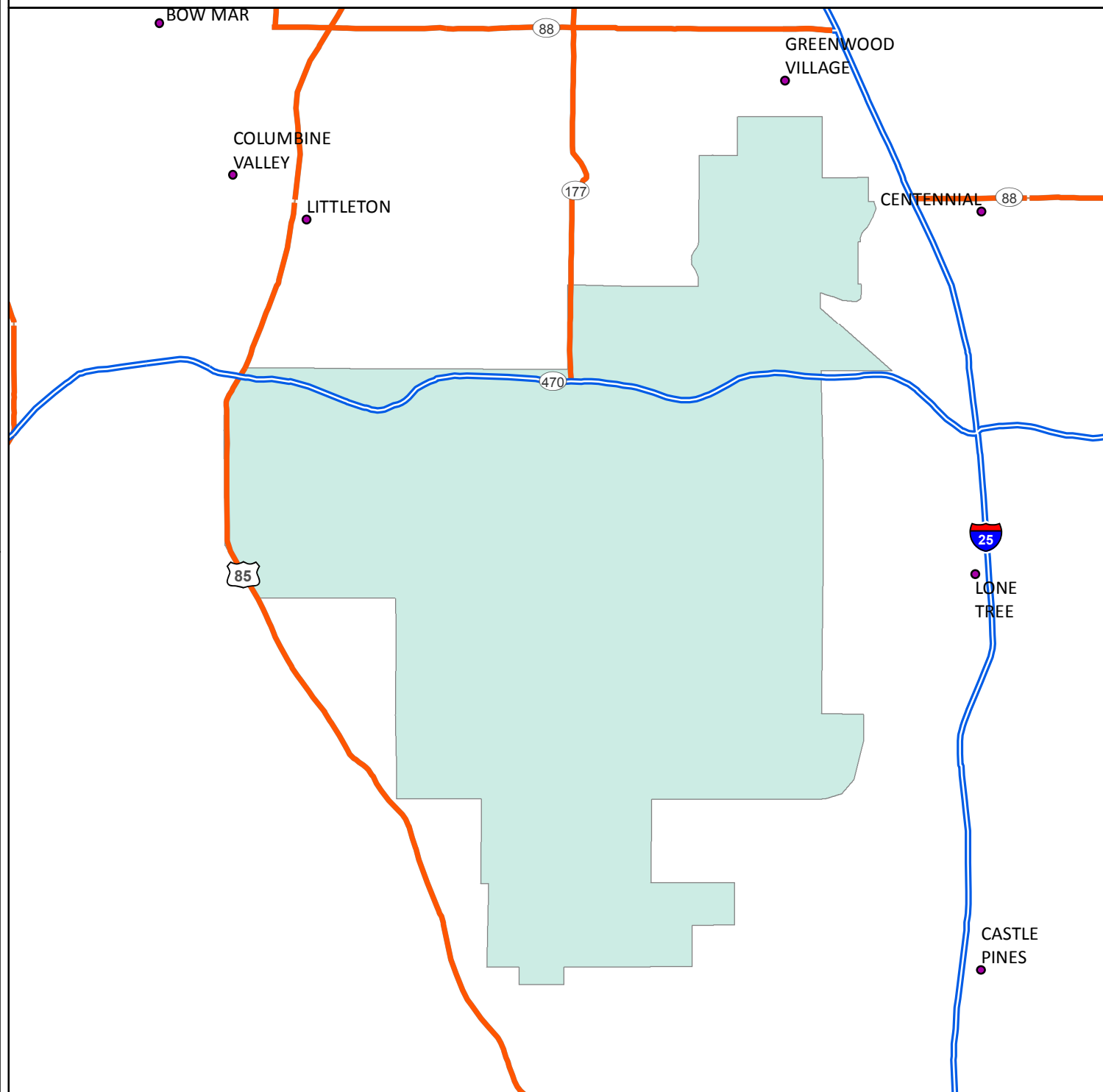
Legend

- | | | |
|---|--|---|
|  Limited Access |  Local Road |  Cities |
|  Highway |  Minor Road |  Regulation 42 Specified Areas |
|  Major Road | | |



0 0.95 1.9 Miles

Figure 10. Specified Area for Willows and Centennial Ground Water Classification Area.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 1.5 3 Miles

Figure 11. Specified Area for Bennett Wellfield.

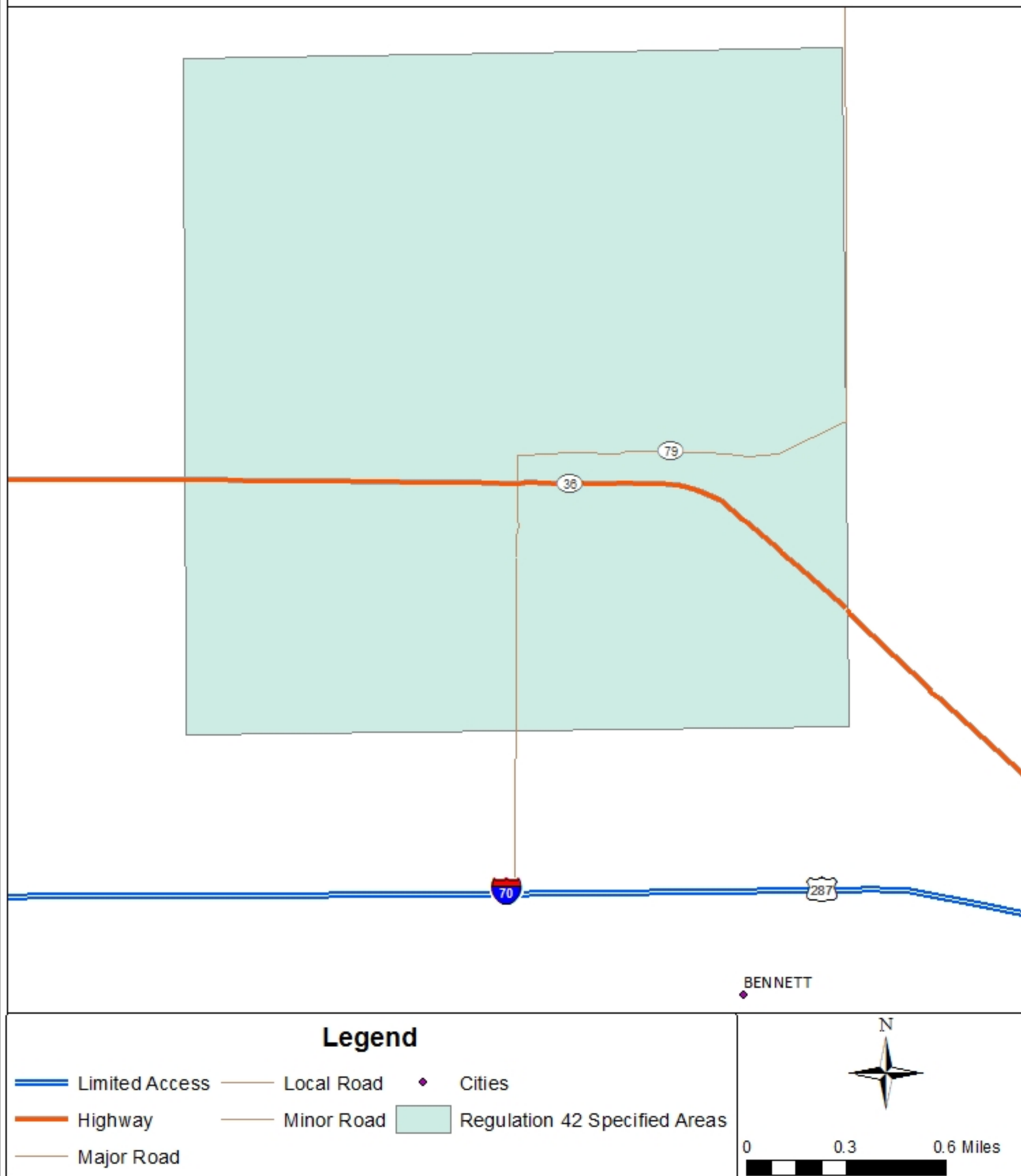
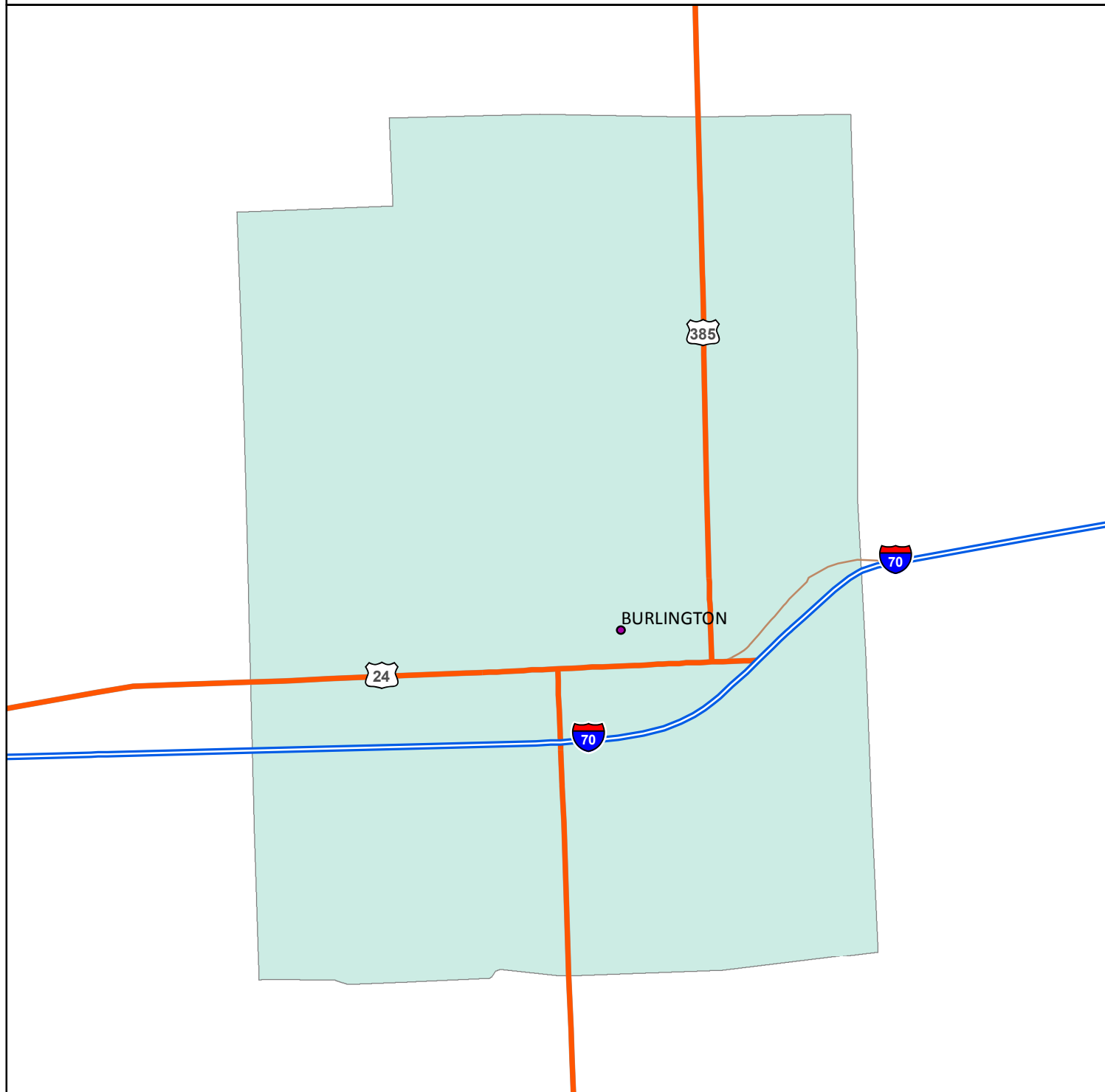


Figure 12. Specified Area for the Burlington Wellfield.



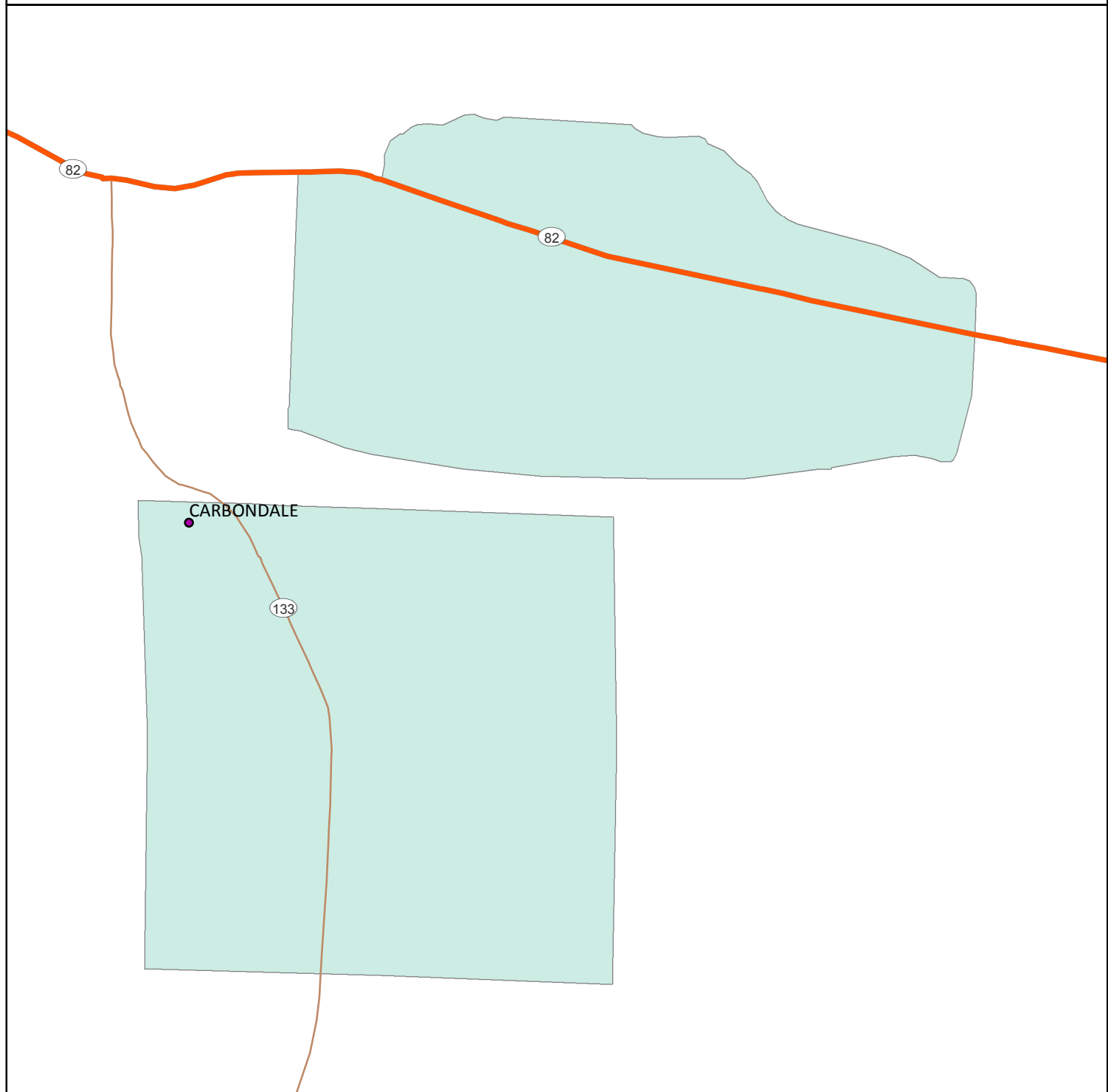
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 0.8 1.6 Miles

Figure 13. Specified Area for Carbondale Wellfield.



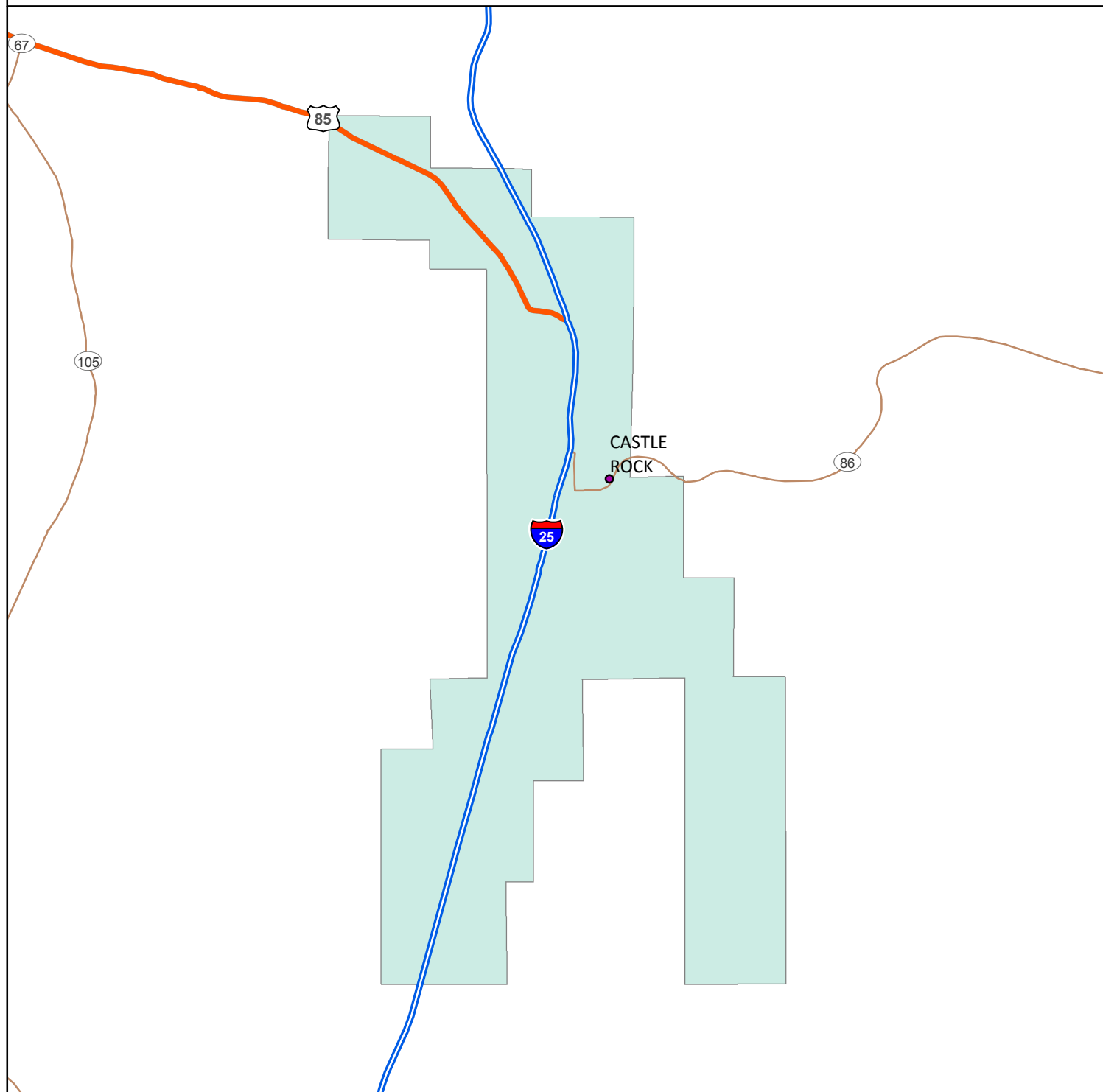
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 0.5 1 Miles

Figure 14. Specified Area for Castle Rock Wellfield.



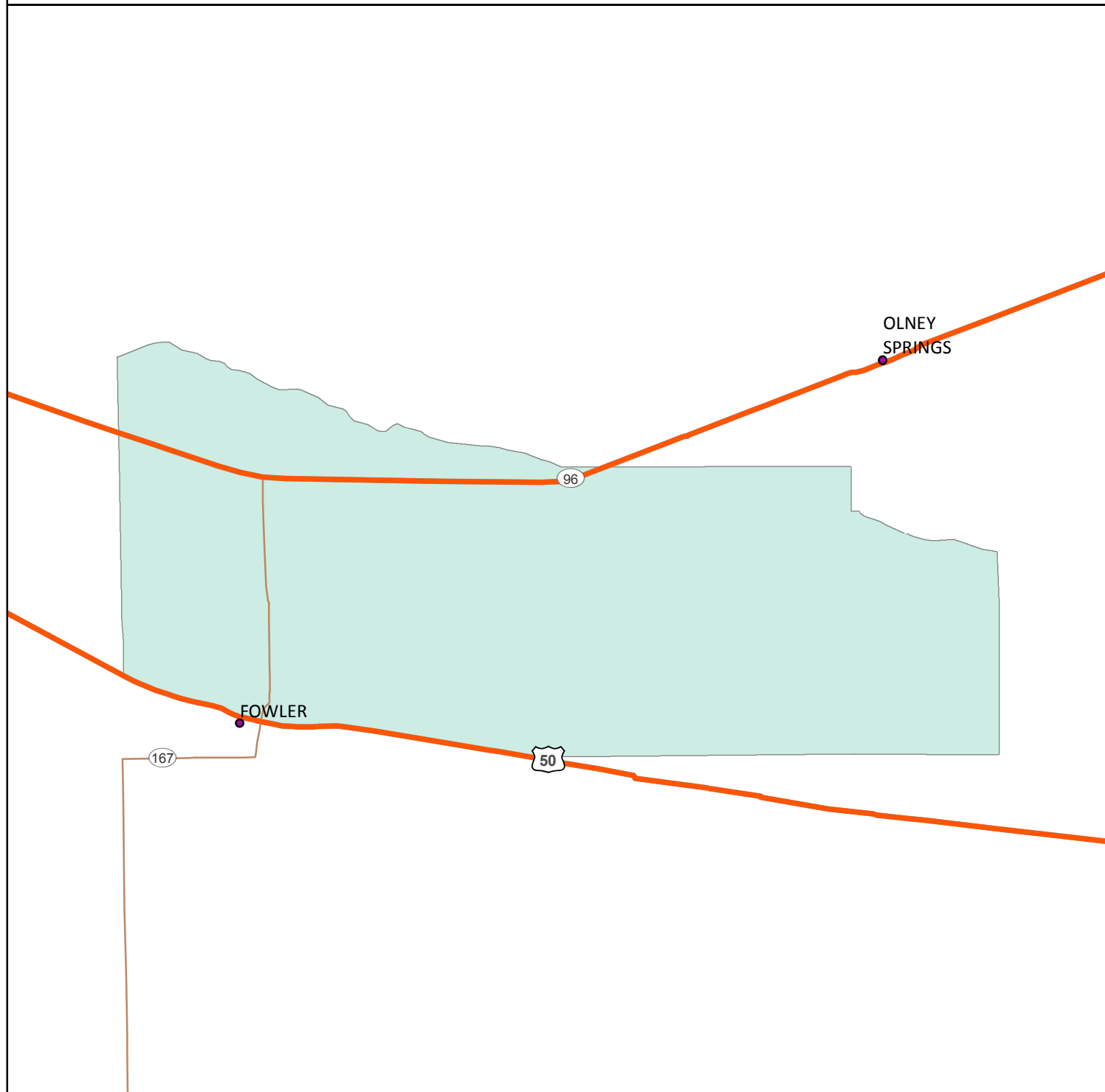
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 1 2 Miles

Figure 15. Specified Area for Crowley County Water System Wellfield.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 0.8 1.6 Miles

Figure 16. Specified Area for Denver SE Suburban Water and Sanitation District Wellfield.

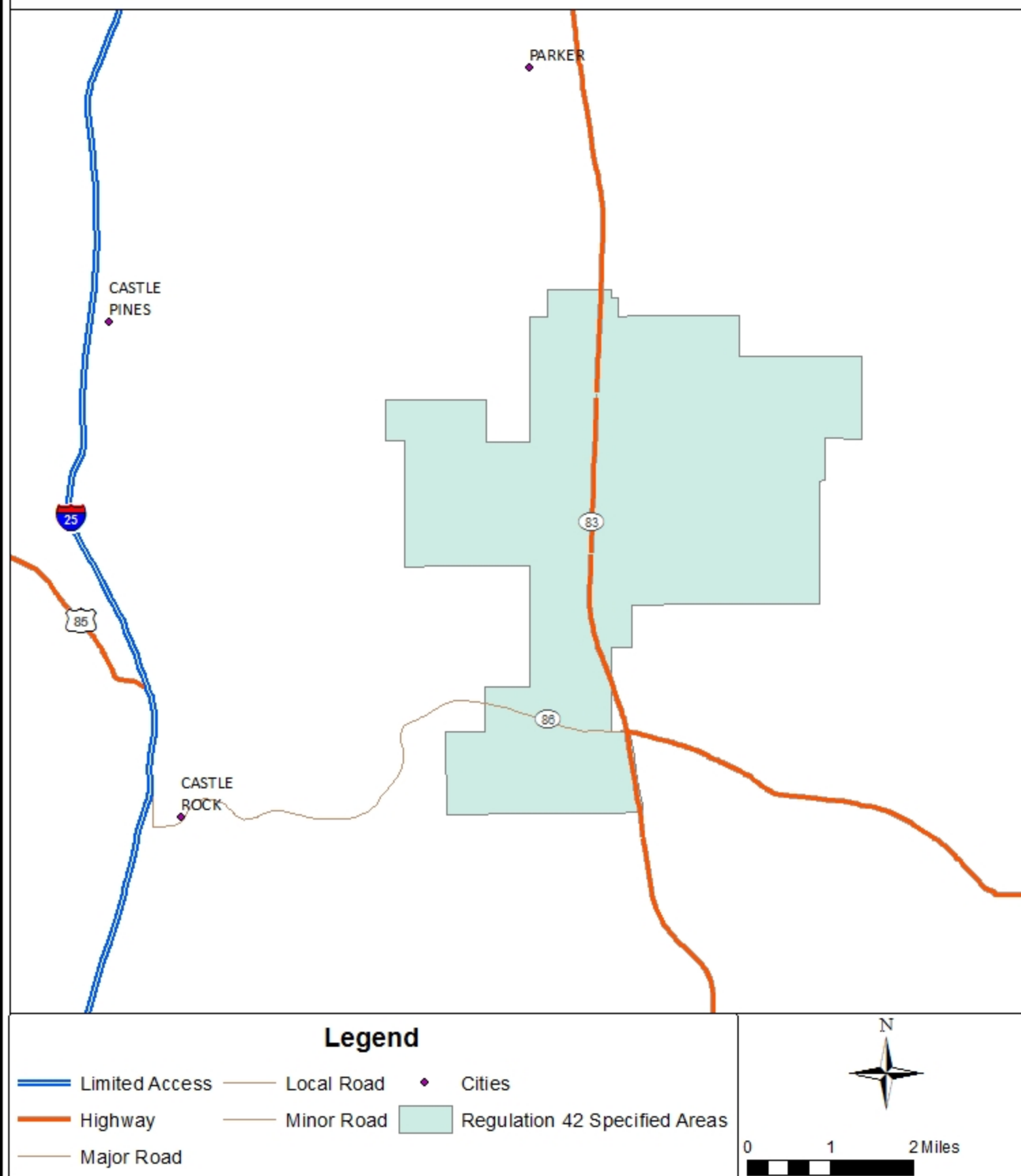
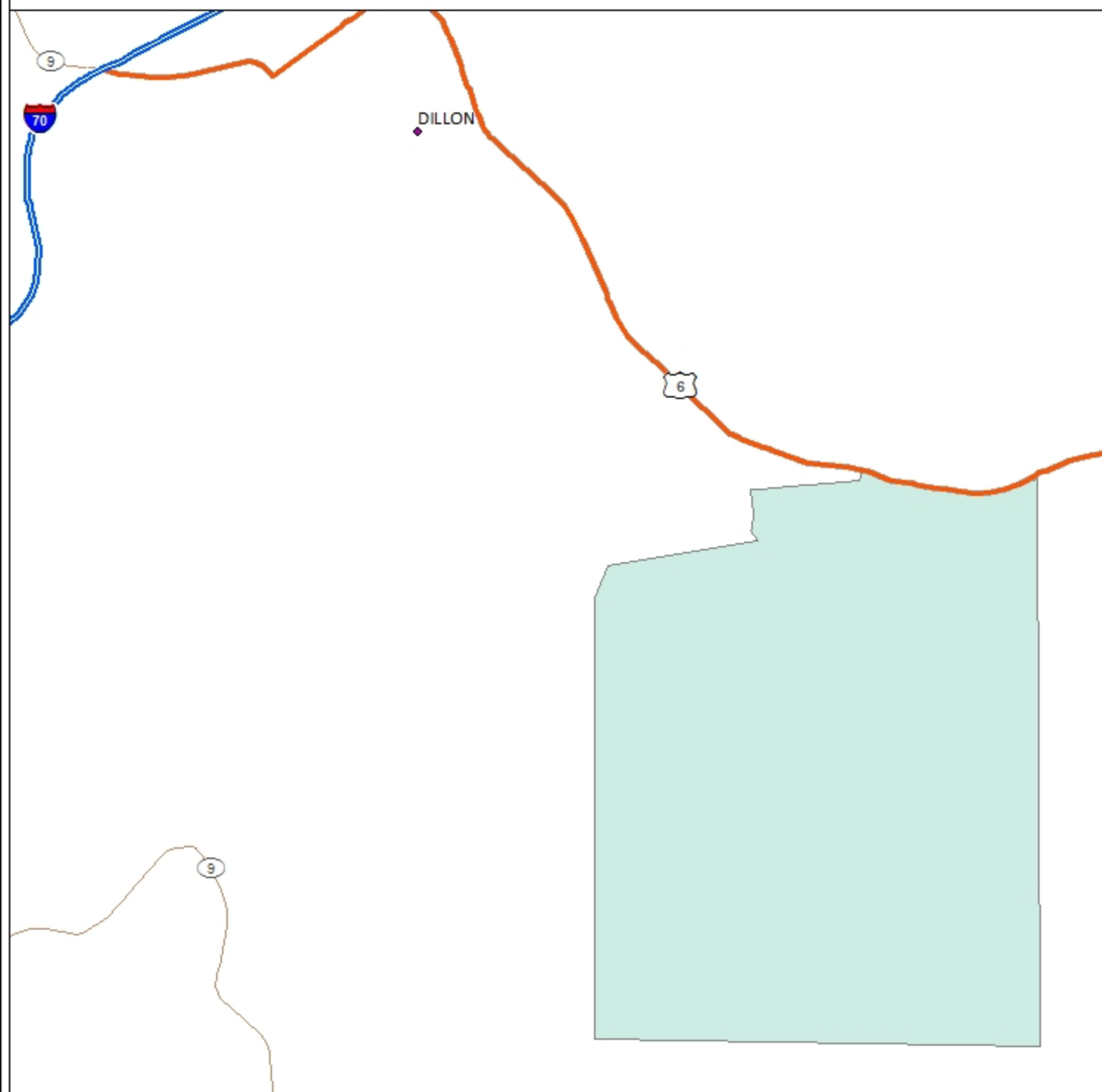


Figure 17. Specified Area for East Dillon Water District Wellfield.



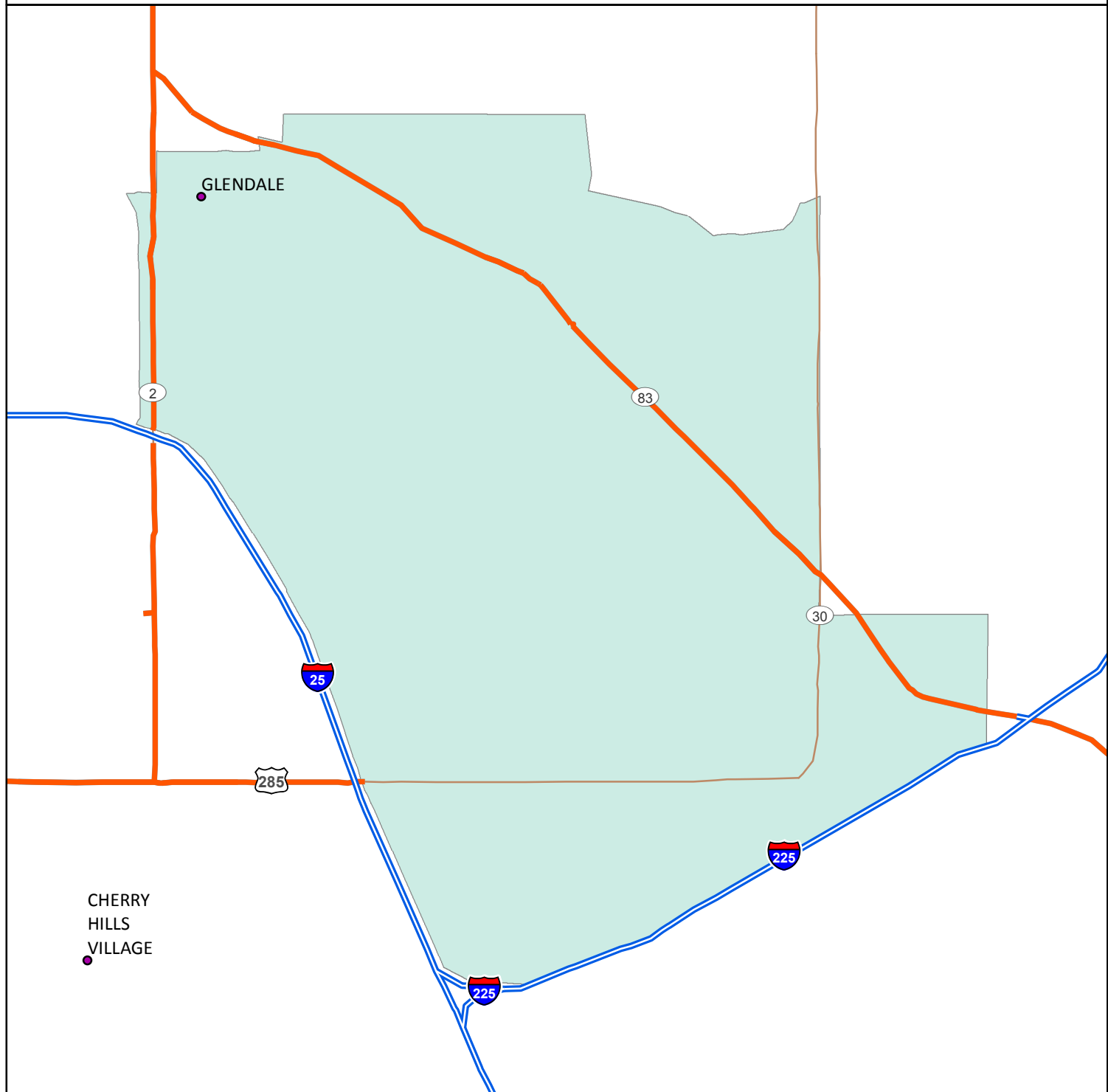
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 0.5 1 Miles

Figure 18. City of Glendale and Cherry Creek Valley Water and Sanitation District Ground Water Classification Area.



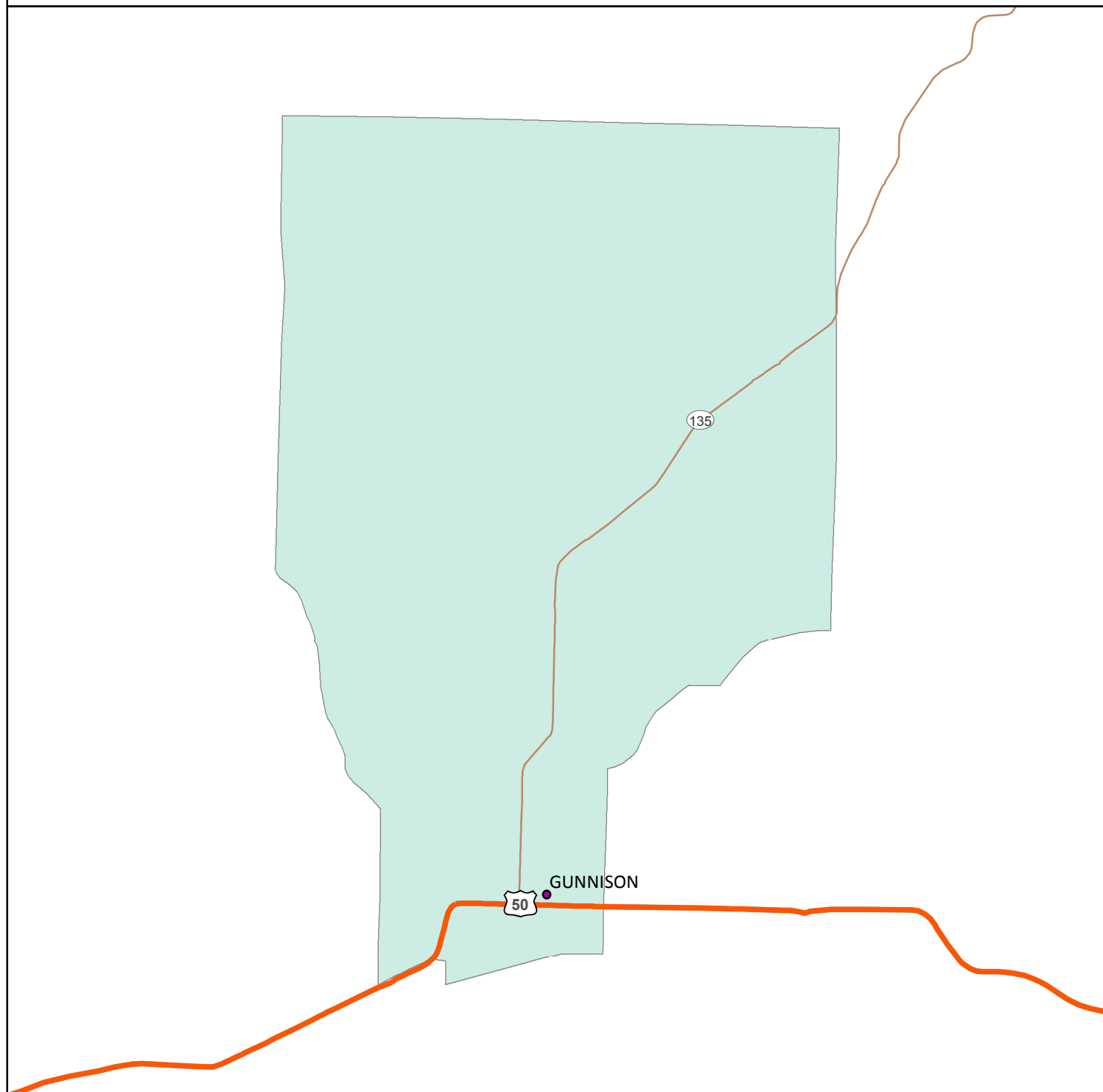
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |










0 0.7 1.4 Miles

Figure 19. Specified Area for the Gunnison Wellfield.



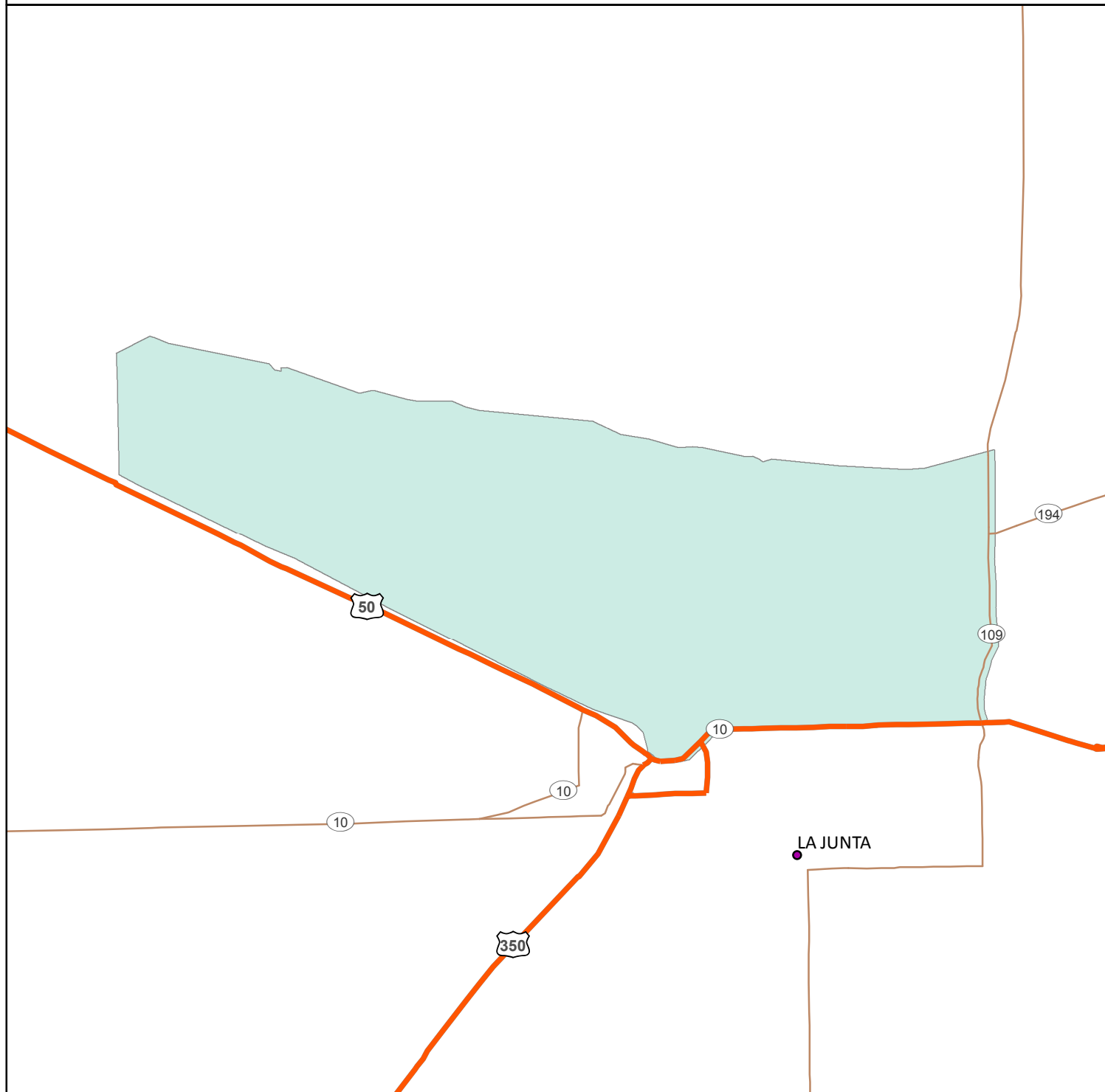
Legend

- | | | |
|---|--|---|
|  Limited Access |  Local Road |  Cities |
|  Highway |  Minor Road |  Regulation 42 Specified Areas |
|  Major Road | | |



0 1 2 Miles

Figure 20. Specified Area for La Junta Wellfield.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |

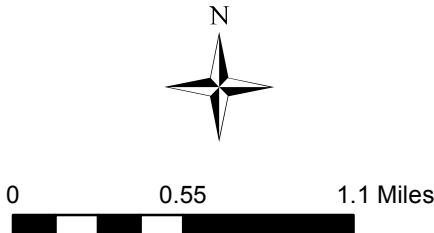
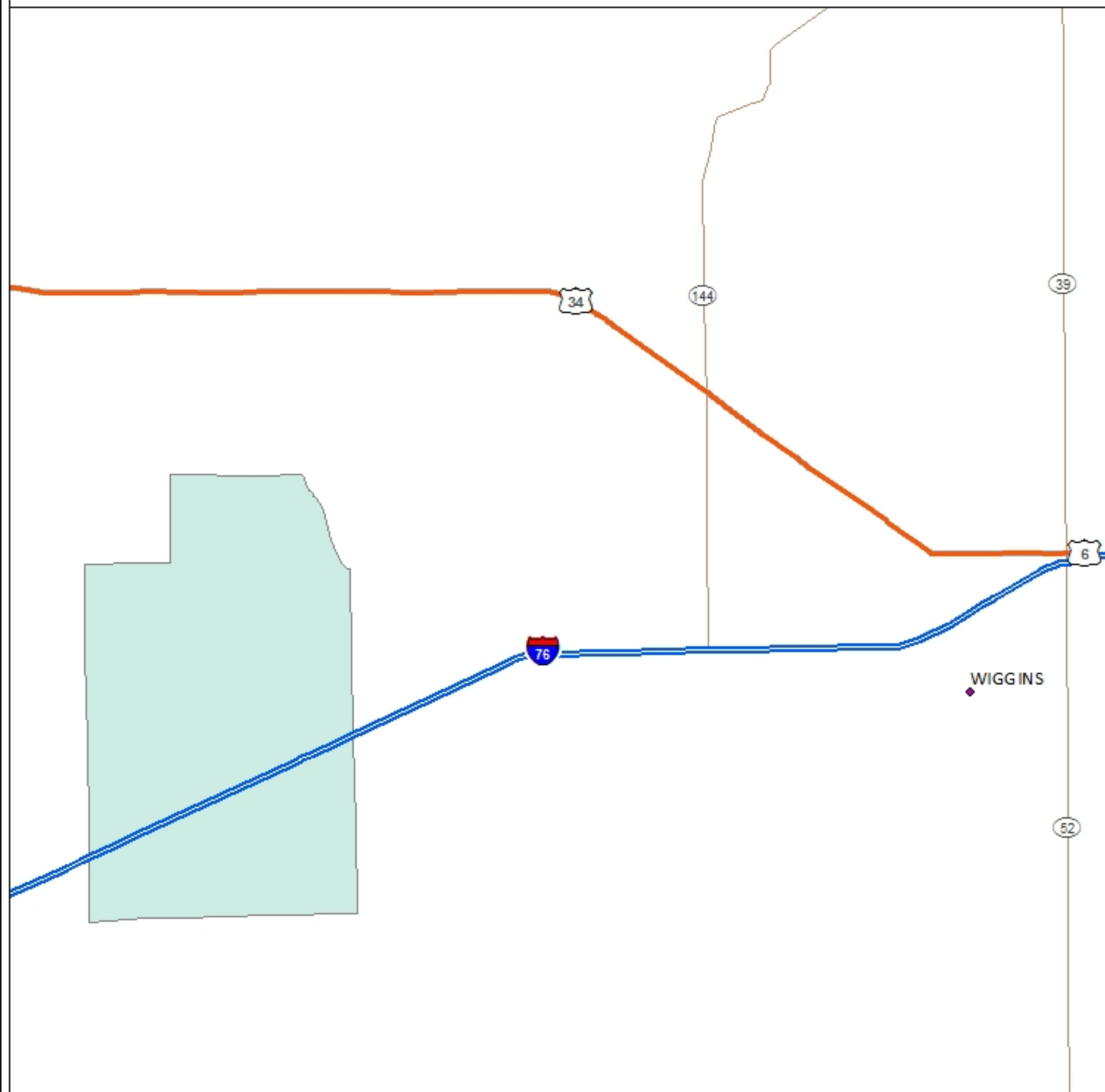


Figure 21. Specified Area for Morgan County Quality Water District Wellfield.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 1 2 Miles

Figure 22. Specified Area for Northern Colorado Water Association Wellfield.

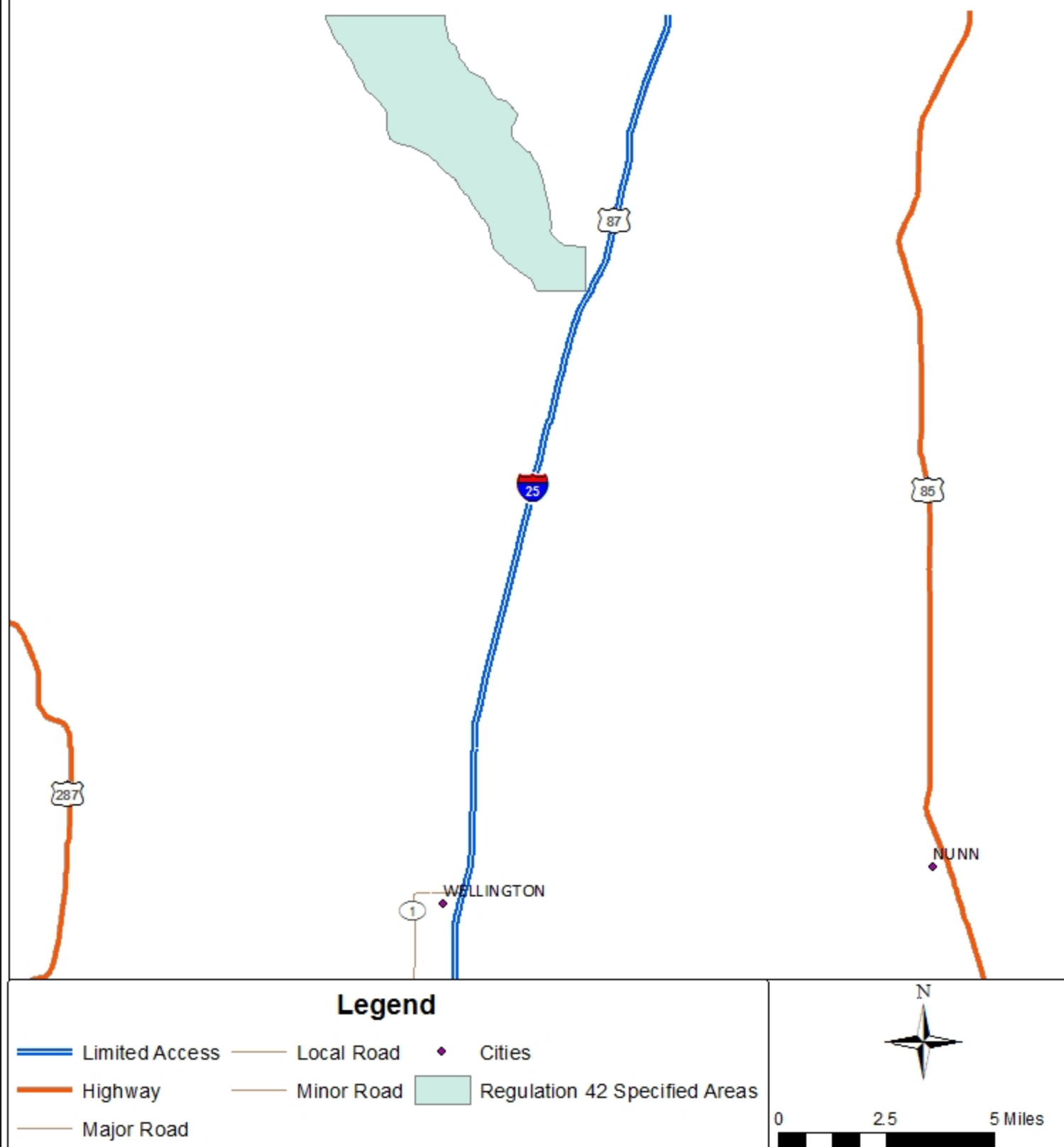


Figure 23. Specified Area for Park Center Water District Wellfield.

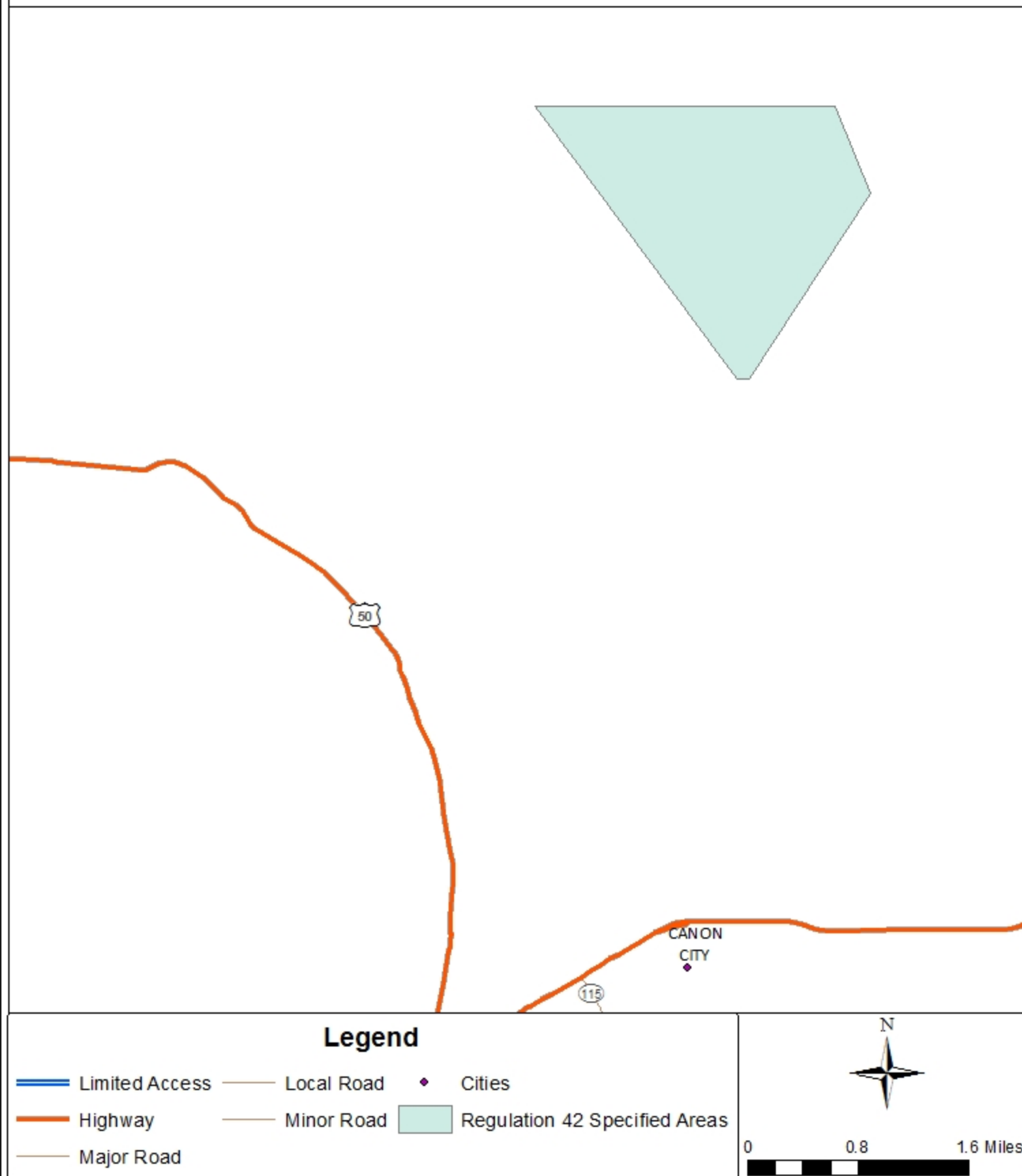
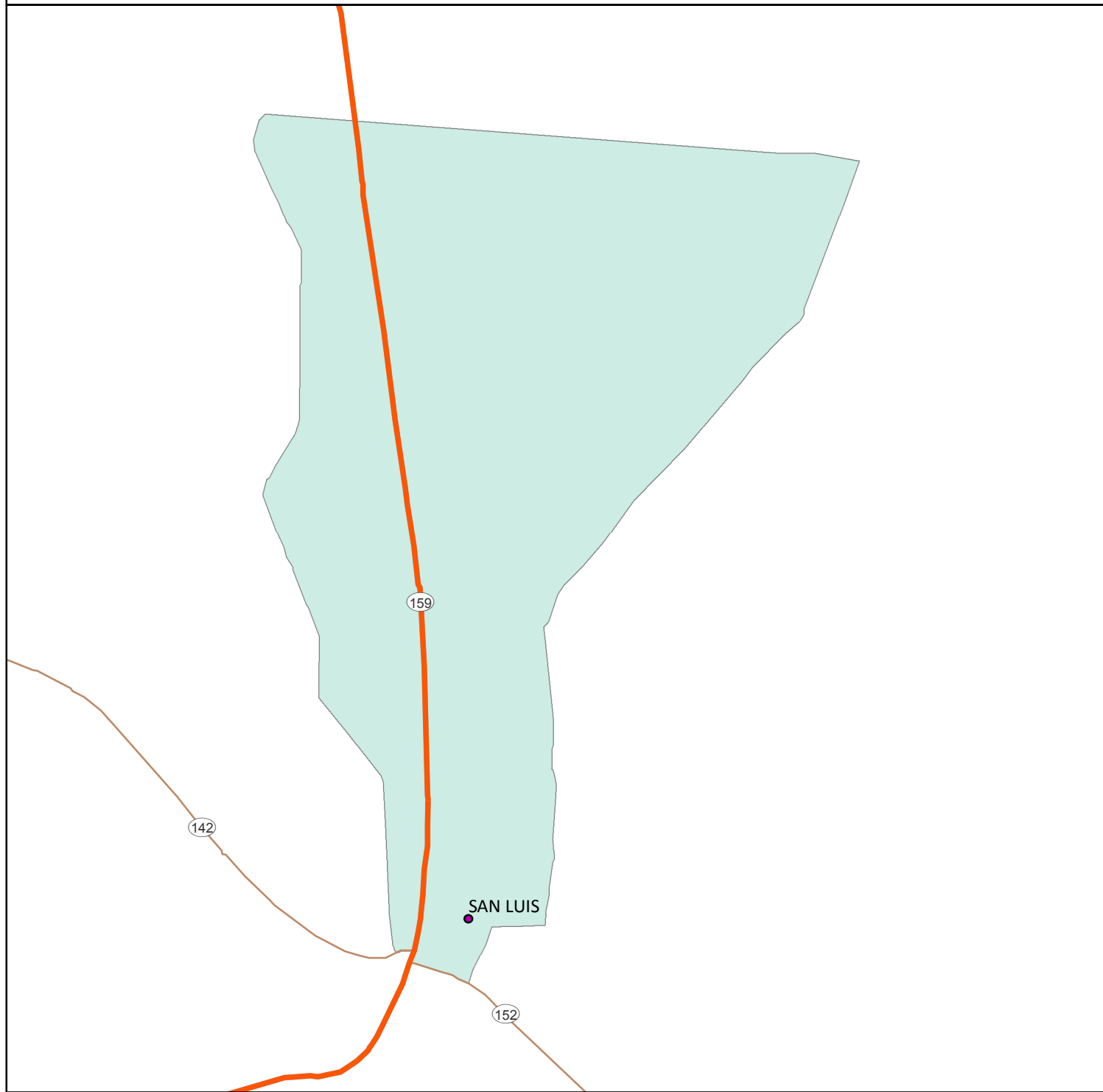


Figure 24. Specified Area for San Luis Wellfield.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |

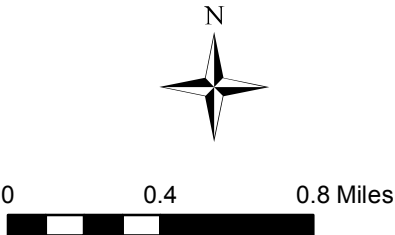
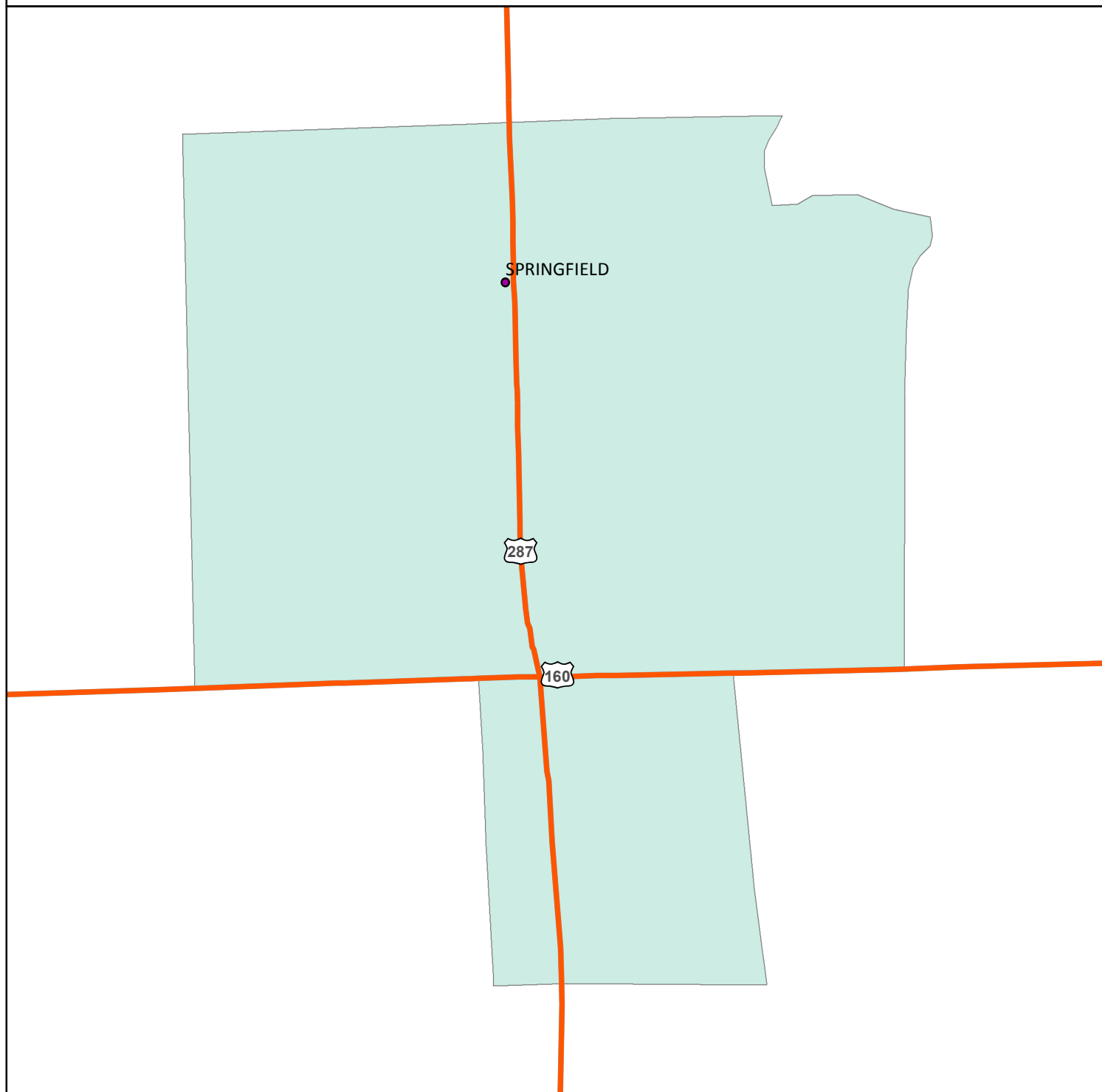


Figure 25. Specified Area for Springfield, Colorado Wellfield.



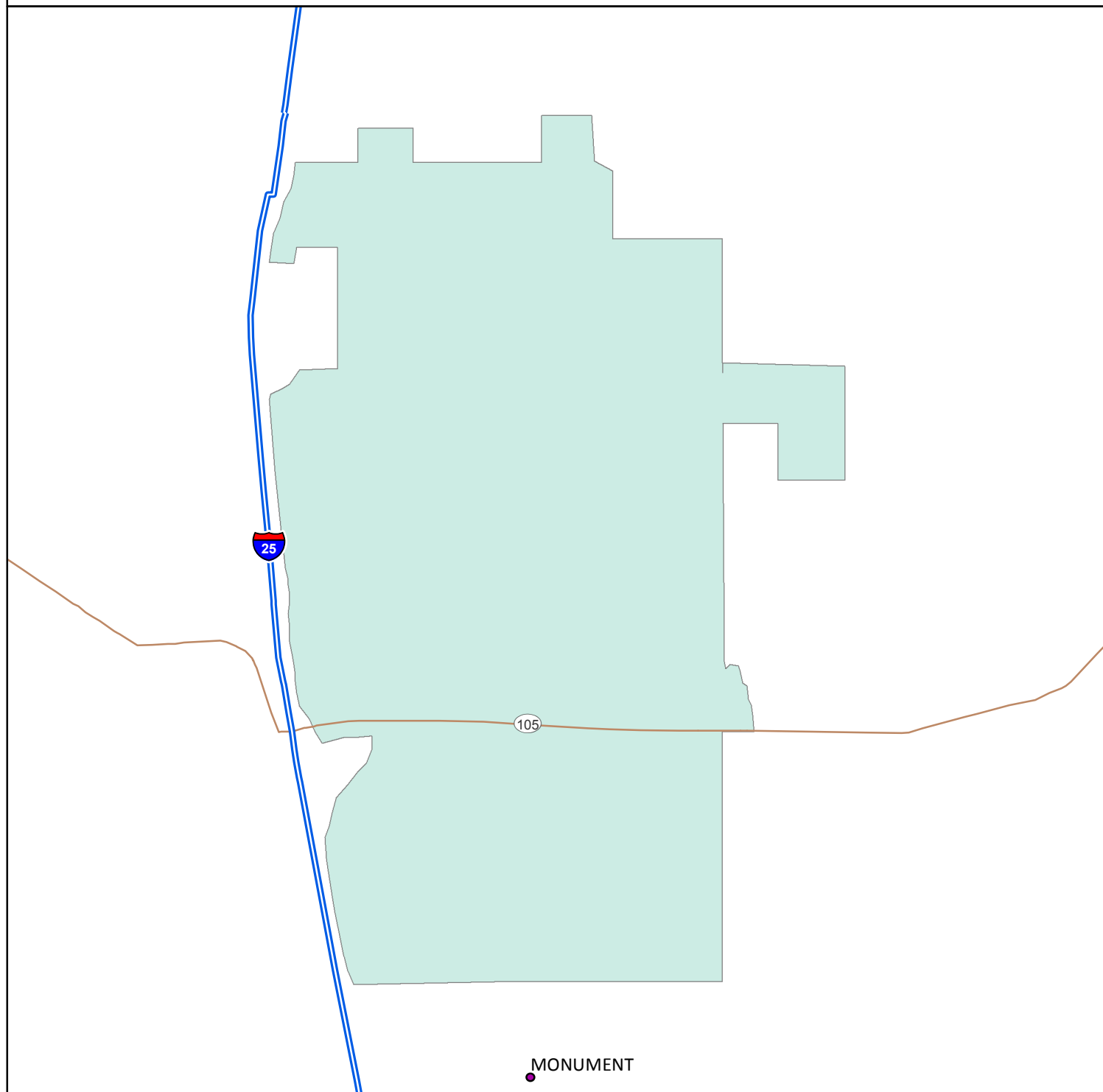
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |










0 0.4 0.8 Miles

Figure 26. Specified Area for Woodmoor Water and Sanitation District #1 Wellfield.



Legend

- | | | |
|---|--|---|
|  Limited Access |  Local Road |  Cities |
|  Highway |  Minor Road |  Regulation 42 Specified Areas |
|  Major Road | | |



0 0.5 1 Miles


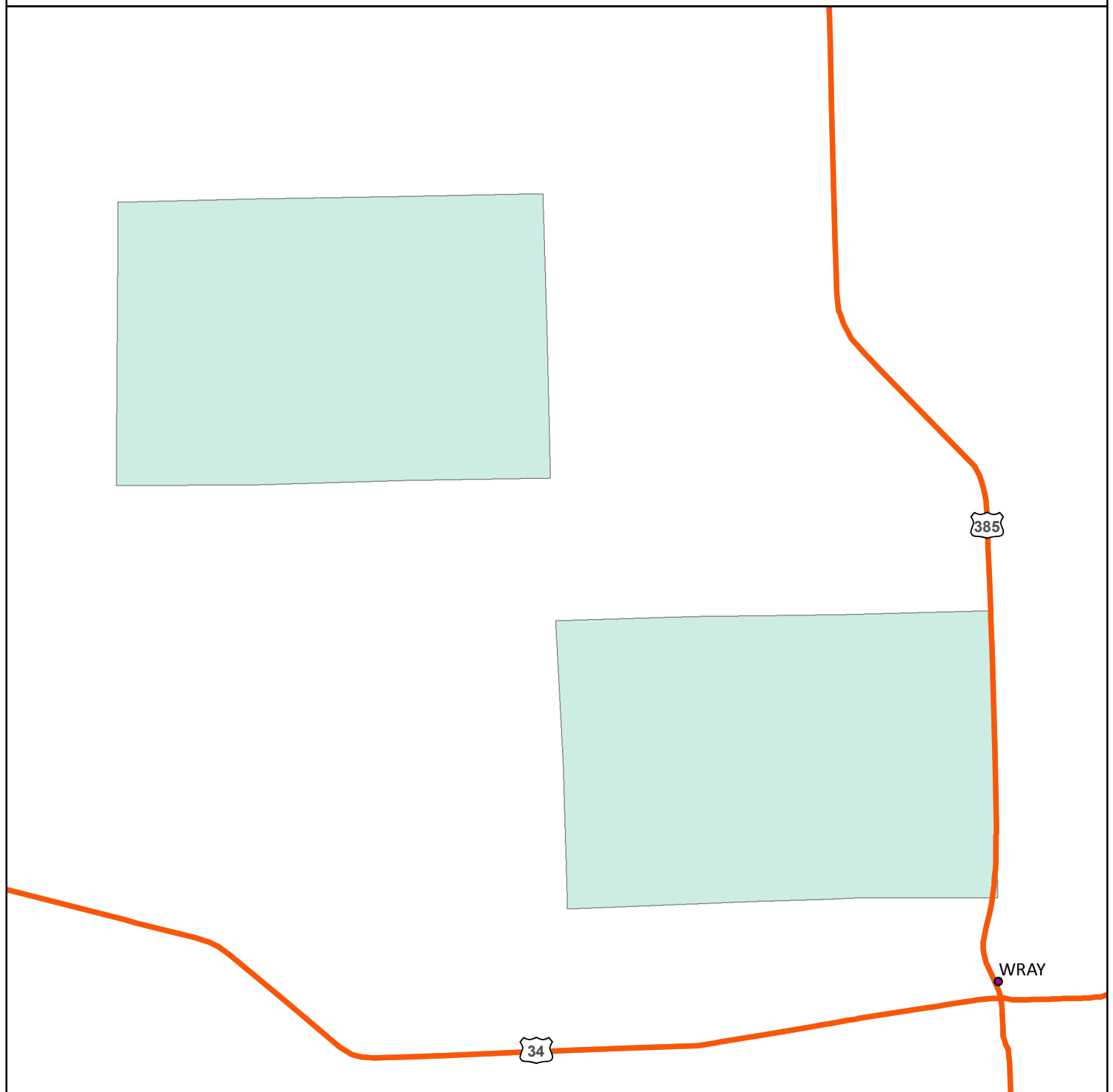


Figure 27. Specified Area for Wray Wellfield #1 (south) and #2 (north)



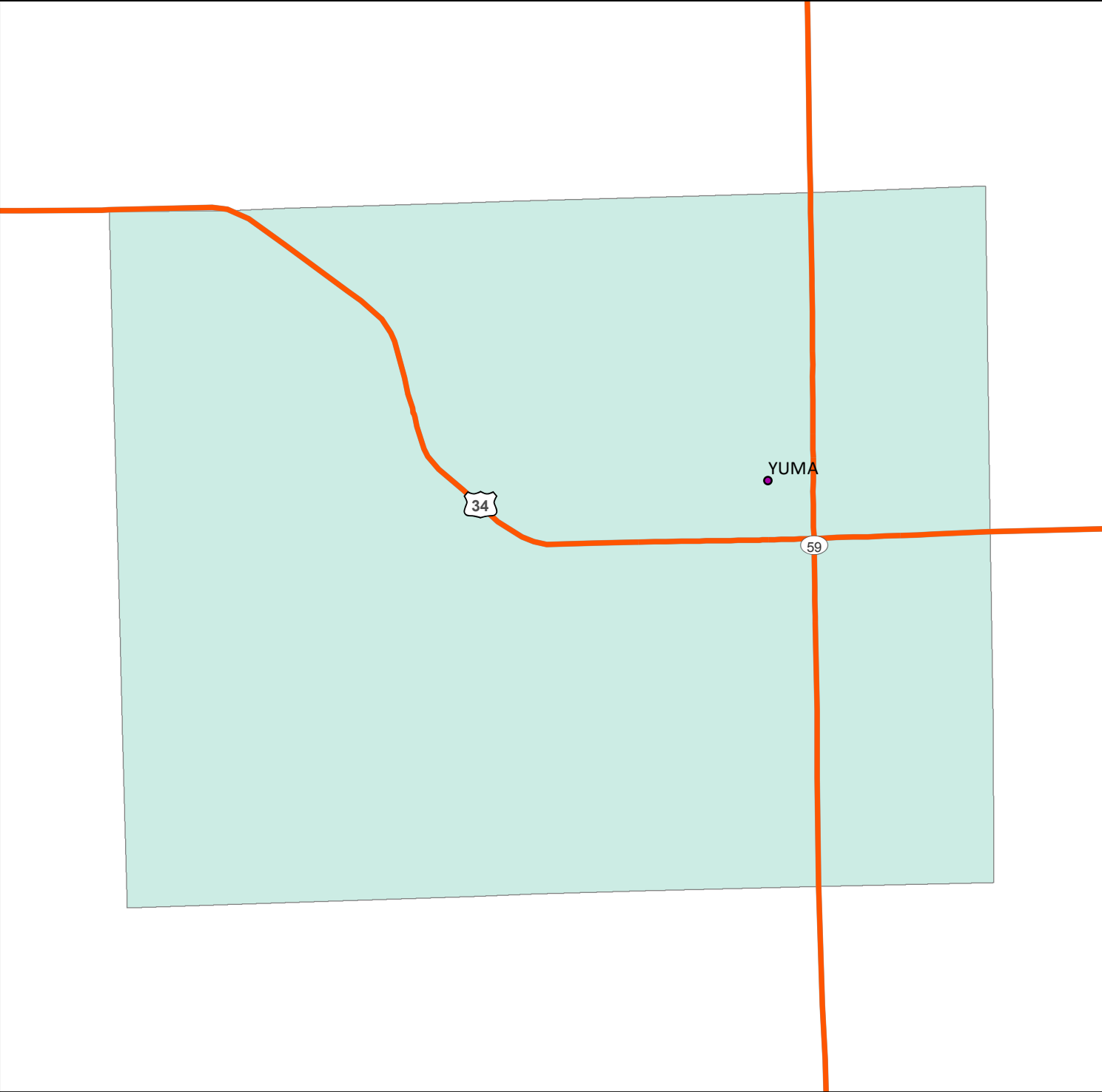
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |










0 0.85 1.7 Miles

Figure 28. Specified Area for Yuma, Colorado Wellfield.



Legend

- | | | |
|---|--|---|
|  Limited Access |  Local Road |  Cities |
|  Highway |  Minor Road |  Regulation 42 Specified Areas |
|  Major Road | | |

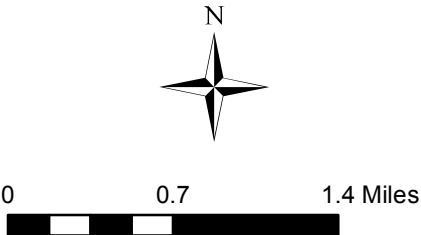
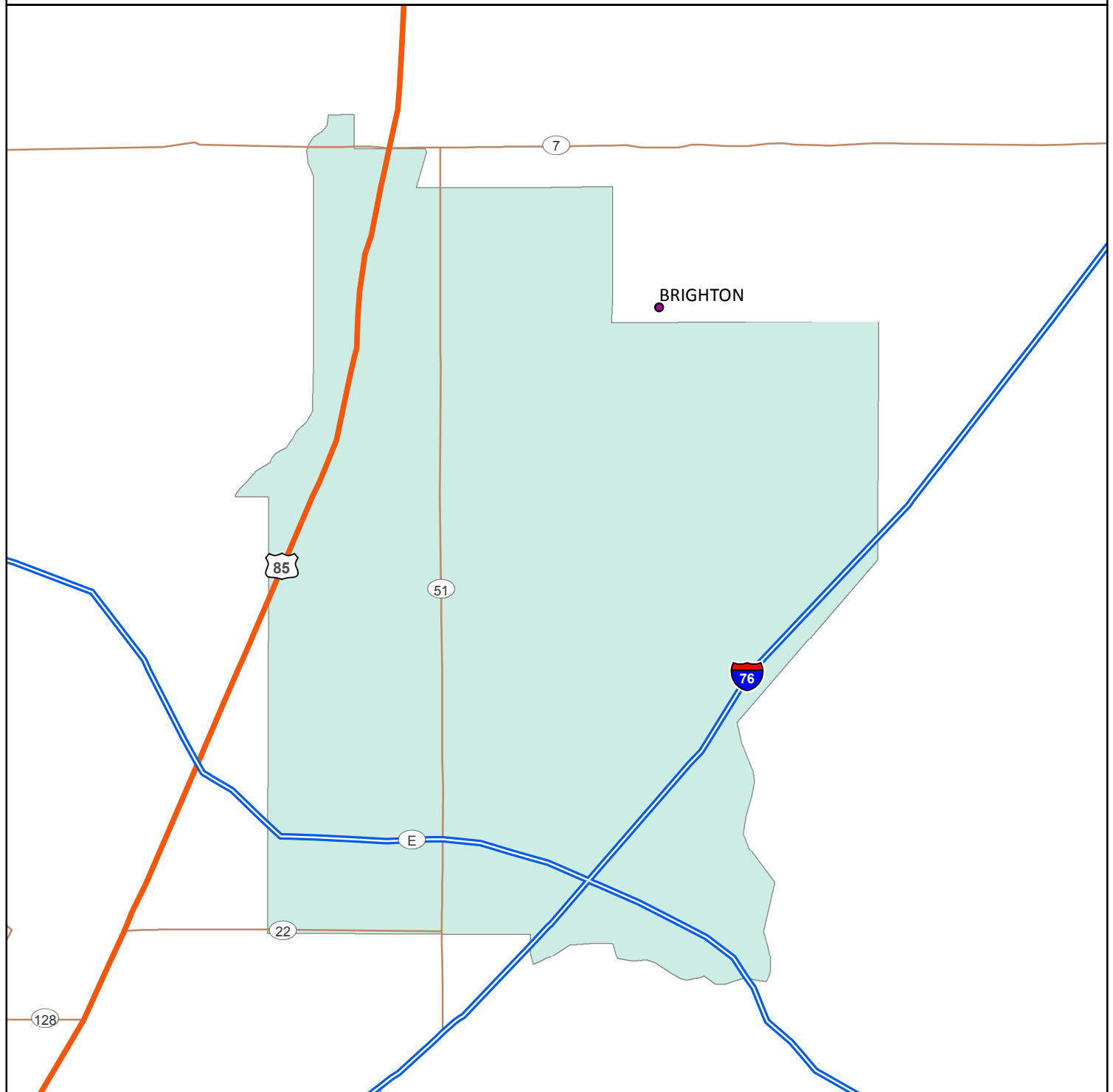









Figure 29. Specified Area for the City of Brighton Wellfield.



Legend

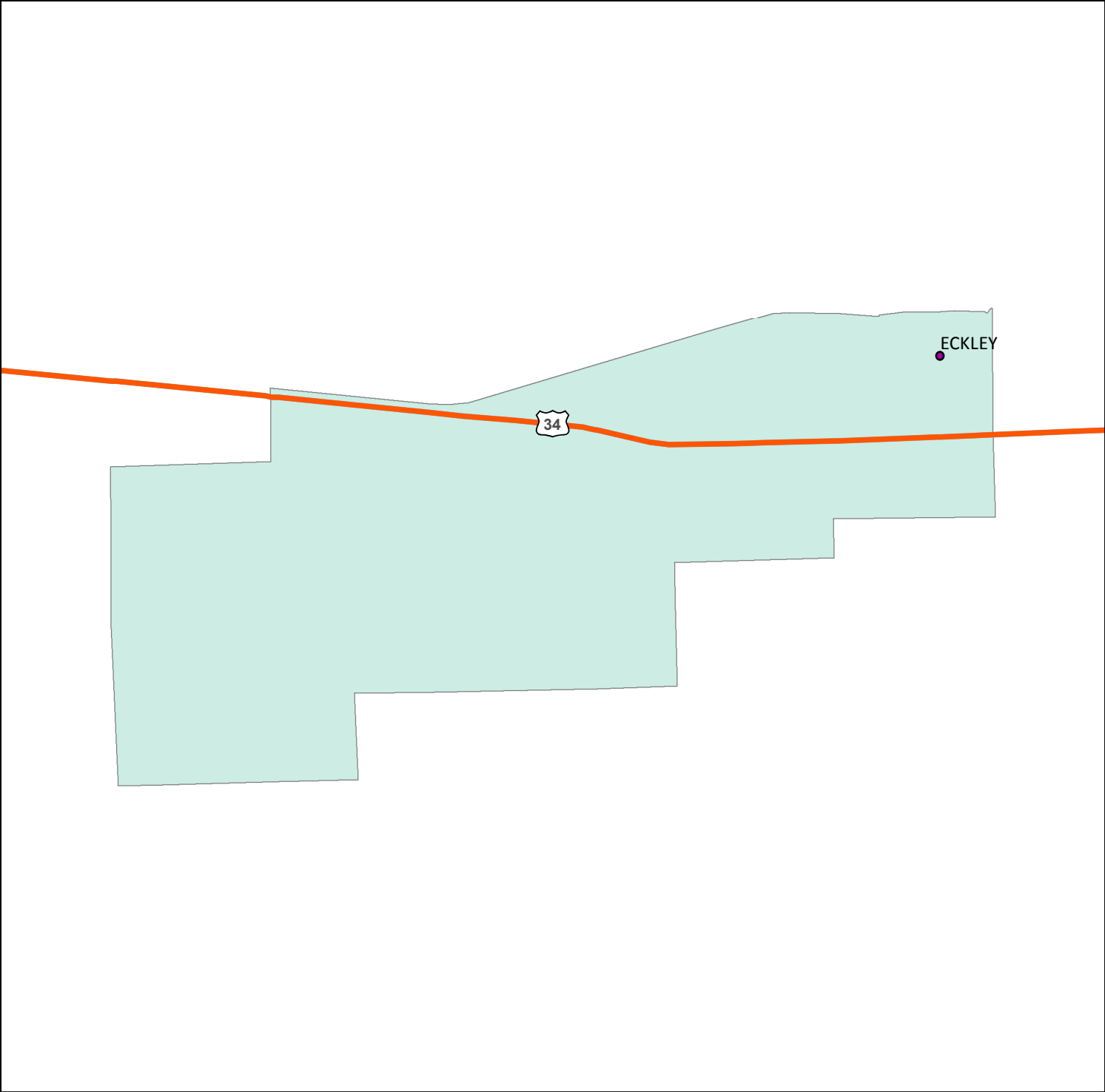
- | | | |
|---|--|---|
|  Limited Access |  Local Road |  Cities |
|  Highway |  Minor Road |  Regulation 42 Specified Areas |
|  Major Road | | |










0 0.7 1.4 Miles



Figure 30. Specified Area for the Town of Eckley Wellfield.



Legend

- | | | |
|---|--|---|
|  Limited Access |  Local Road |  Cities |
|  Highway |  Minor Road |  Regulation 42 Specified Areas |
|  Major Road | | |

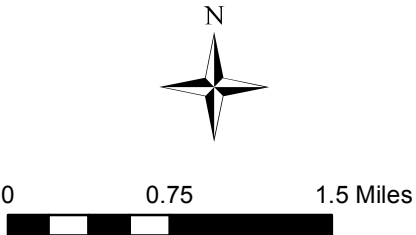
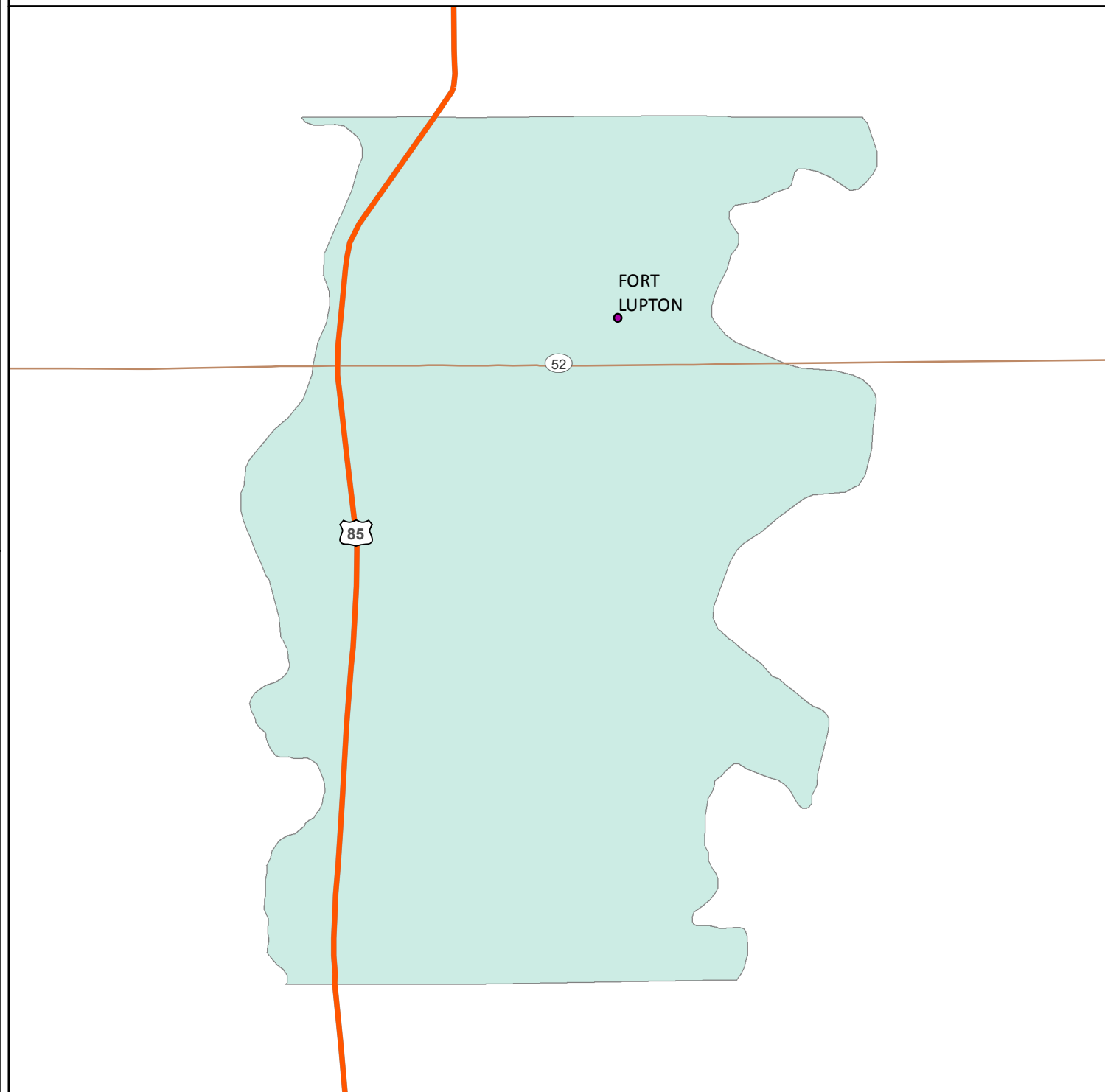


Figure 31. Specified Area for the City of Fort Lupton Wellfield.



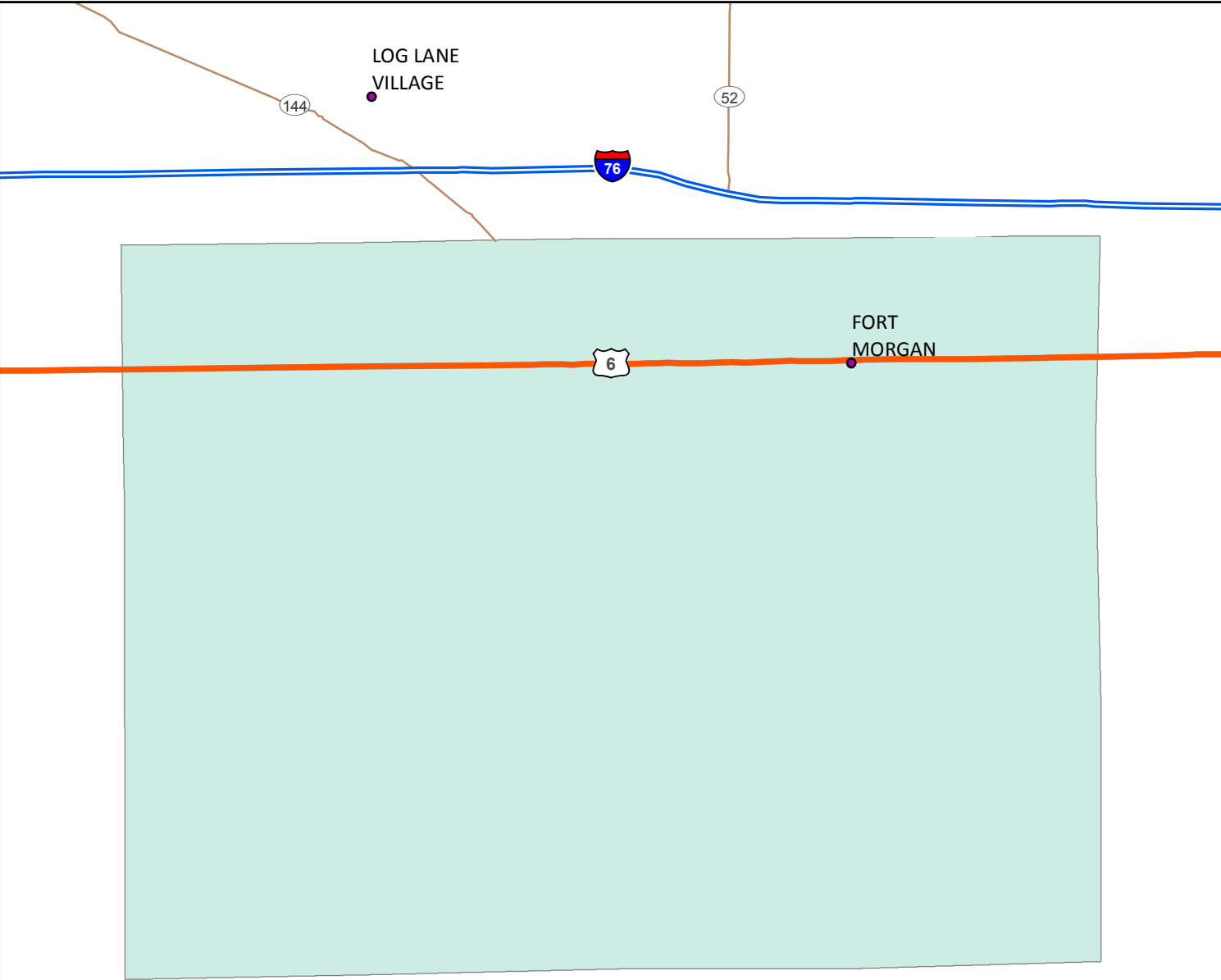
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 0.5 1 Miles

Figure 32. Specified Area for the City of Ft. Morgan Wellfield.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |

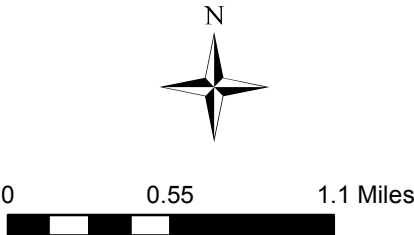
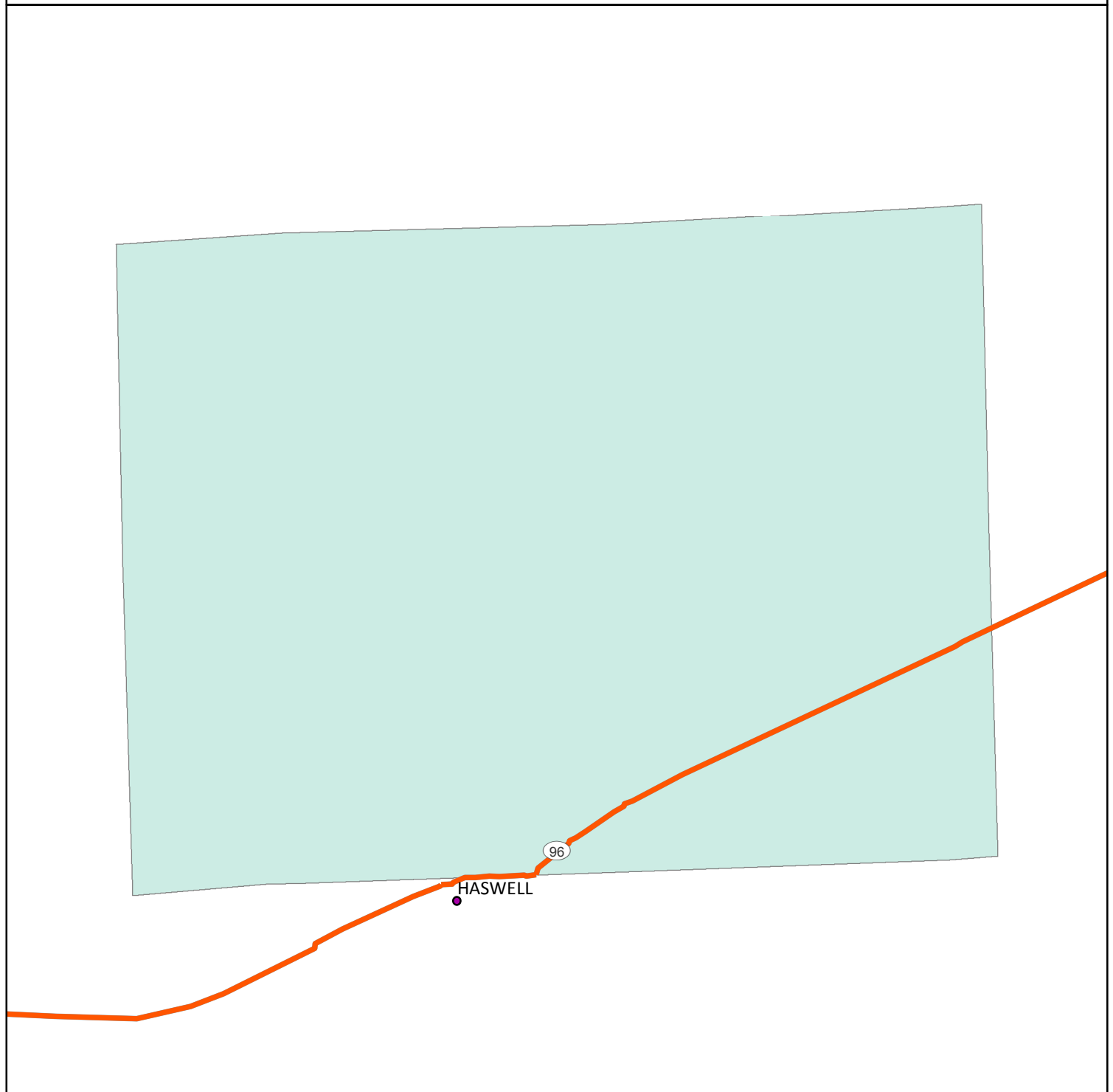


Figure 33. Specified Area for Haswell, Colorado Wellfield.



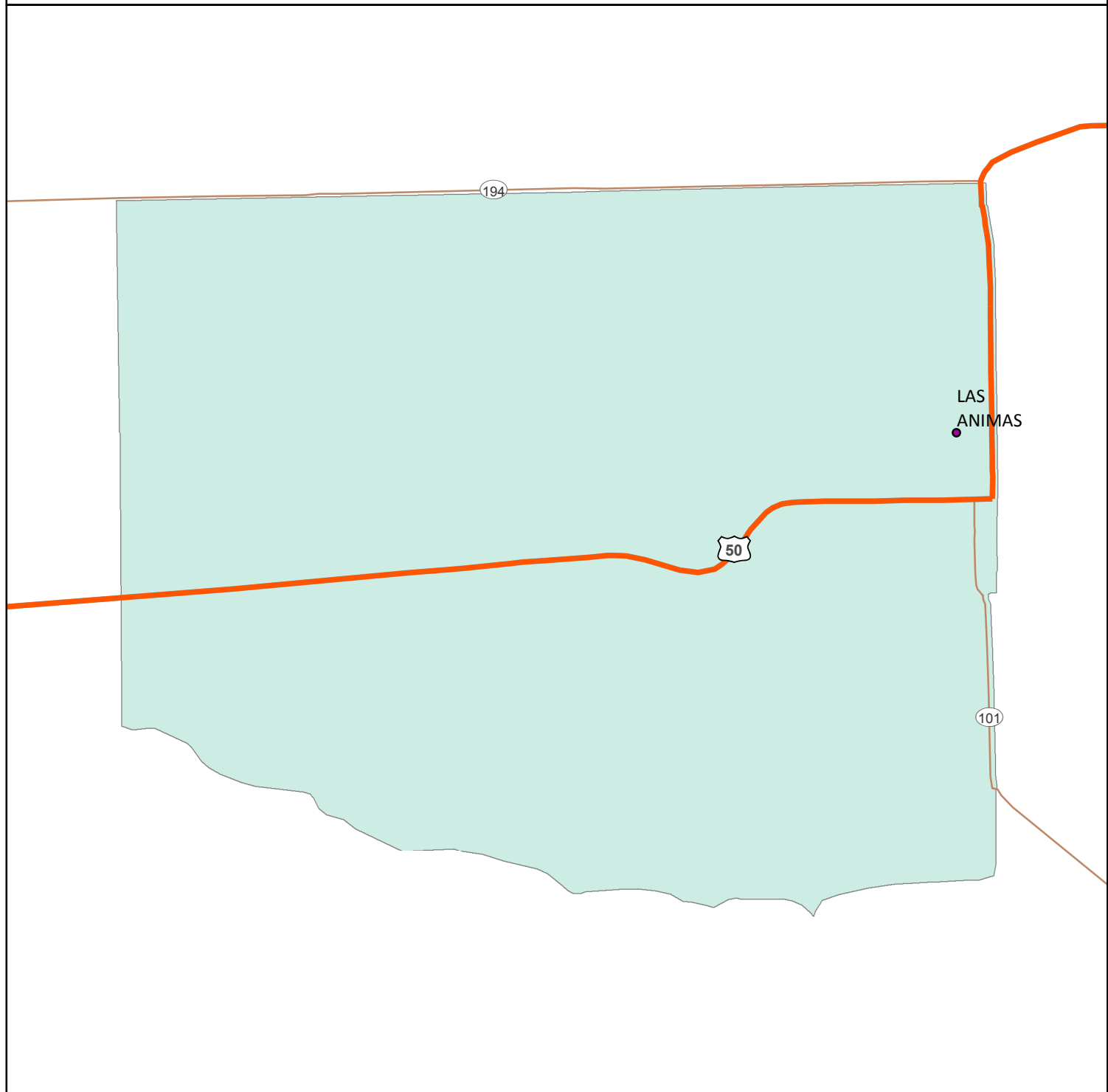
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 0.35 0.7 Miles

Figure 34. Specified Area for Las Animas Wellfield.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |

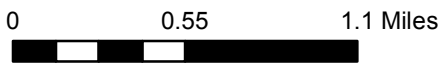


Figure 35. Specified Area for the Town of Meeker Wellfield.

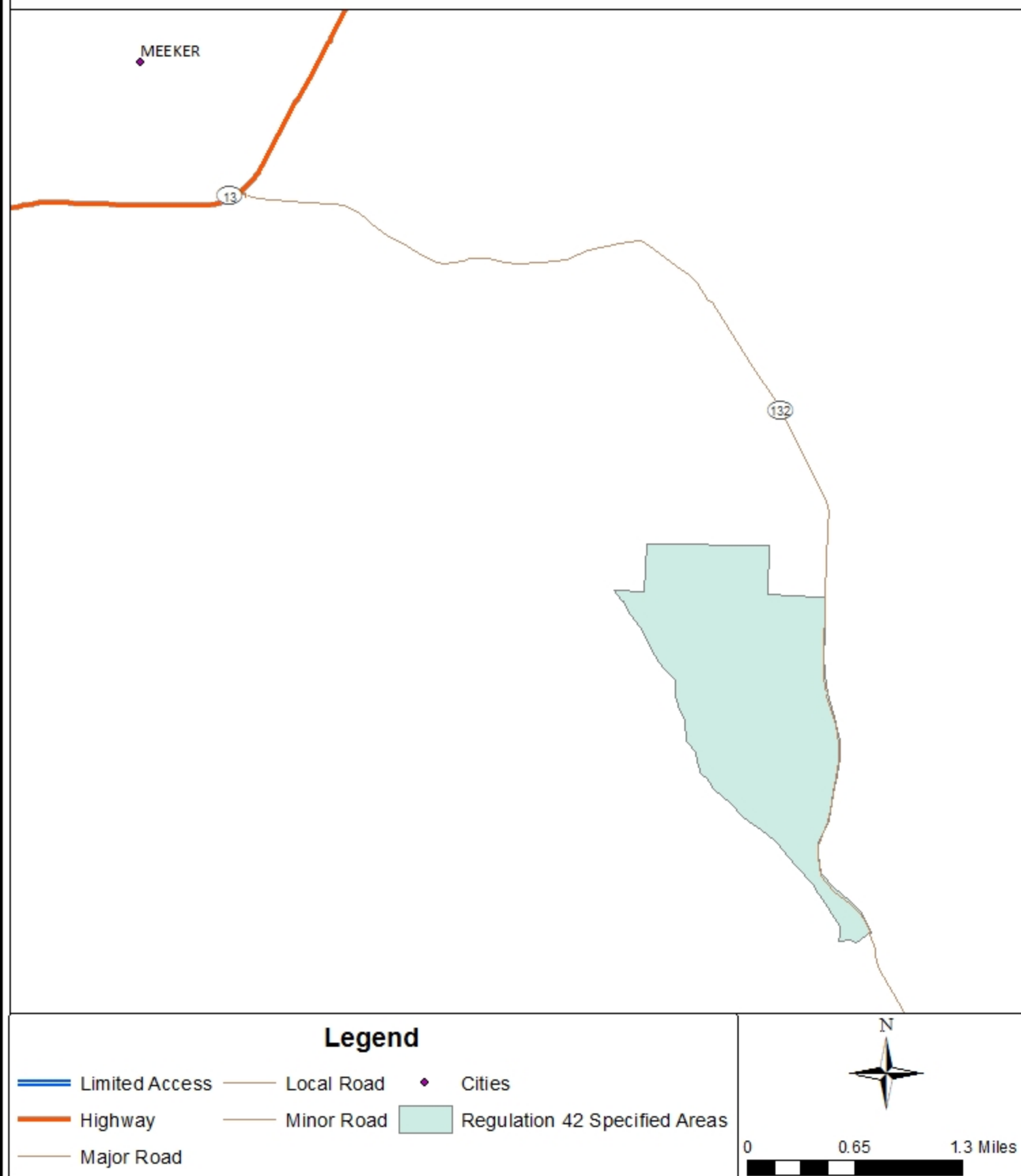
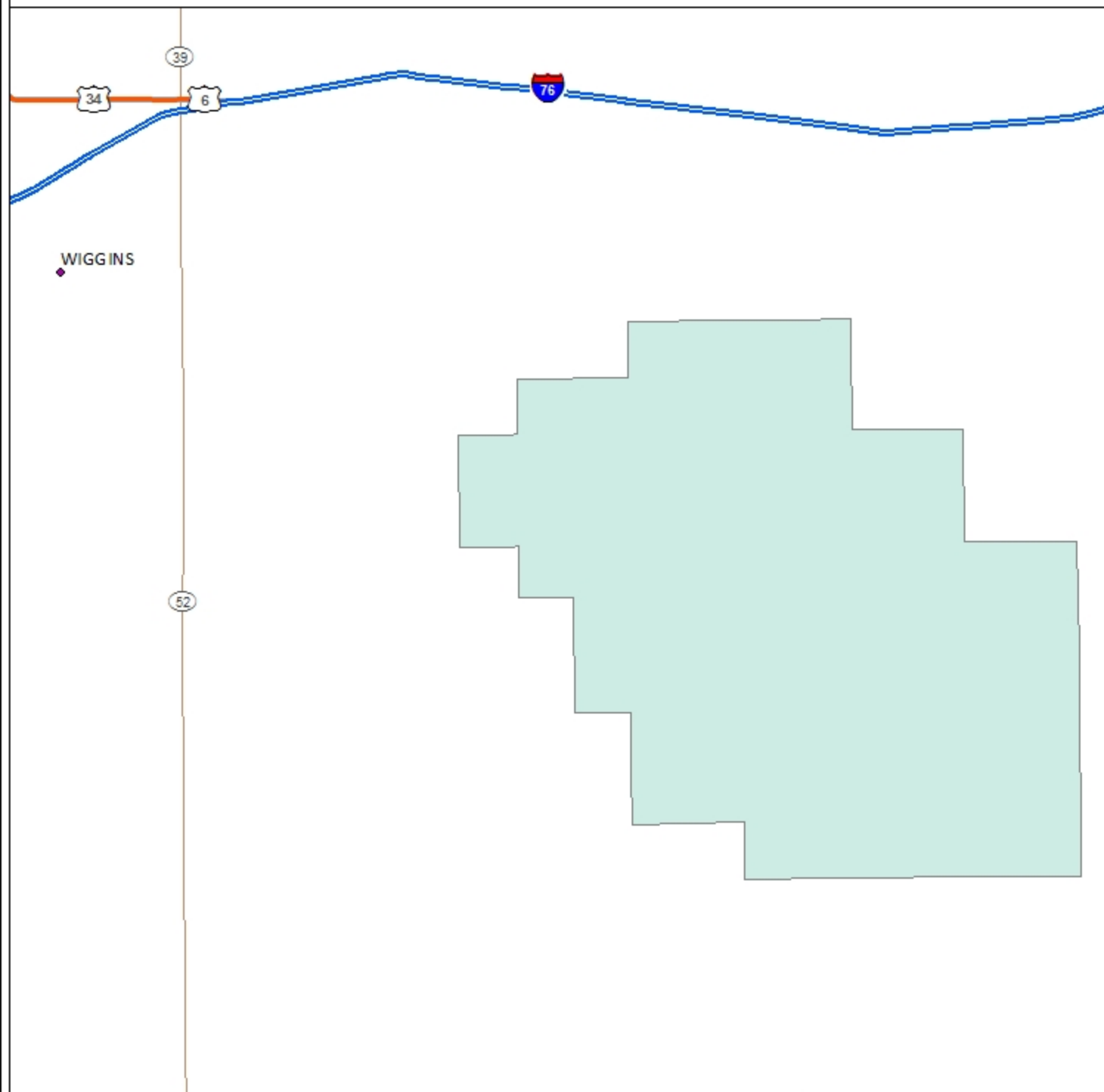


Figure 36. Specified Area for the Morgan County Quality Water District (San Arroyo Creek Basin)



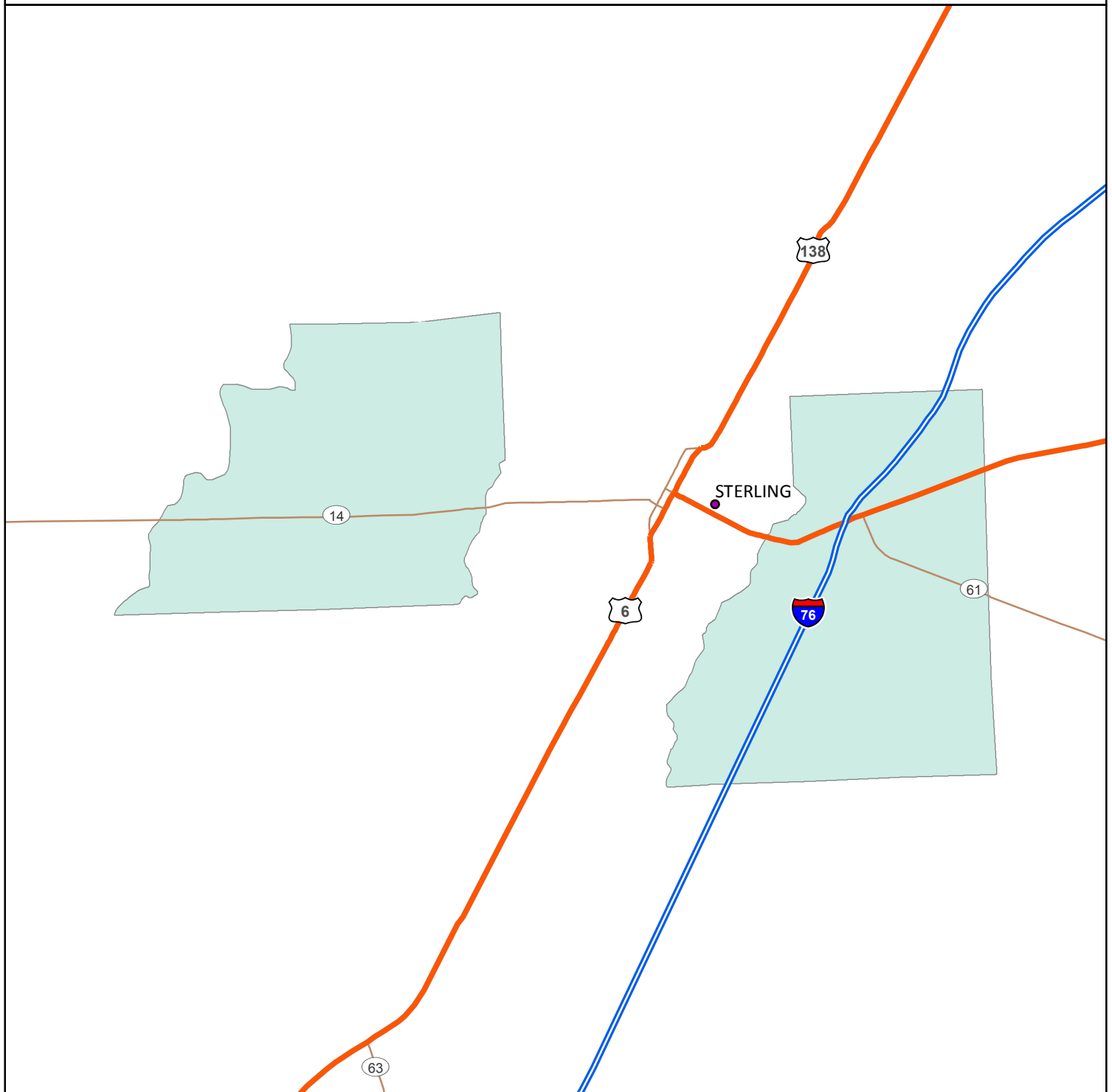
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 1 2 Miles

Figure 37. Specified Area for Sterling East and West Wellfield.



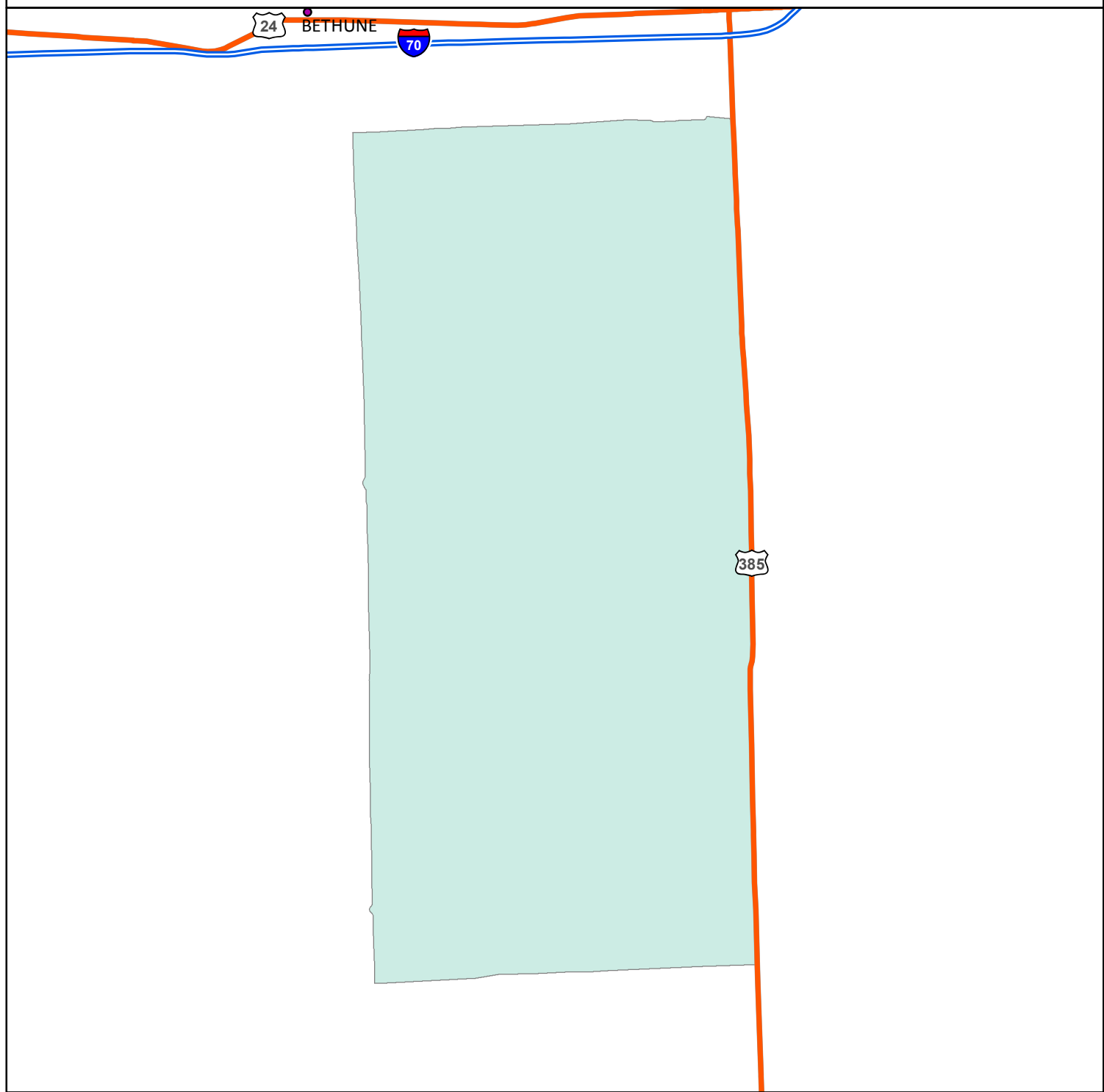
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 1 2 Miles

Figure 38. Southwest Water Protection Area Kit Carson County.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |

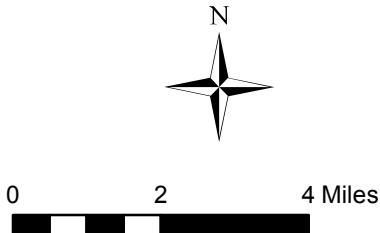
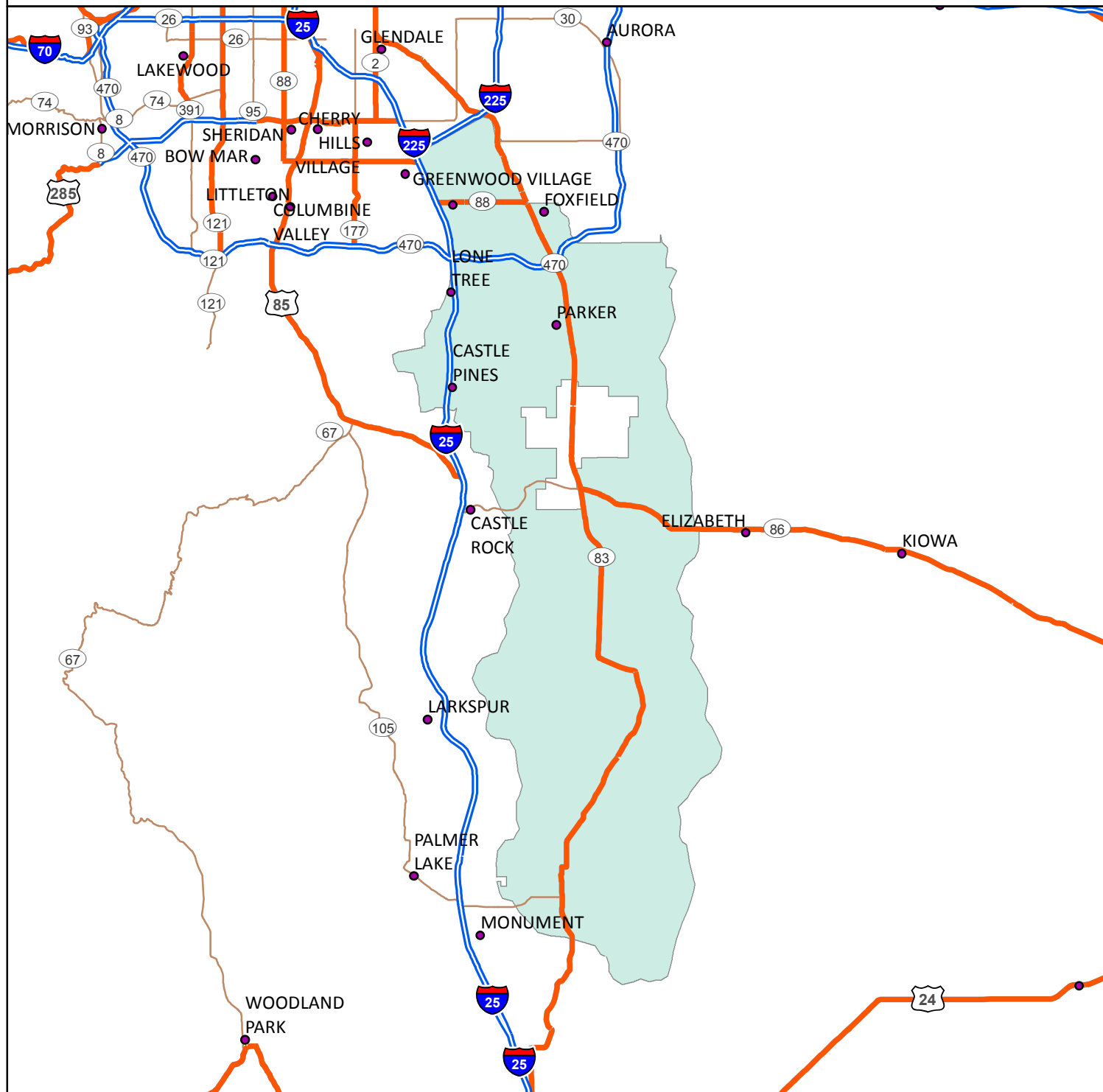


Figure 39. Specified Area for the Upper Cherry Creek and Denver Basin Aquifers.



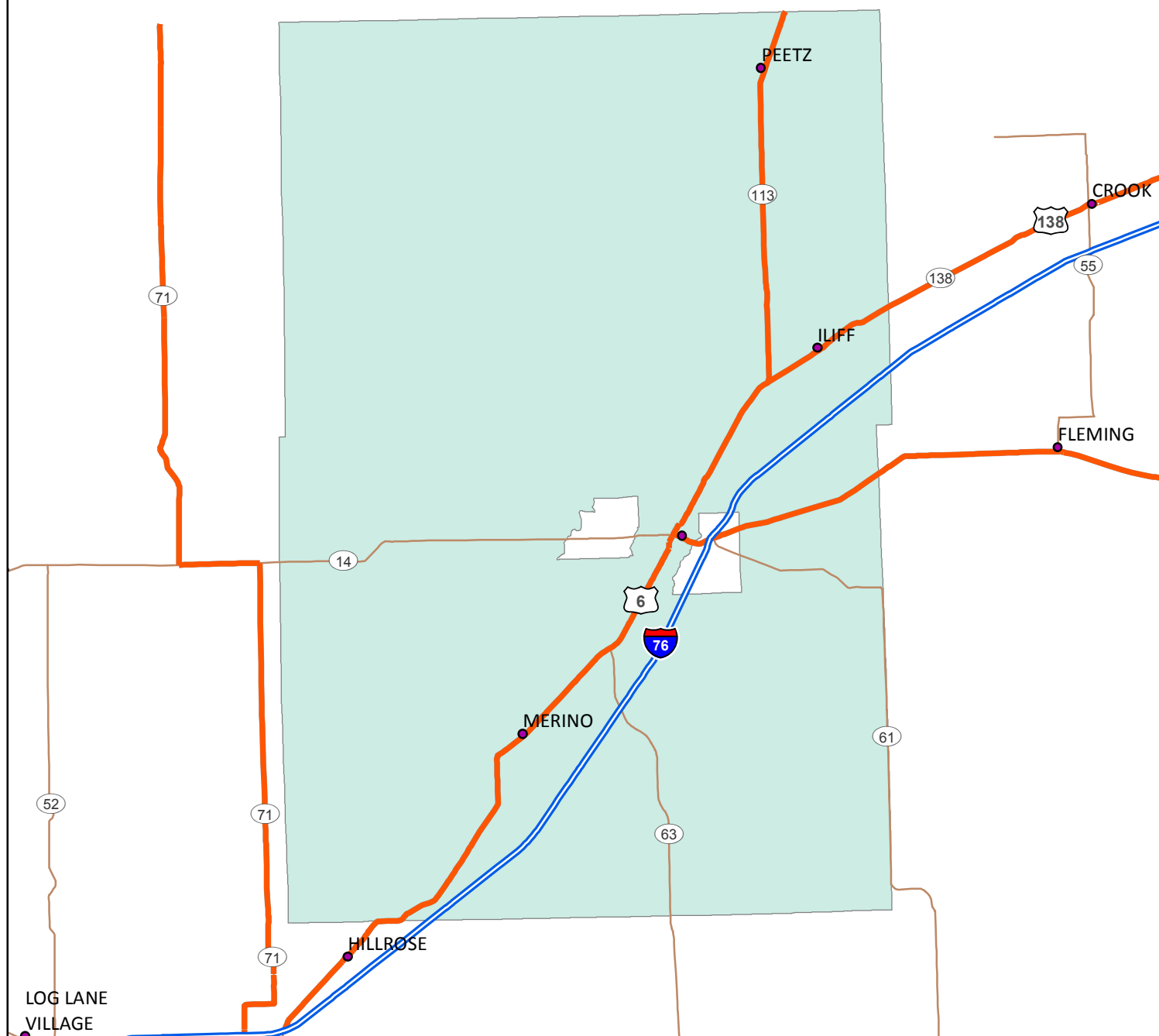
Legend

- Limited Access
- Highway
- Major Road
- Local Road
- Minor Road
- Cities
- Regulation 42 Specified Areas



0 6 12 Miles

Figure 40. Specified Area for Colorado Oil and Gas Fields Logan, North Washington, and Northeast Morgan Counties.



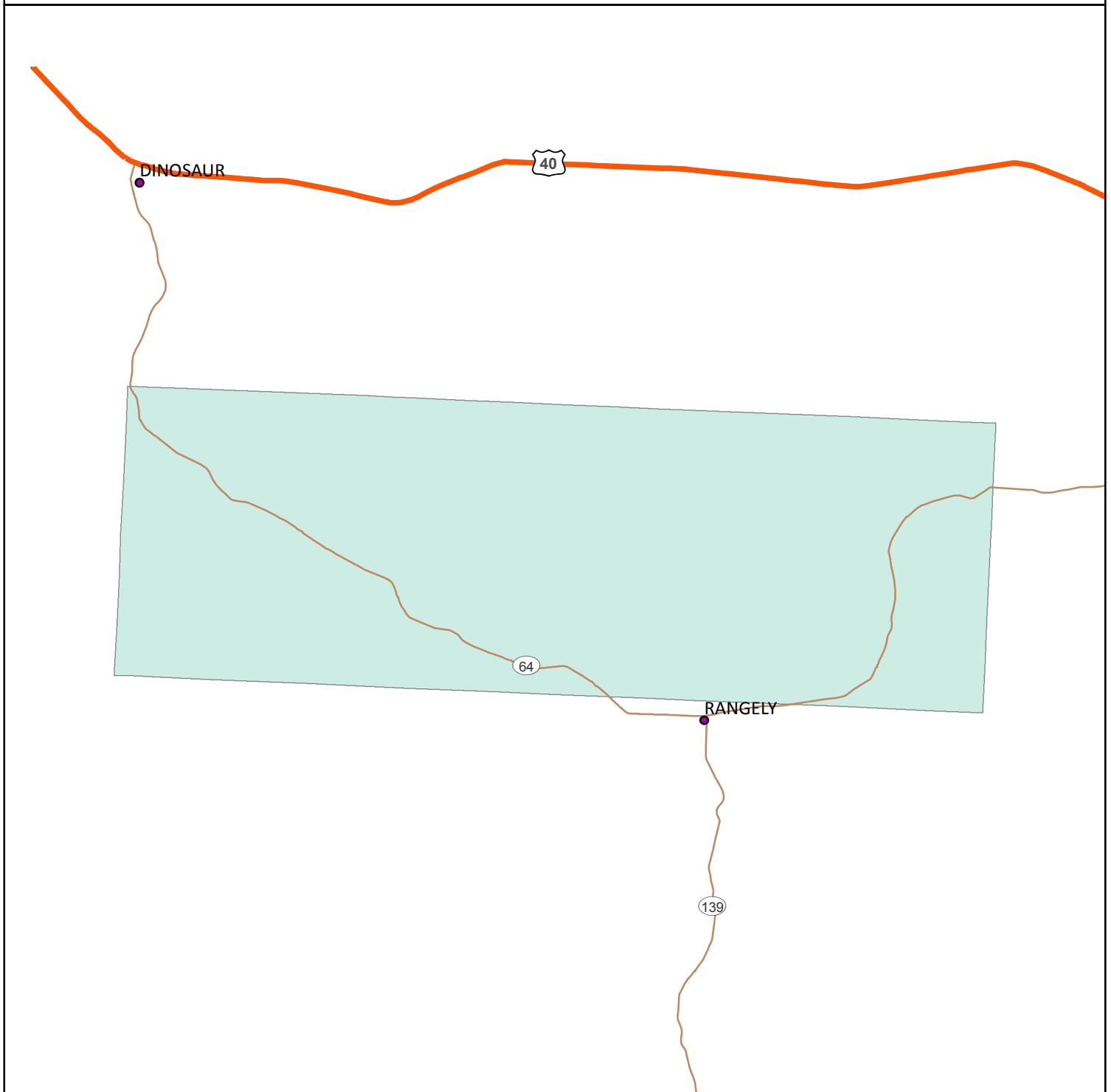
Legend

- Limited Access
- Highway
- Local Road
- Minor Road
- Major Road
- Cities
- Regulation 42 Specified Areas



0 6.5 13 Miles

Figure 41. Specified Area for Colorado Oil and Gas Fields, Rio Blanco County.



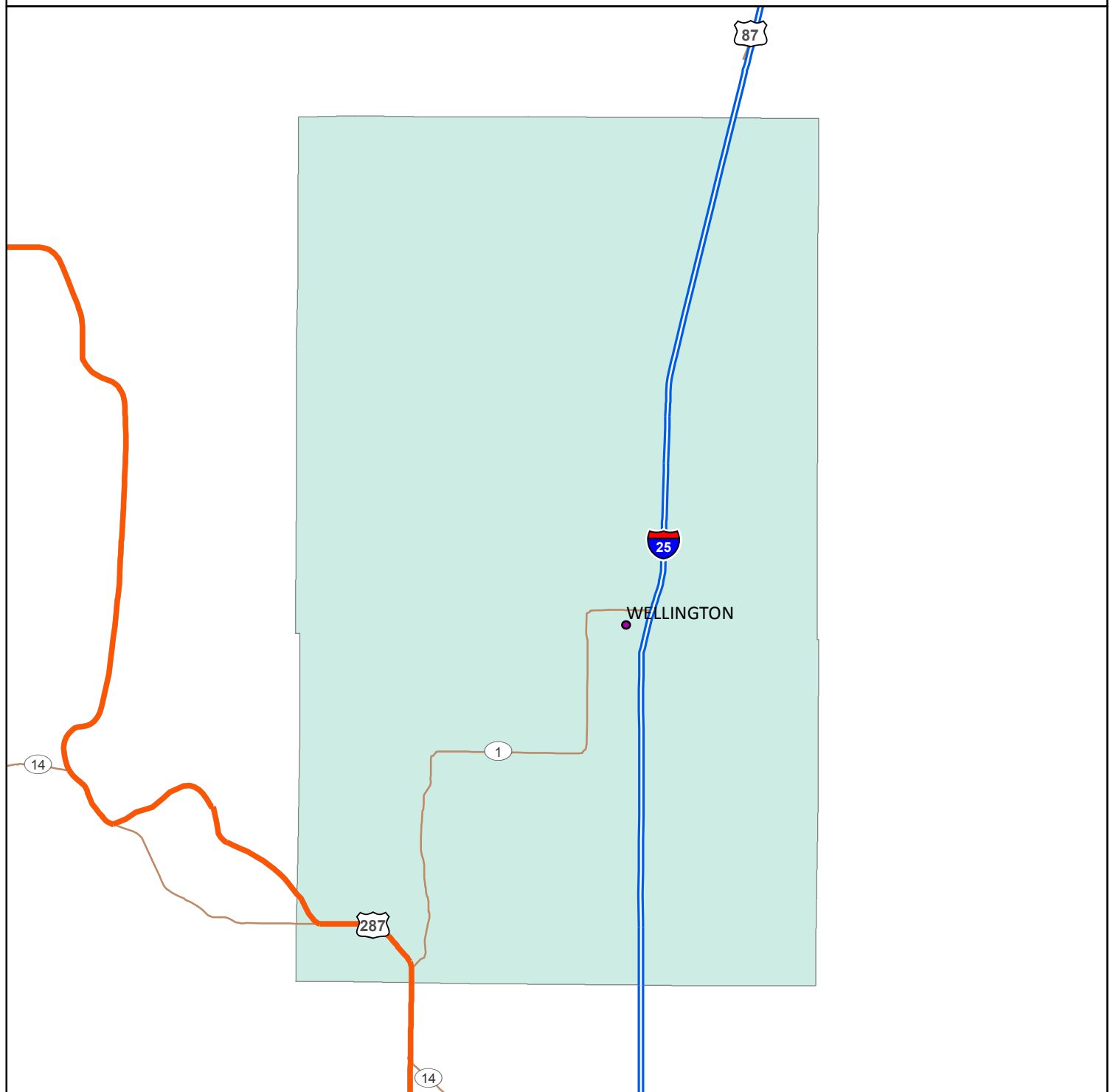
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |










0 2.5 5 Miles

Figure 42. Specified Area for Colorado Oil and Gas Fields, Larimer County.



Legend

- | | | |
|---|--|---|
|  Limited Access |  Local Road |  Cities |
|  Highway |  Minor Road |  Regulation 42 Specified Areas |
|  Major Road | | |



0 2 4 Miles



Figure 43. Specified Area for Colorado Oil and Gas Fields, Jackson County.

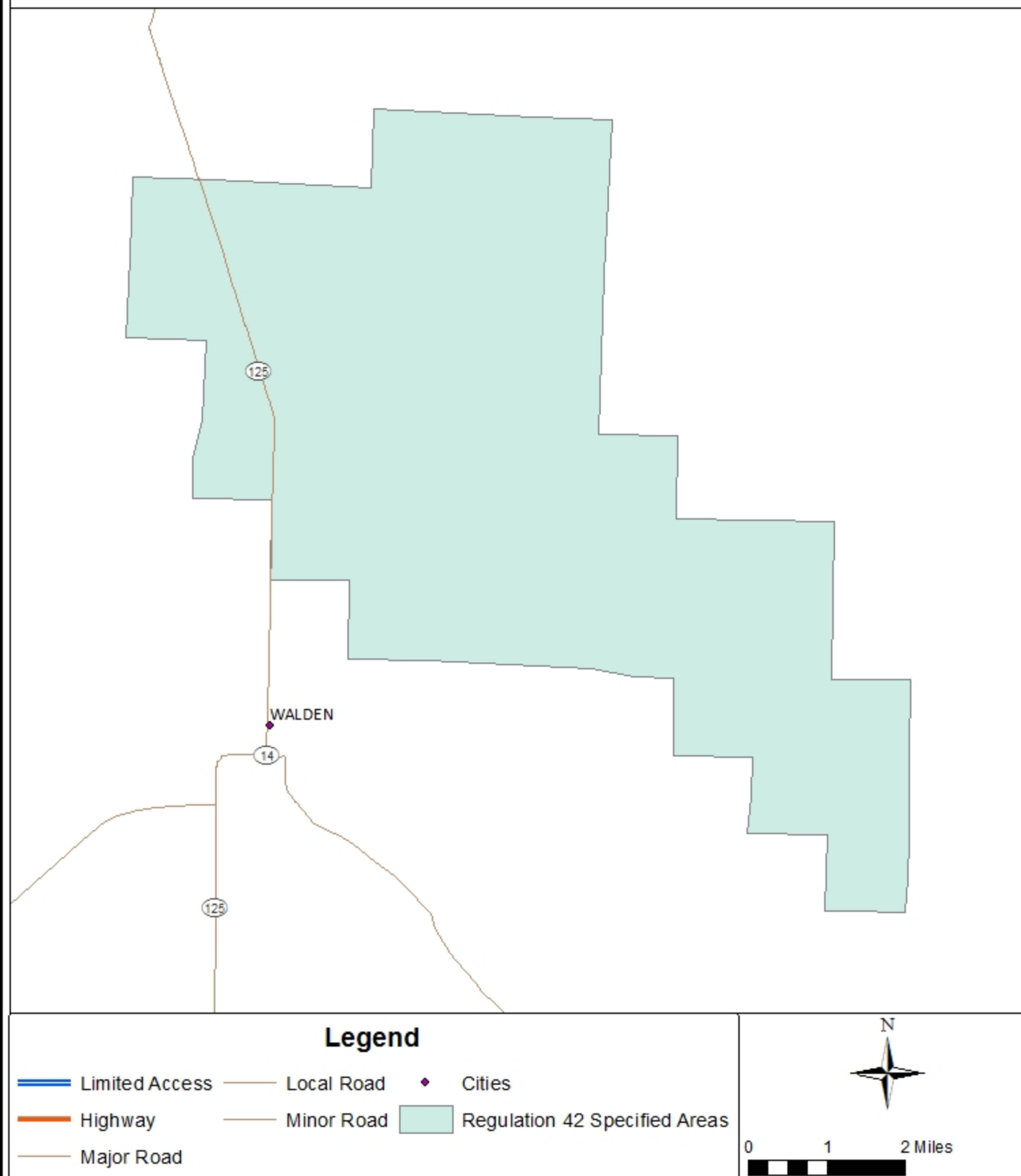


Figure 44. Specified Area for Colorado Oil and Gas Fields, Jackson County.

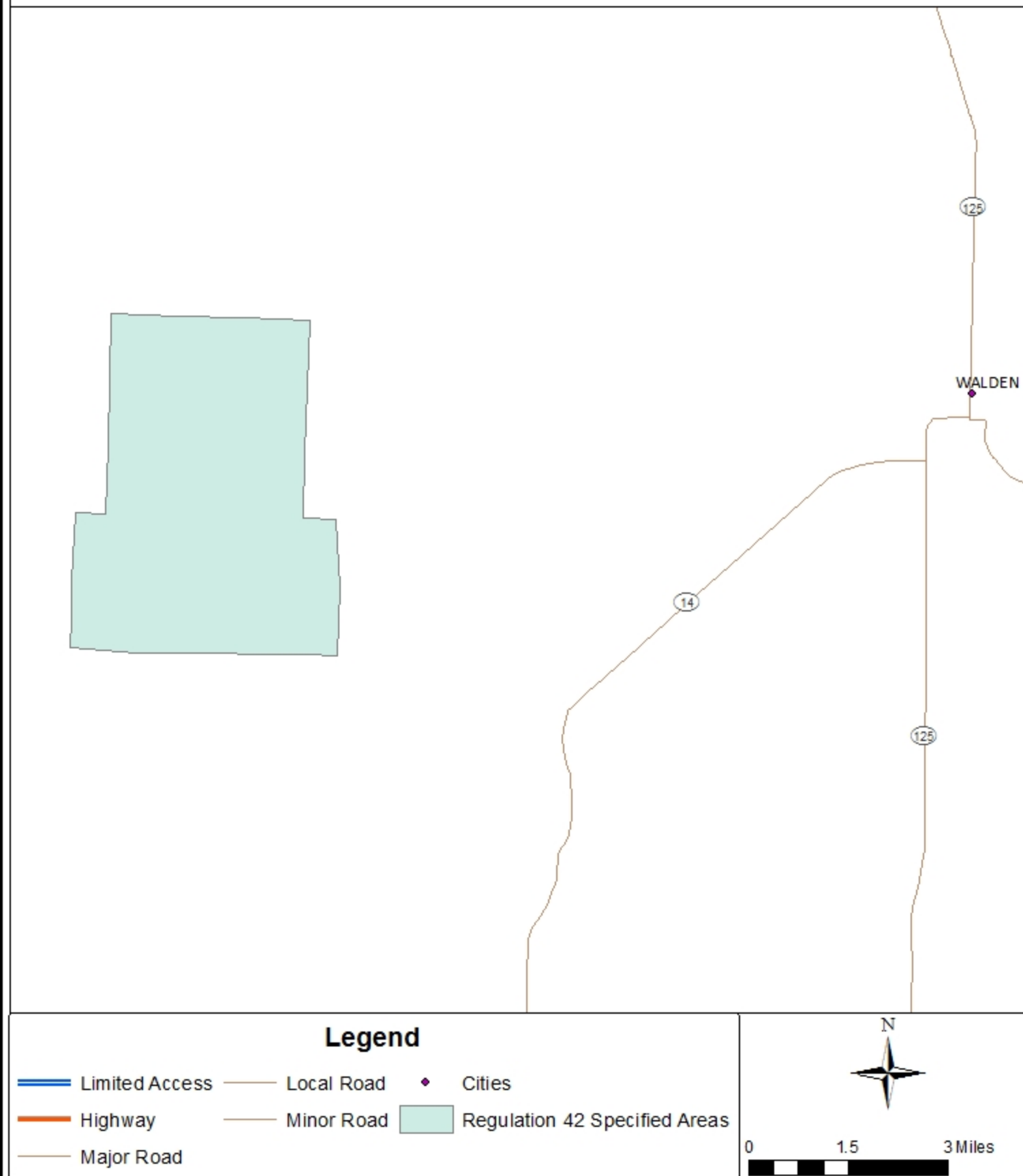


Figure 45. Specified Area for Colorado Oil and Gas Fields, Moffat County.

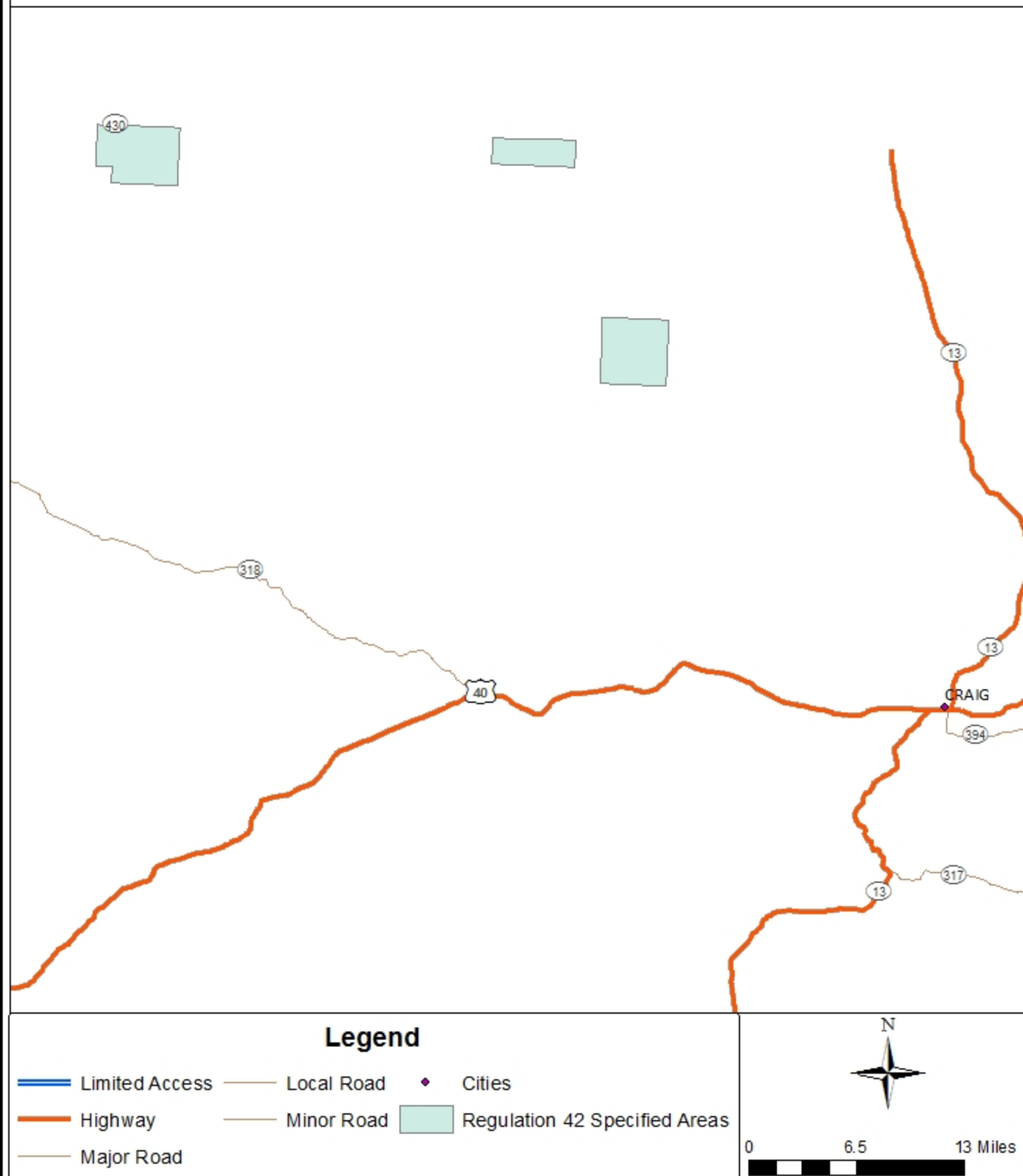


Figure 46. Specified Area for Colorado Oil and Gas Fields, Weld County.

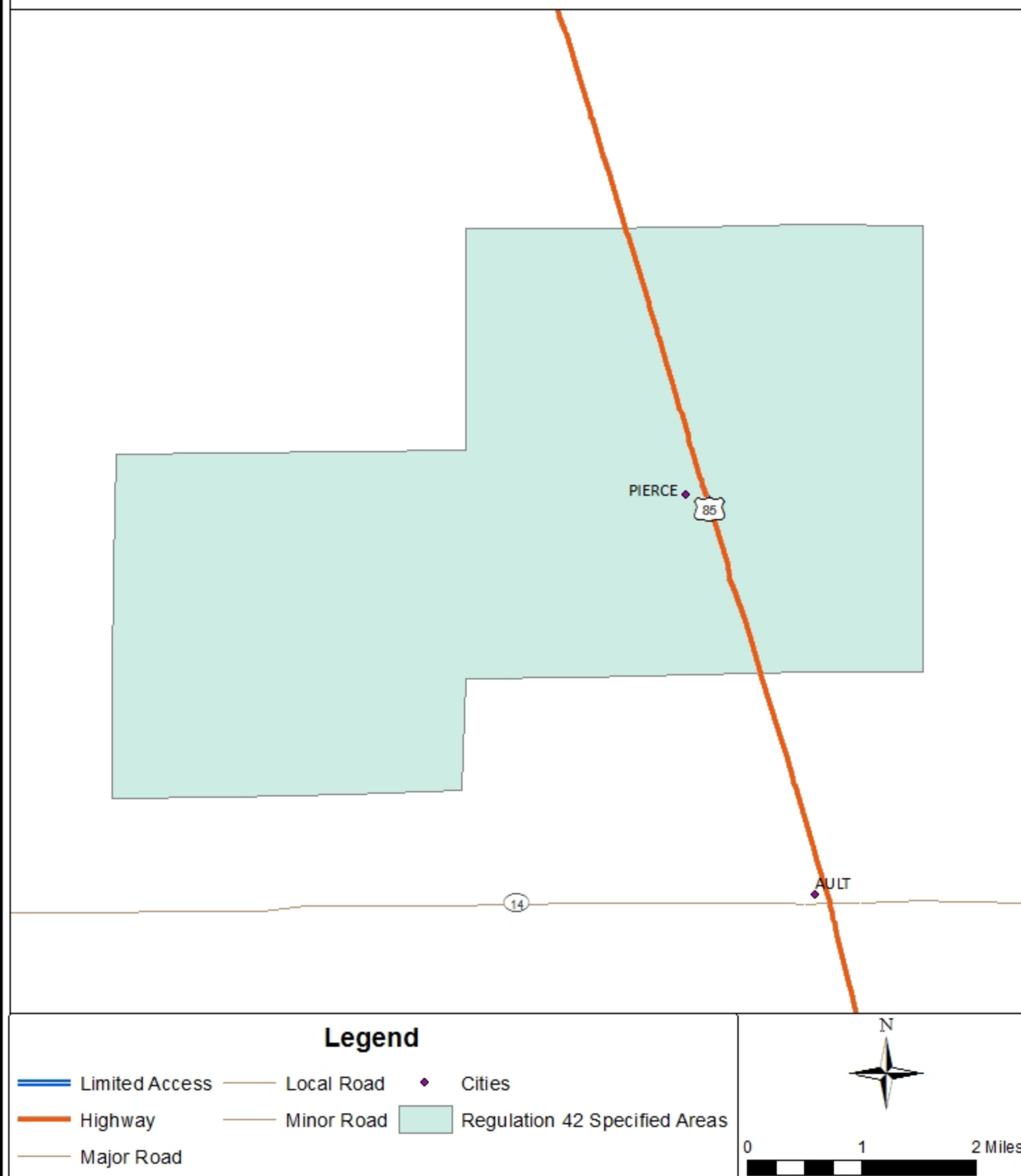


Figure 47. Specified Area for Colorado Oil and Gas Fields, Weld County.

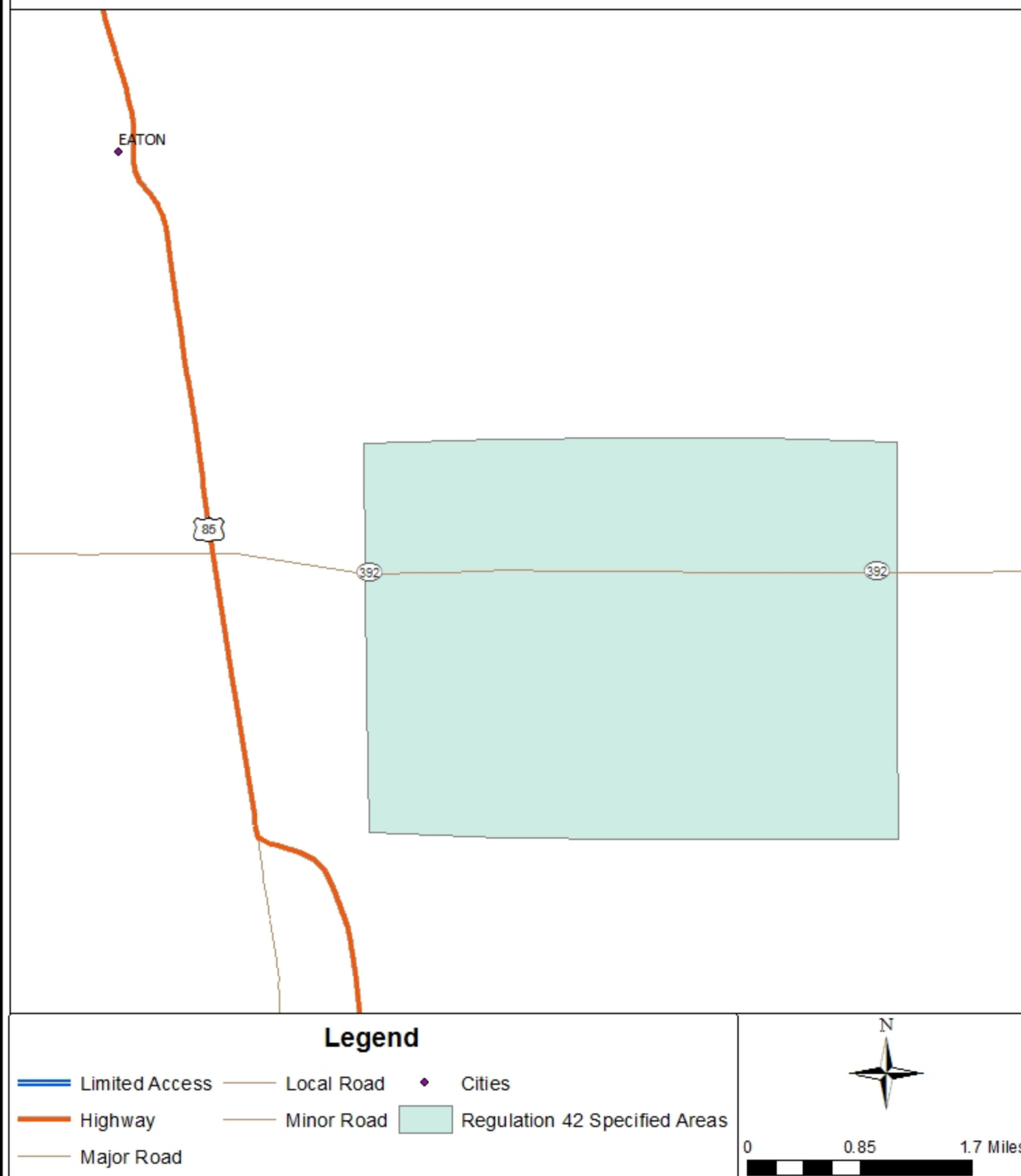


Figure 48. Specified Area for Colorado Oil and Gas Fields, Weld County.

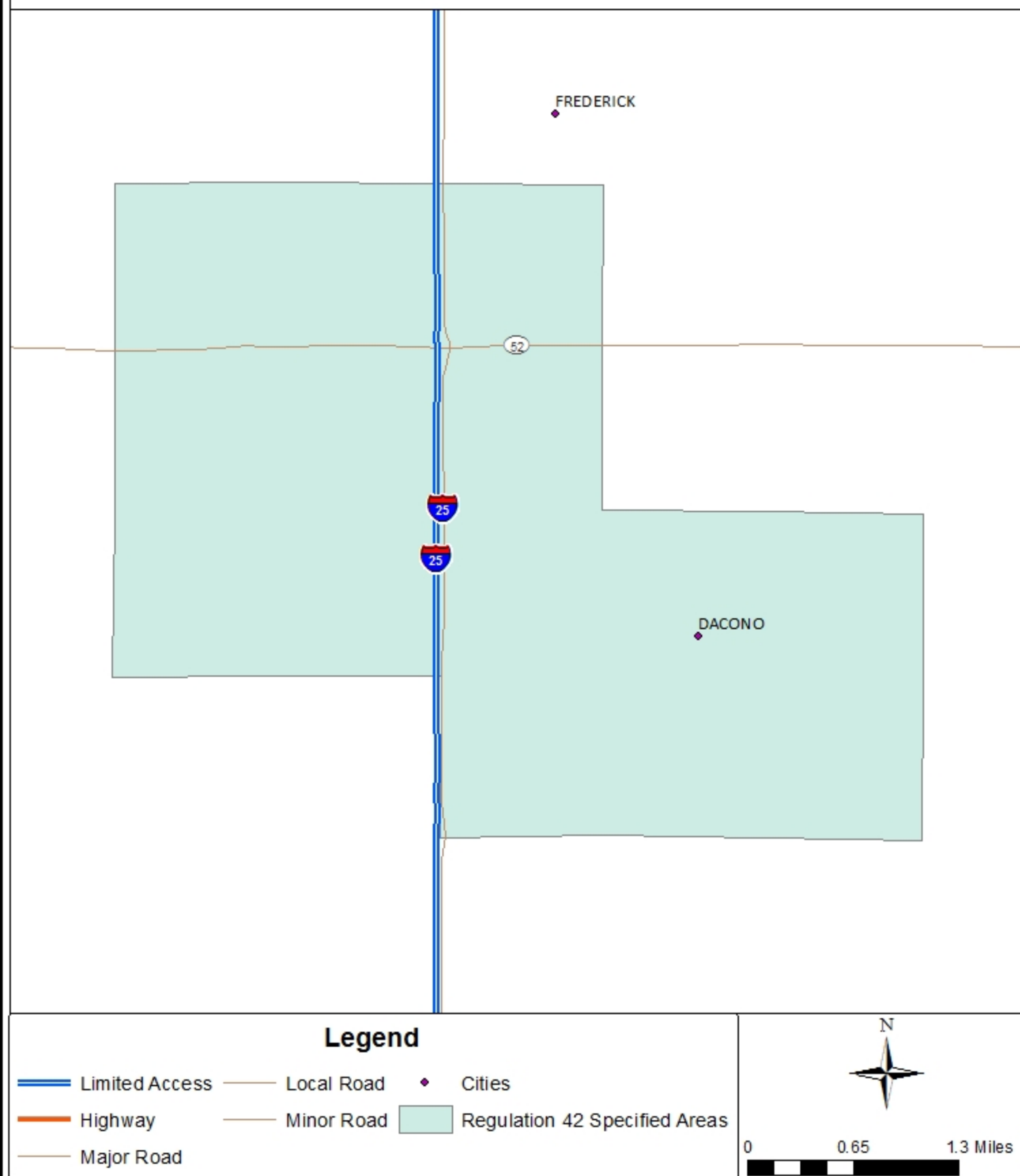
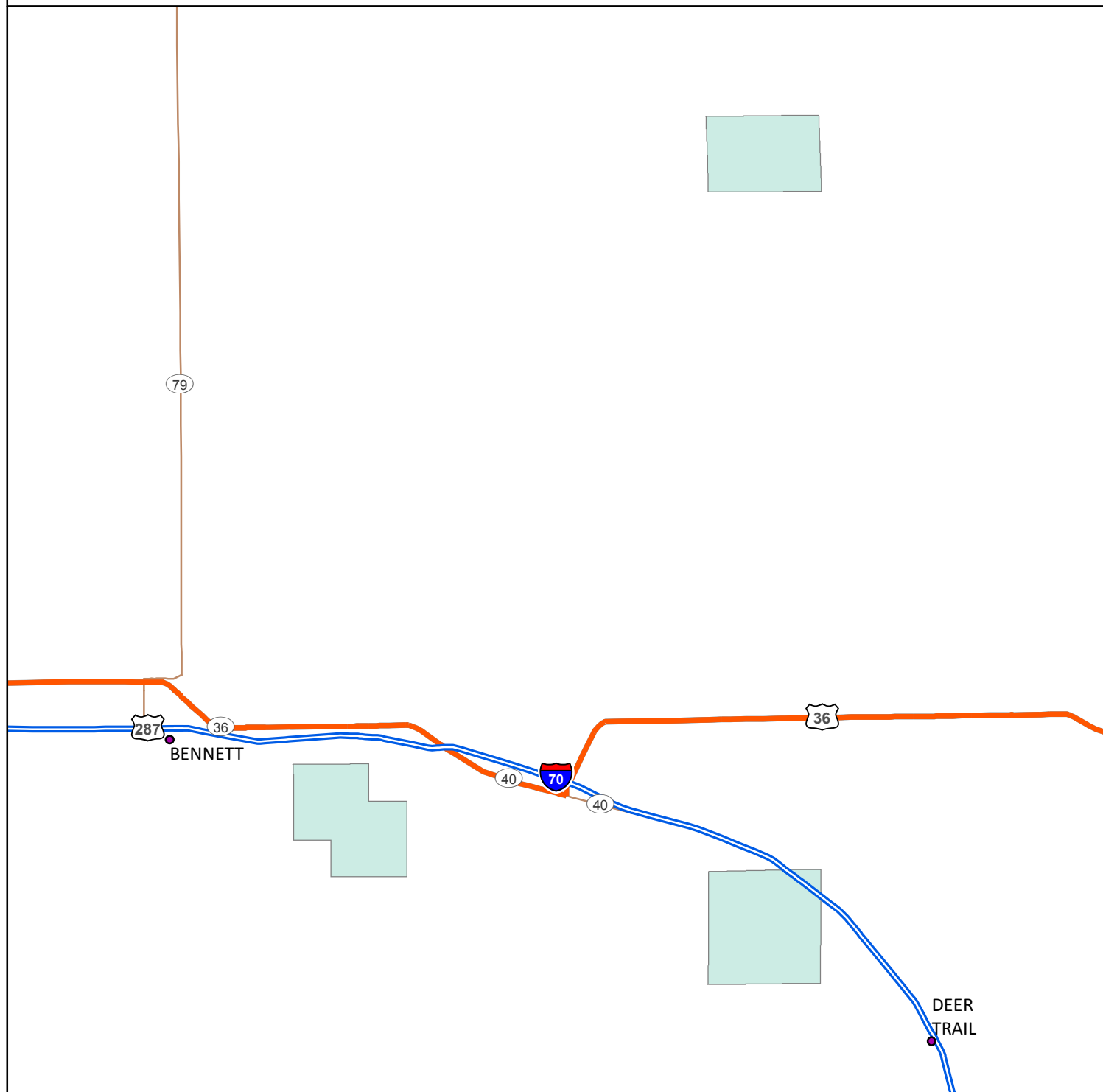


Figure 49A. Specified Area for Colorado Oil and Gas Fields, Arapahoe and Adams County.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |

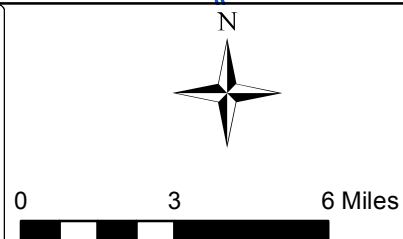
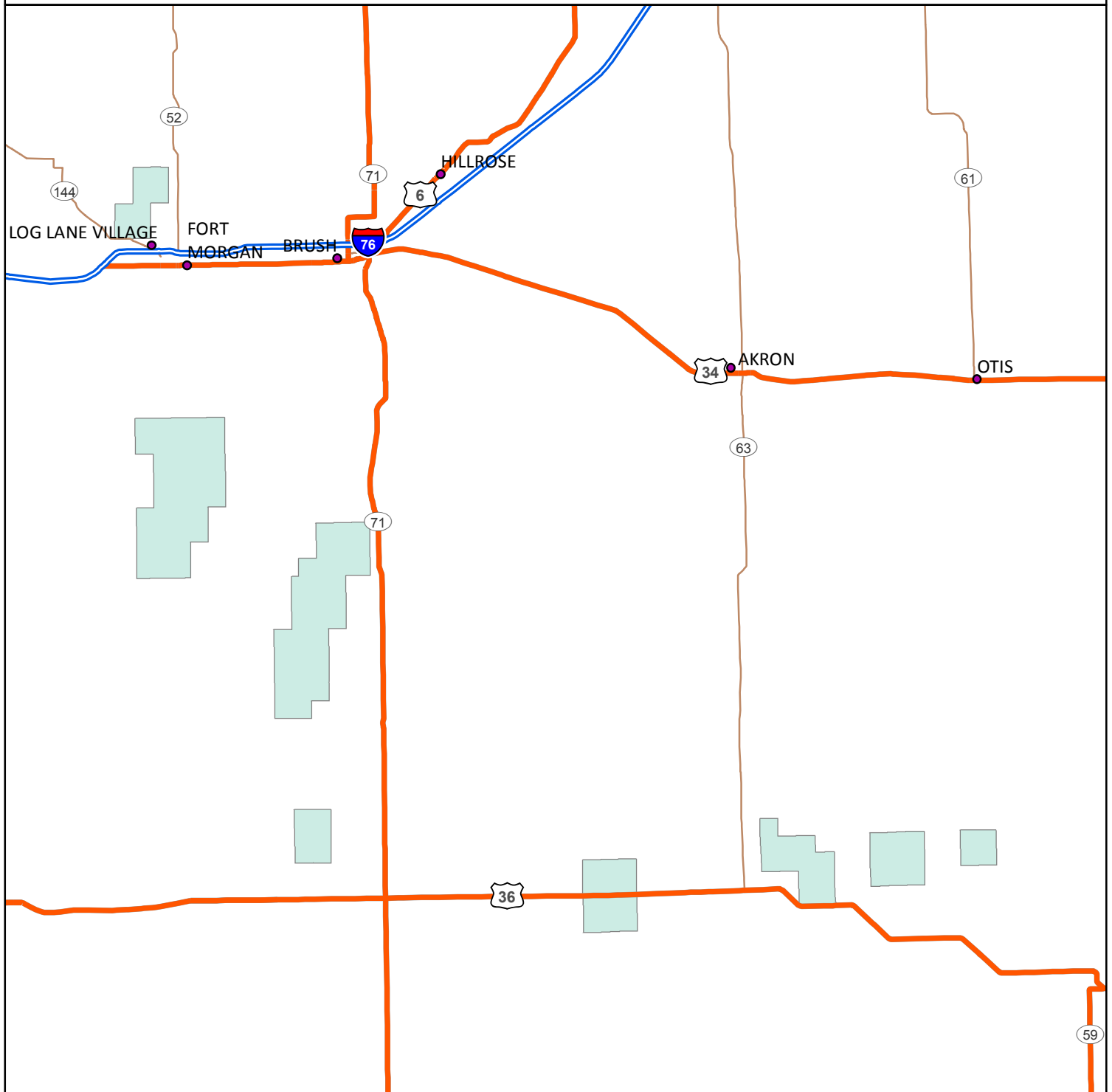


Figure 49B. Specified Area for Colorado Oil and Gas Fields, Morgan and Washington County.



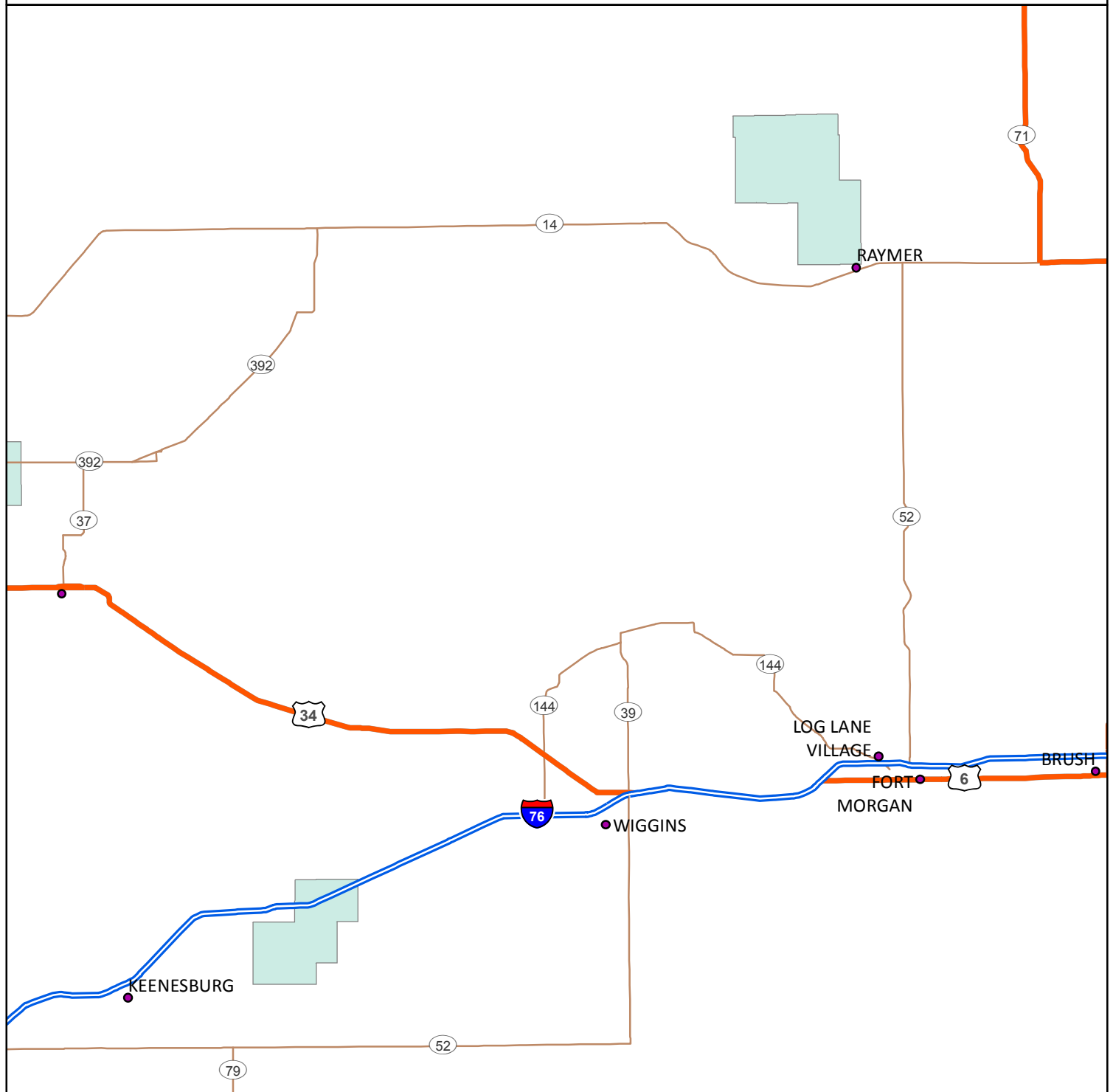
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 6.5 13 Miles

Figure 49C. Specified Area for Colorado Oil and Gas Fields, Weld County.



Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



0 5.5 11 Miles

Figure 50. Specified Area for the Wilson Creek Oil and Gas Field, Rio Blanco County, Colorado.

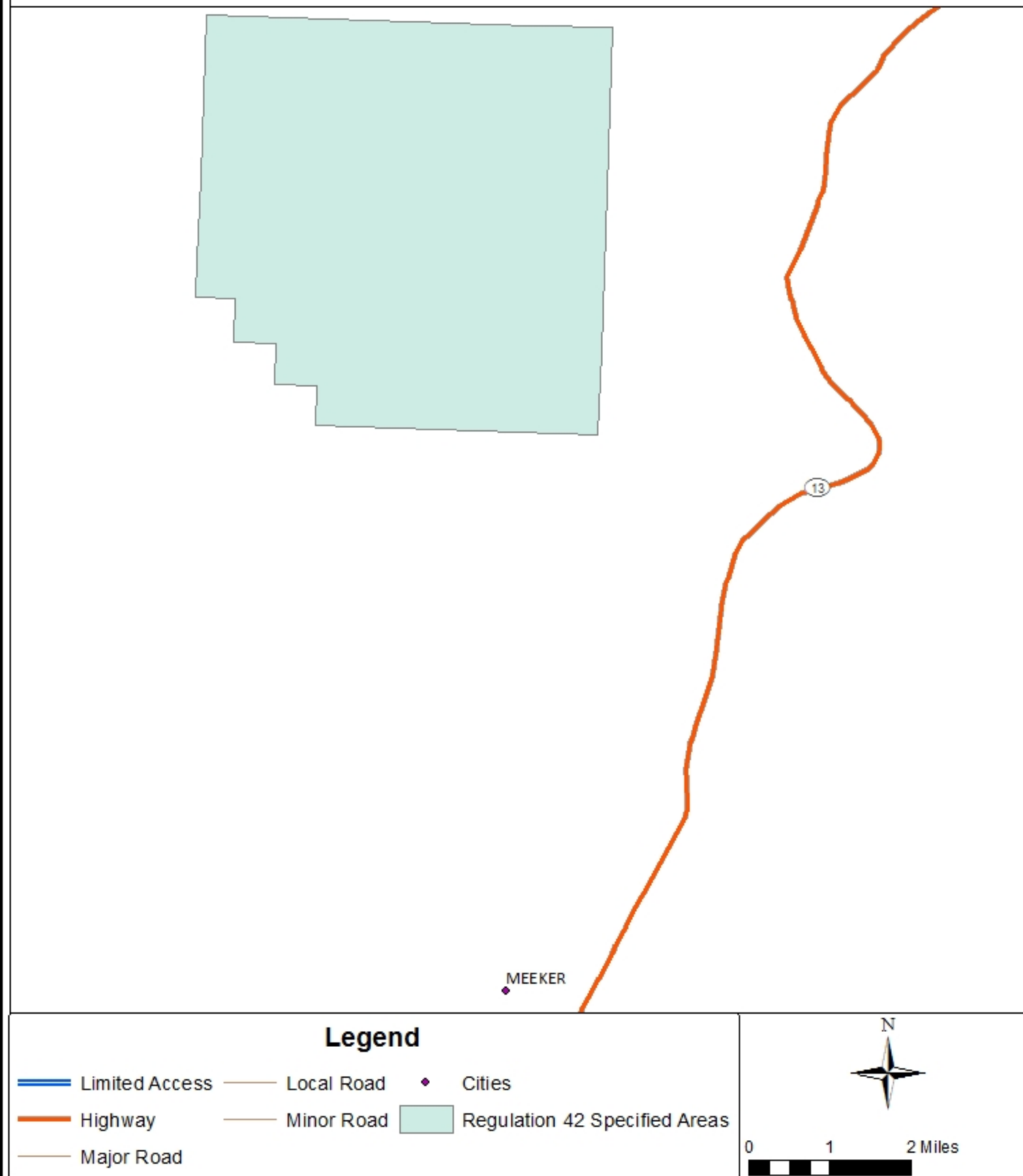
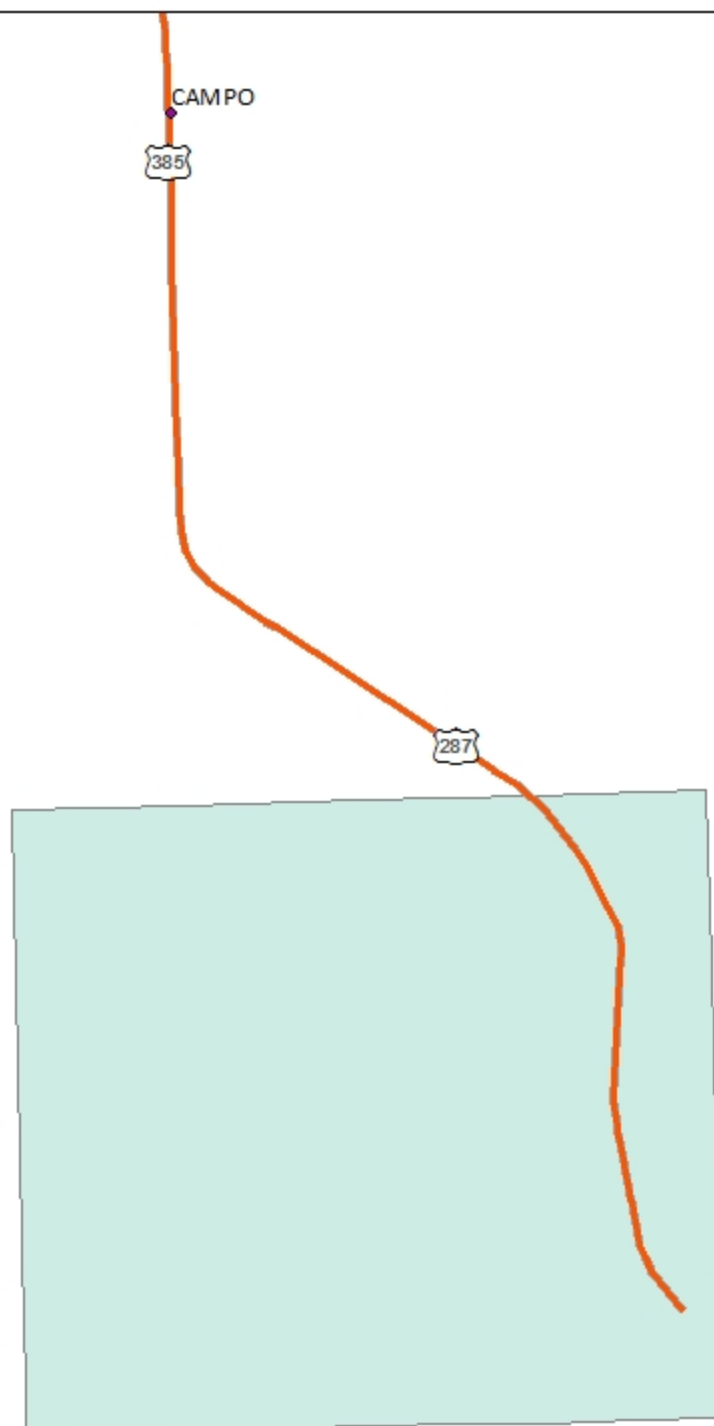


Figure 51. Specified Area for the Campo Oil and Gas Field, Baca County, Colorado.

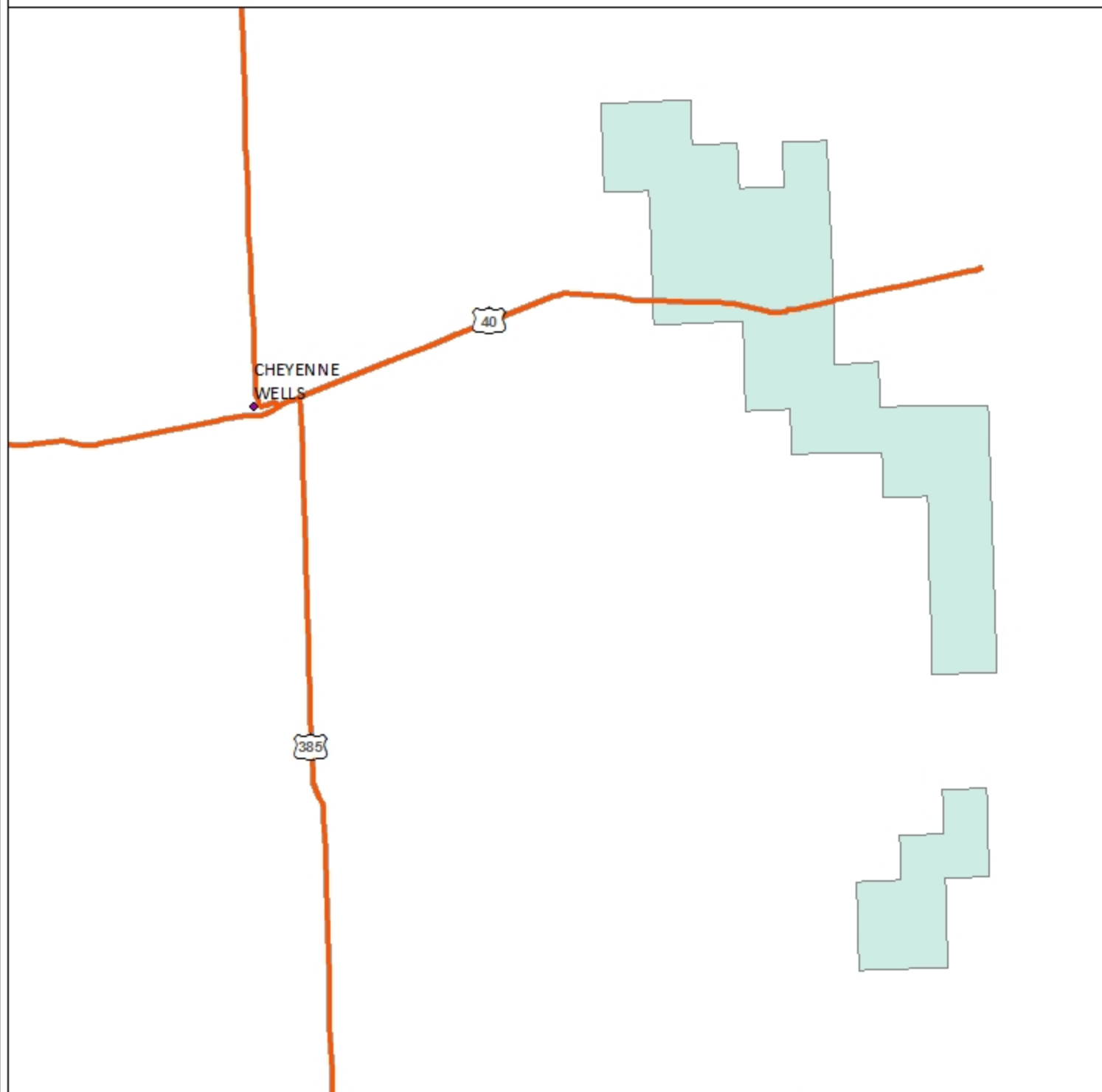


Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |



Figure 52A. Specified Area for the Arapahoe Northwest, Arapahoe, Frontera, and Second Wind Fields Cheyenne County, Colorado.



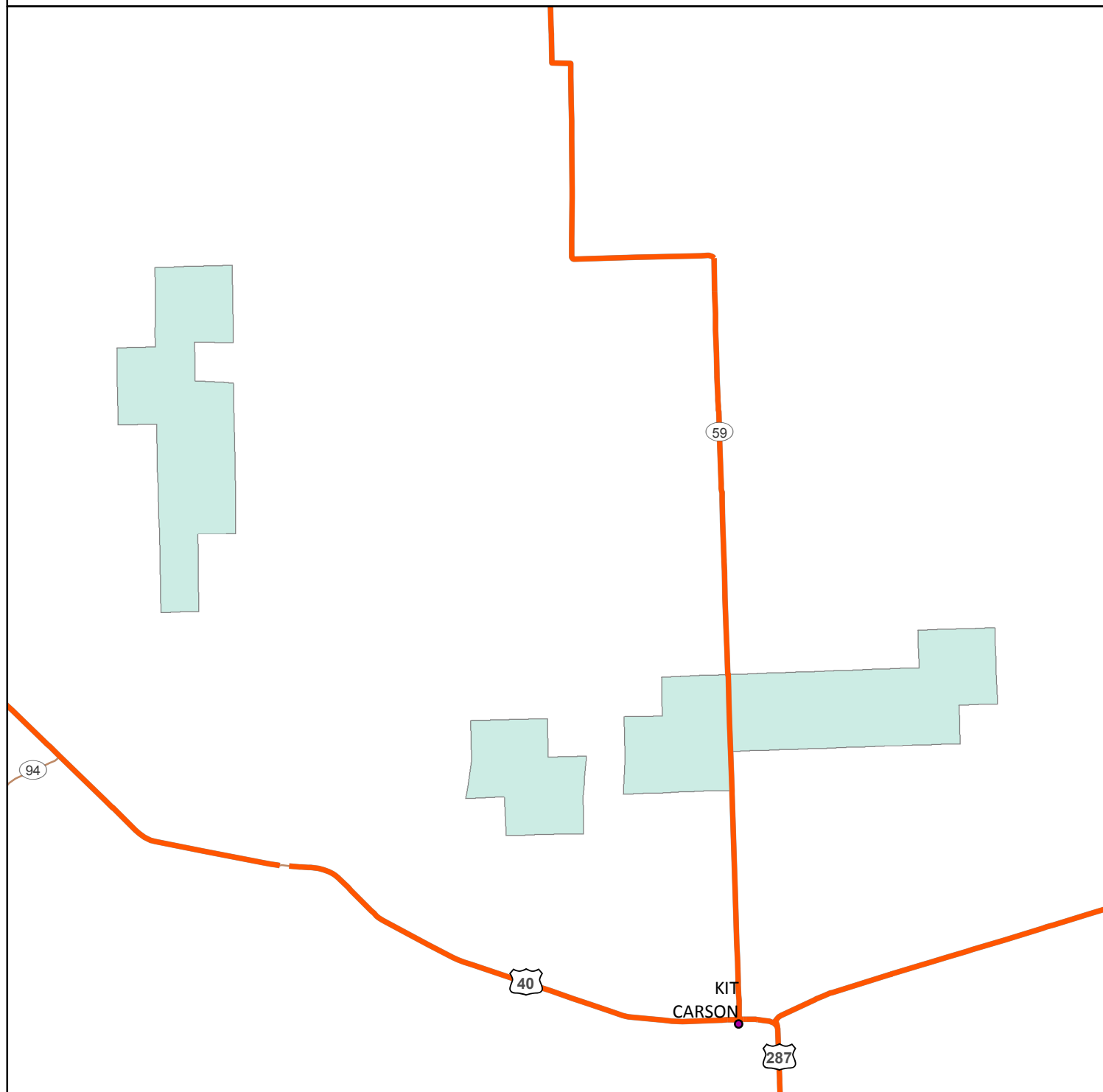
Legend

- | | | |
|----------------|------------|-------------------------------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | Regulation 42 Specified Areas |
| Major Road | | |










0 2.5 5 Miles

Figure 52B. Specified Area for the Speaker, Bledsoe Ranch, Sorrento, and Mount Pearl Fields Kit Carson and Cheyenne Counties, Colorado.



Legend

- | | | |
|---|--|---|
|  Limited Access |  Local Road |  Cities |
|  Highway |  Minor Road |  Regulation 42 Specified Areas |
|  Major Road | | |



0 3 6 Miles

**Figure 53. Specified Area for the Hiawatha Oil and Gas Field
Moffat County, Colorado.**

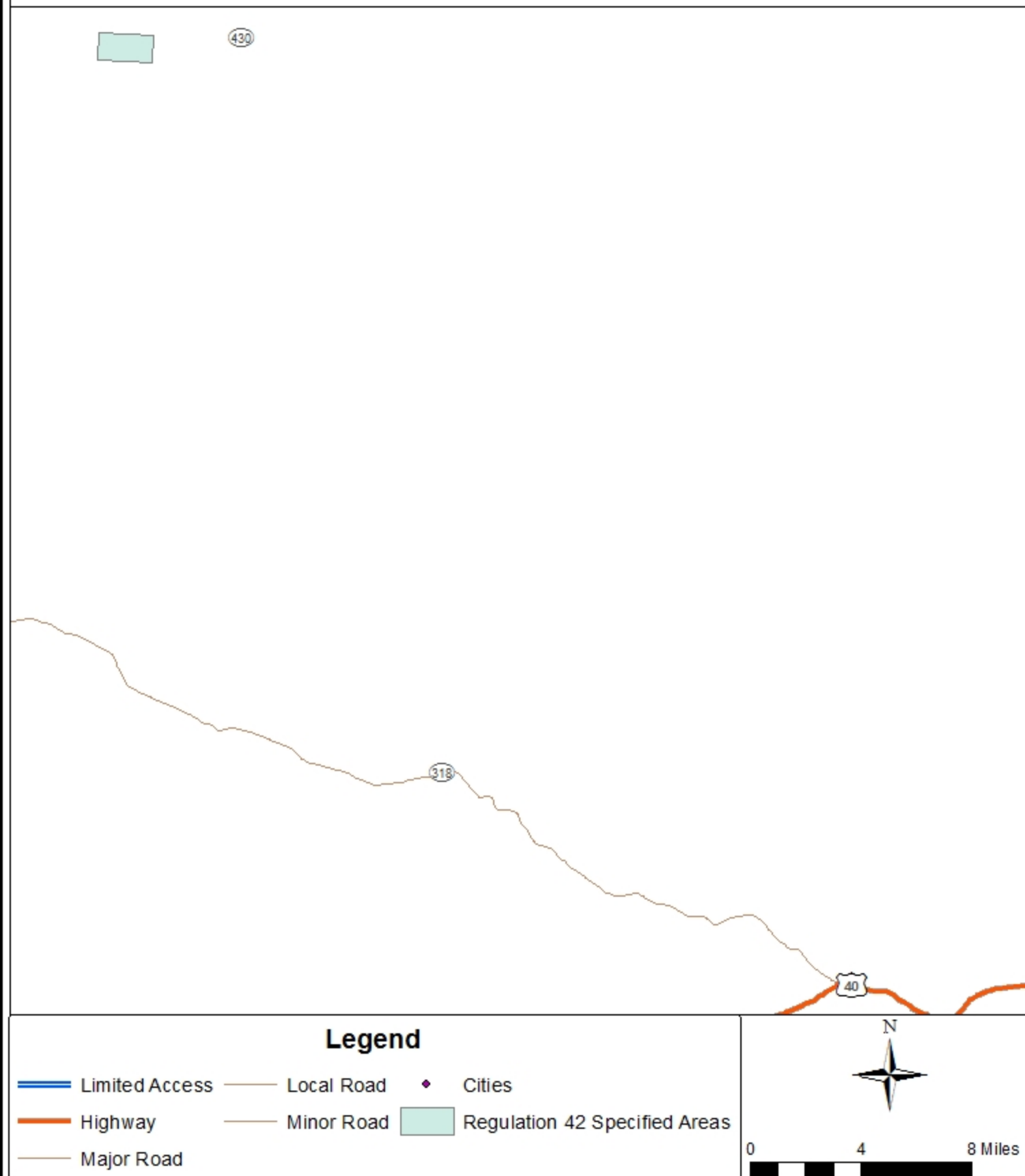
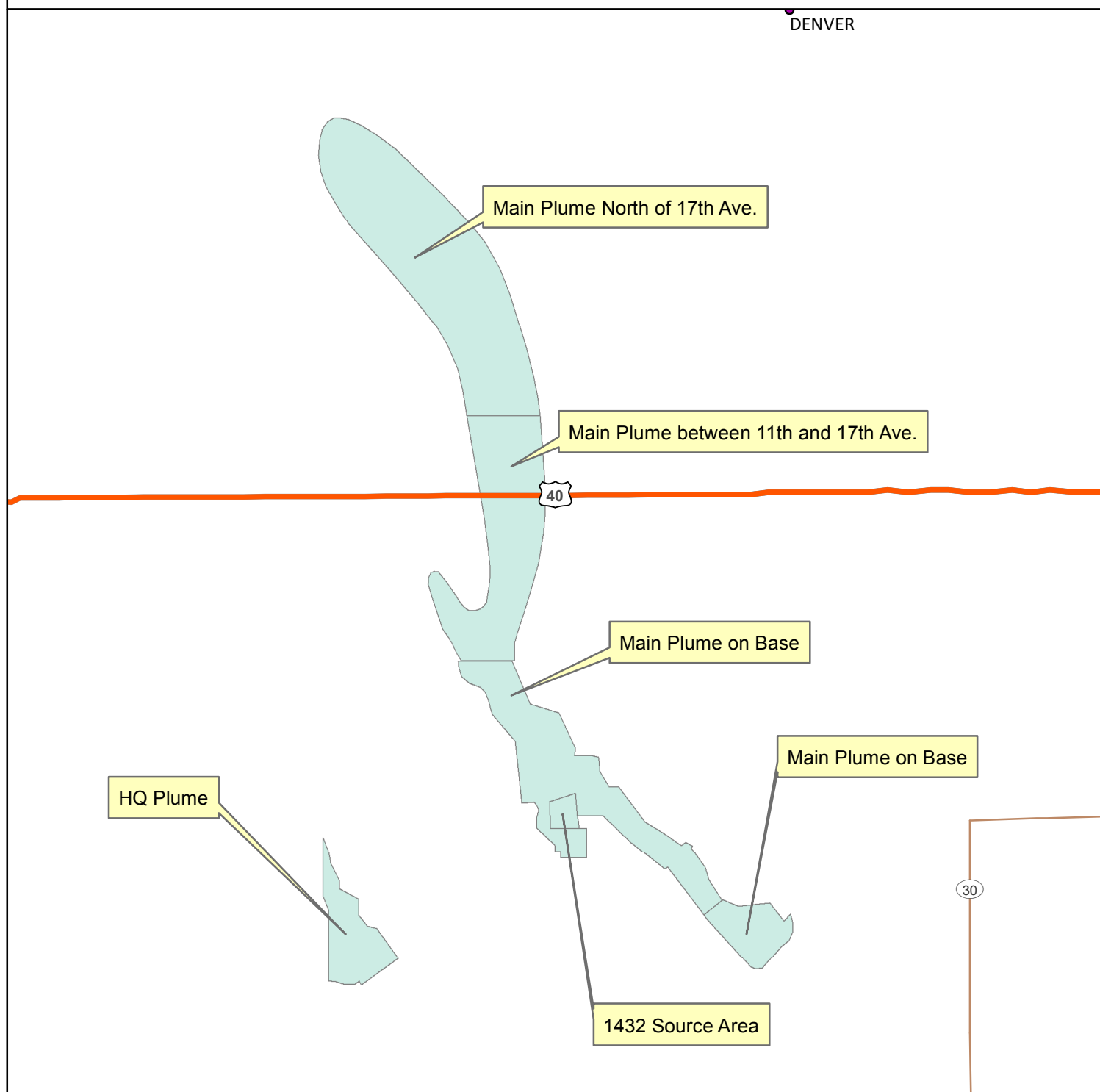


Figure 54A. Specified Area for Lowry Alluvium Aquifers



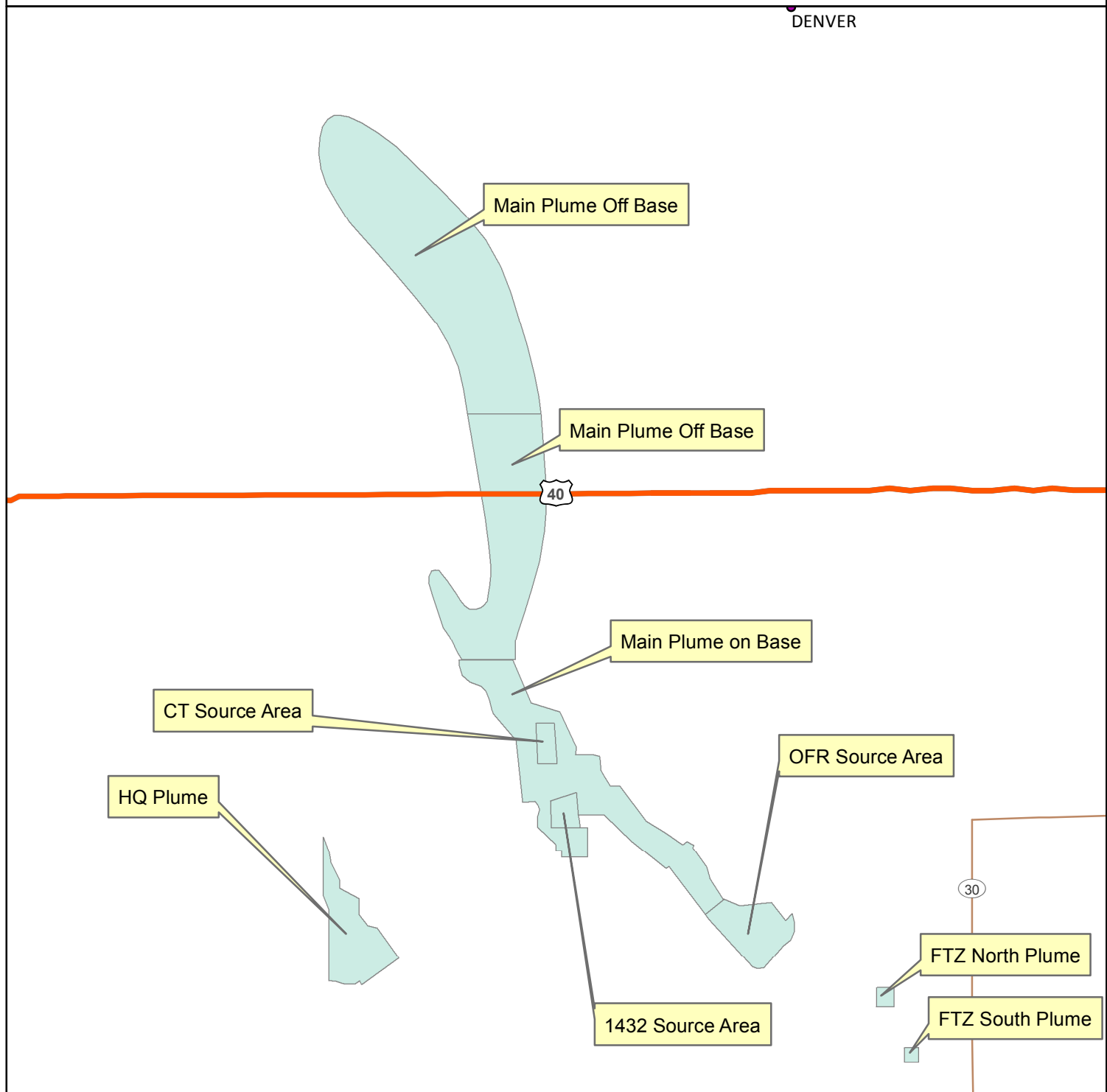
Legend

- | | | |
|----------------|------------|--------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | |
| Major Road | | |



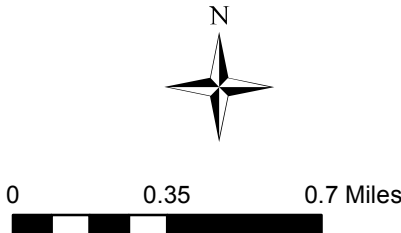
0 0.35 0.7 Miles

Figure 54B. Specified Area for Lowry Bedrock Aquifers



Legend

- | | | |
|----------------|------------|--------|
| Limited Access | Local Road | Cities |
| Highway | Minor Road | |
| Major Road | | |



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Tracking number: 2016-00469

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 01/09/2017

5 CCR 1002-42

**REGULATION NO. 42 - SITE-SPECIFIC WATER QUALITY CLASSIFICATIONS AND STANDARDS
FOR GROUND WATER**

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 18, 2017 17:11:39

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Workers' Compensation

CCR number

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Rule title

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03/02/2017

RULE 17, EXHIBIT 5

Cumulative Trauma Conditions Medical Treatment Guidelines

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Presented by:



COLORADO

Department of
Labor and Employment

DIVISION OF WORKERS' COMPENSATION



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DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

CCR 1101-3

Rule 17, EXHIBIT 5

CUMULATIVE TRAUMA CONDITIONS MEDICAL TREATMENT GUIDELINES

A. INTRODUCTION

This document has been prepared by the Colorado Department of Labor and Employment, Division of Workers' Compensation (Division) and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Colorado's Workers' Compensation Act as injured workers with cumulative trauma conditions.

Although the primary purpose of this document is advisory and educational, these guidelines are enforceable under the Workers' Compensation Rules of Procedure, 7 CCR 1101-3. The Division recognizes that acceptable medical practice may include deviations from these guidelines, as individual cases dictate. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care.

To properly utilize this document, the reader should not skip nor overlook any sections.

B. GENERAL GUIDELINES PRINCIPLES

The principles summarized in this section are key to the intended implementation of all Division of Workers' Compensation guidelines and critical to the reader's application of the guidelines in this document.

1. **APPLICATION OF THE GUIDELINES**: The Division provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the provider, payer, and patient through the Workers' Compensation Rules of Procedure. In lieu of more costly litigation, parties may wish to seek administrative dispute resolution services through the Division or the Office of Administrative Courts.
2. **EDUCATION**: Education of the patient and family, as well as the employer, insurer, policy makers, and the community should be the primary emphasis in the treatment of chronic pain and disability. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must implement strategies to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring and evidence-based information to the patient. More in-depth patient education is currently a component of treatment regimens which employ functional, restorative, preventive, and rehabilitative programs. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention.
3. **INFORMED DECISION MAKING**: Providers should implement informed decision making as a crucial element of a successful treatment plan. Patients, with the assistance of their health care practitioners, should identify their personal and professional functional goals of treatment at the first visit. Progress towards the individual's identified functional goals should be addressed by all members of the health care team at subsequent visits and throughout the established treatment plan. Nurse case managers, physical therapists, and other members of the health care team play an integral role in informed decision making and achievement of functional goals. Patient education and informed decision making should facilitate self-management of symptoms and prevention of further injury.
4. **TREATMENT PARAMETER DURATION**: Time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient compliance, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document.

5. **ACTIVE INTERVENTIONS**: Emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, is generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions facilitate progress in an active rehabilitation program with concomitant attainment of objective functional gains.
6. **ACTIVE THERAPEUTIC EXERCISE PROGRAM**: Goals should incorporate patient strength, endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.
7. **POSITIVE PATIENT RESPONSE**: Results are defined primarily as functional gains that can be objectively measured. Objective functional gains include, but are not limited to, positional tolerances, range-of-motion, strength, endurance, activities of daily living (ADL), cognition, psychological behavior, and quantifiable efficiency/velocity measures. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings.
8. **RE-EVALUATE TREATMENT EVERY 3 TO 4 WEEKS**: If a given treatment or modality is not producing positive results within three to four weeks, the treatment should be either modified or discontinued. Before discontinuing the treatment, the provider should have a detailed discussion with the patient to determine the reason for failure to produce positive results. Reconsideration of diagnosis should also occur in the event of a poor response to a seemingly rational intervention.
9. **SURGICAL INTERVENTIONS**: Surgical interventions should be contemplated within the context of expected functional outcome and not purely for the purpose of pain relief. The concept of “cure” with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic condition(s).
10. **SIX-MONTH TIME FRAME**: The prognosis drops precipitously for returning an injured worker to work once he/she has been temporarily totally disabled for more than six months. The emphasis within these guidelines is to move patients along a continuum of care and return to work within a six-month time frame, whenever possible. It is important to note that time frames may not be pertinent to injuries that do not involve work-time loss or are not occupationally related.

11. **RETURN-TO-WORK:** A return-to-work is therapeutic, assuming the work is not likely to aggravate the basic problem or increase long-term pain. The practitioner must provide specific physical limitations, and the patient should never be released to non-specific and vague descriptions such as “sedentary” or “light duty.” The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage, and vibration factors. Even if there is residual chronic pain, return-to-work is not necessarily contraindicated.

The practitioner should understand all of the physical demands of the patient’s job position before returning the patient to full duty and should request clarification of the patient’s job duties. Clarification should be obtained from the employer or, if necessary, from including, but not limited to, an occupational health nurse, occupational therapist, vocational rehabilitation specialist, an industrial hygienist, or another professional.

12. **DELAYED RECOVERY:** Strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after an injury. The Division recognizes that 3 to 10% of all industrially injured patients will not recover within the timelines outlined in this document, despite optimal care. Such individuals may require treatments beyond the timelines discussed within this document, but such treatment requires clear documentation by the authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

13. **GUIDELINES RECOMMENDATIONS AND INCLUSION OF MEDICAL EVIDENCE:** *All recommendations are based on available evidence and/or consensus judgment.* When possible, guideline recommendations will note the level of evidence supporting the treatment recommendation. It is generally recognized that early reports of a positive treatment effect are frequently weakened or overturned by subsequent research. When interpreting medical evidence statements in the guideline, the following apply:

- Consensus means the judgment of experienced professionals based on general medical principles. Consensus recommendations are designated in the guidelines as “generally well-accepted,” “generally accepted,” “acceptable/accepted,” or “well-established.”
- “Some evidence” means the recommendation considered at least one adequate scientific study, which reported that a treatment was effective. The Division recognizes that further research is likely to have an impact on the intervention’s effect.
- “Good evidence” means the recommendation considered the availability of multiple adequate scientific studies or at least one relevant high-quality scientific

study, which reported that a treatment was effective. The Division recognizes that further research may have an impact on the intervention's effect.

- “Strong evidence” means the recommendation considered the availability of multiple relevant and high-quality scientific studies, which arrived at similar conclusions about the effectiveness of a treatment. The Division recognizes that further research is unlikely to have an important impact on the intervention's effect.

All recommendations in the guideline are considered to represent reasonable care in appropriately selected cases, irrespective of the level of evidence or consensus statement attached to them. Those procedures considered inappropriate, unreasonable, or unnecessary are designated in the guideline as “***not recommended***.”

14. **CARE BEYOND MAXIMUM MEDICAL IMPROVEMENT (MMI)**: MMI should be declared when a patient's condition has plateaued to the point where the authorized treating physician no longer believes further medical intervention is likely to result in improved function. However, some patients may require treatment after MMI has been declared in order to maintain their functional state. The recommendations in this guideline are for pre-MMI care and are not intended to limit post-MMI treatment. The remainder of this document should be interpreted within the parameters of these guidelines principles that may lead to more optimal medical and functional outcomes for injured workers.

C. DEFINITIONS AND MECHANISMS OF INJURY

Cumulative trauma related conditions (CTC) of the upper extremity comprise a heterogeneous group of diagnoses which include numerous specific clinical entities including disorders of the muscles, tendons and tendon sheaths, nerves, joints and neurovascular structures.

The terms “cumulative trauma disorder”, “repetitive motion syndrome”, “repetitive strain injury”, “myofascial pain” and other similar nomenclatures are umbrella terms that are not acceptable, specific diagnoses. The health care provider must provide specific diagnoses in order to appropriately educate, evaluate, and treat the patient. Examples include: de Quervain’s disease, cubital tunnel syndrome, and lateral/medial epicondylitis (epicondylalgia). Many patients present with more than one diagnosis, which requires a thorough upper extremity and cervical evaluation by the health care provider. Furthermore, there must be a causal relationship between work activities and the diagnosis (See Section D.3 Initial Diagnostic Procedures, Medical Causation Assessment). The mere presence of a diagnosis that may be associated with cumulative trauma does not presume work-relatedness unless the appropriate work exposure is present.

Mechanisms of injury for the development of cumulative trauma related conditions have been controversial. However, repetitive awkward posture, force, vibration, cold exposure, and combinations thereof are generally accepted as occupational risk factors for the development of cumulative trauma related conditions.

Evaluation of cumulative trauma related conditions require an integrated approach that may include ergonomics assessment, clinical assessment, past medical history and psychosocial evaluation on a case-by-case basis.

The normal working age population may have non-specific pain complaints that require minimum treatment and may be considered part of the normal aging process. When pain continues or a complete history indicates a potential for other diagnoses, a medical workup may be necessary to screen for other diseases. However, in cases where there is no specific diagnosis and corresponding work related etiology, the work-up should generally be performed outside of the workers’ compensation system.

D. INITIAL DIAGNOSTIC PROCEDURES

The Division recommends the following diagnostic procedures be considered, at least initially, the responsibility of the workers' compensation carrier to ensure that an accurate diagnosis and treatment plan can be established. Standard procedures that should be utilized when initially diagnosing a work-related upper extremity complaint are listed below.

1. HISTORY-TAKING AND PHYSICAL EXAMINATION (HX & PE)

History-taking and physical examination are generally accepted, well-established and widely used procedures that establish the foundation for subsequent stages of diagnostic and therapeutic procedures. When findings of clinical evaluations and those of other diagnostic procedures are not complementing each other, the objective clinical findings should have preference. The medical records should reasonably document the following:

a. History of Present Injury

- i. Age, hand dominance, and gender should be documented.
- ii. Onset: date of onset, triggering event (if present) versus gradual onset. Activity at or before onset of symptoms.
- iii. Nature of symptoms: pain, numbness, tingling, weakness, swelling, stiffness, temperature change, moisture change, and color change.
- iv. Functional Assessment: Functional ability should be assessed and documented at the beginning of treatment. Periodic assessment should be recorded throughout the course of care to follow the trajectory of recovery. Functional measures are likely to be more reliable over time than pain measures.

Patient-reported outcomes, whether of pain or function, are susceptible to a phenomenon called response shift. Response shift refers to changes in self-evaluation, which may accompany changes in health status. Patient self-reports may not coincide with objective measures of outcome, due to reconceptualization of the impact of pain on daily function and internal recalibration of pain scales. Response shift may obscure treatment effects in clinical trials and clinical practice, and it may lead to apparent discrepancies in patient-reported outcomes following treatment interventions. While methods of measuring and accounting for response shift are not yet fully developed, understanding that the phenomenon exists can help clinicians understand what is happening

when some measures of patient progress appear inconsistent with other measures of progress.

- v. Pain: any history of pain, intermittent or constant, and intensity. A pain scale (0 = no pain, and 10 = worst imaginable pain) may be used. The use of a patient completed pain drawing, Visual Analog Scale (VAS) is highly recommended, especially during the first 2 weeks following injury to assure that all work related symptoms are addressed. Use comprehensive pain diagrams as it is important to solicit the reporting of more proximal symptoms. Evaluate the patient's overall pain behavior. The behavior should be consistent with the current pain levels reported by the patient. Pain assessments should include a description of functional activity performed by the patient at various pain levels.
- vi. Provocative and alleviating factors (occupational and non-occupational): Identify the specific physical factors that are aggravating or alleviating the problem. Include the patient's perception of cause of symptoms.
- vii. Sleep disturbances secondary to the condition including sleeping posture.
- viii. Other associated signs and symptoms noted by the injured worker.
- ix. Ability to perform activities of daily living (ADLs): ADLs include such activities as self-care and personal hygiene, communication, ambulation, attaining all normal living postures, travel, non-specialized hand activities, sexual function, sleep, and social and recreational activities. Specific movements in this category include: pinching or grasping keys/pens/other small objects (brushing teeth, doing laundry), grasping cups or other similar-sized objects, and opening jars. The quality of these activities is judged by the independence, appropriateness, and effectiveness with which they are completed. Assess not simply the number of restricted activities but the overall degree of restriction or combination of restrictions.
- x. Prior occupational and non-occupational injuries to the same area including specific prior treatment and any prior supportive devices.
- xi. Discussion of any symptoms present in the uninjured extremity or similar symptoms in the lower extremities.
- xii. Patient's expectation of recovery and return to work.

b. Relationship to Work and Other Activity

Assess the individual's ability to perform job duties. This frequently includes a job site evaluation including an ergonomic assessment as well as the patient's description of the job duties. Job title alone is not sufficient information. The clinician is responsible for documenting specific information regarding repetition, force, other risk factors, and duration of employment. Refer to risk factors as listed in Section D.3.d Risk Factors Definitions Table and Section D.3.e Diagnosis-Based Risk Factors Table. A formal job site evaluation may be necessary. A formal job site evaluation may not be necessary when the physician is intimately familiar with the job position and associated work activities and there are no new job alterations.

Information should be obtained regarding other employment, sports, recreational, and avocational activities that might contribute to or be impacted by the cumulative trauma condition. Activities such as video gaming, smartphone use, crocheting/needlepoint, baseball/softball, playing musical instruments, home computer operation, golf, tennis, and gardening are included in this category. Duration of these activities should be documented. In most cases, the duration of these activities will be less than three hours per day, the minimum necessary to meet the causation standard. Therefore, these activities will not be considered major contributions to the medical condition.

Behavioral adaptations to symptoms should be documented.

c. Past History

- i. Demographics.
- ii. Past injury/symptoms involving the upper extremities, trunk and cervical spine.
- iii. Past work-related injury or occupational disease.
- iv. Past personal injury or disease that resulted in temporary or permanent job limitation.
- v. Medical conditions associated with cumulative trauma: The following are examples of medical conditions which have been commonly seen in association with cumulative trauma conditions. These require treatment and may impact the recovery of the work comp injury.
 - A) Amyloidosis;

- B) Arthropathies, including connective tissue disorders, rheumatoid arthritis, systemic lupus erythematosus, gout, osteoarthritis and spondyloarthropathy;
 - C) Cancer;
 - D) Diabetes mellitus, including family history or gestational diabetes;
 - E) Hypothyroidism, especially in older females;
 - F) Obesity;
 - G) Pregnancy;
 - H) Depression.
- vi. History of smoking and alcohol use; history of substance abuse;
 - vii. Medication history including, birth control pills, corticosteroid use, and other prescription and non-prescription medications; and
 - viii. Psychosocial history (including history of hobbies and recreational activities).

d. Physical Examination

The evaluation of any upper extremity complaint should begin at the neck and upper back and then proceed down to the fingers and include the contralateral region. It should include evaluation of vascular and neurologic status, and describe any dystrophic changes or variation in skin color or turgor. A description of the patient's general posture (e.g., neck rotation, shoulder depression, spine kyphosis), and body mass index [BMI] should be documented. Additional physical exam components may be necessary based on past medical history.

A neurological examination typically includes bilateral assessments of pinprick, 2 point sensation as applicable, motor strength and reflexes. These assessments of the upper extremities including a vascular assessment will provide information regarding polyneuropathic processes such as diabetic neuropathy. Vibratory sense and Achilles reflexes are frequently lost in diabetic neuropathy. Decreased response to cold temperature or pain response to cold temperature has been related to radicular findings in the spine as discriminated from axial pain. To confirm a reported hypoalgesic area, some examiners may choose to complete multiple tests that may be done with the patient's eyes closed: 1) having the

patient say yes or no whenever the patient thinks a stimulus has been applied; 2) repeatedly redefining the affected area.

Refer to the following Physical Examination Findings Reference Tables for details.

e. **Physical Examination Findings Reference Table: Specific Musculoskeletal Diagnoses**

DIAGNOSIS	SYMPTOMS	SIGNS (Required Findings)
Aggravated Osteoarthritis of the Wrist	Pain usually in the carpometacarpal joints; or in metacarpophalangeal joints.	<p><u>At least one of the following:</u></p> <ul style="list-style-type: none"> • Positive grind test resulting in pain; crepitus; • Subluxation of the metacarpal may be induced in advanced cases; • Swelling; • Reduced motion; • Angular deformities; • Tenderness with palpation of thumb metacarpophalangeal or carpometacarpal joint.
de Quervain's Disease	Tenderness over the first dorsal extensor compartment (anatomical snuff box).	<p><u>At least one of the following:</u></p> <ul style="list-style-type: none"> • Pain worsened by resisted thumb abduction and/or extension with or without resistance; • Positive Finkelstein's test.
Epicondylitis-Lateral (Epicondylalgia)	Elbow pain over the lateral epicondyle increased with gripping.	Tenderness to palpation at/near lateral epicondyle and pain over the lateral epicondyle and/or extensor mass of the forearm with one of the following maneuvers:

		<ul style="list-style-type: none"> • Active or resisted wrist extension; • Active or resisted middle finger extension; • Active or resisted supination.
DIAGNOSIS	SYMPTOMS	SIGNS (Required Findings)
Epicondylitis-Medial (Epicondylalgia)	Elbow pain over the medial epicondyle.	<p>Tenderness to palpation at/near medial epicondyle and pain over the medial epicondyle and/or flexor mass of the forearm with one of the following maneuvers:</p> <ul style="list-style-type: none"> • Active or resisted wrist flexion; • Active or resisted pronation.
Extensor Tendon Disorders of the Wrist	Pain localized to the affected tendon(s) worsened by wrist or finger extension.	Pain and/or tenderness with active or resisted wrist/digit extension, specific to the extensor mechanism involved.
Flexor Tendon Disorders of the Wrist	Pain/tenderness localized to affected tendons.	Reproduction of pain with active or resisted wrist/digit flexion or ulnar deviation specific to the flexor mechanism involved.
Triangular Fibrocartilage Complex Tear (TFCC)	Symptoms mainly on ulnar side of the wrist.	<p>Tenderness over the TFCC complex and localized pain, clicking, or findings of abnormal motion with one of the following movements:</p> <ul style="list-style-type: none"> • Forced supination and pronation with axial pressure on an ulnar deviated wrist; • The patient pushes up from a seating position using the hand, and/or

		<ul style="list-style-type: none"> • Ballottement of the distal ulna with the wrist supinated causes abnormal motion as compared to the asymptomatic side.
DIAGNOSIS	SYMPTOMS	SIGNS (Required Findings)
Trigger Finger	Difficulty flexing the finger with a catching or triggering sensation.	<u>One of the following:</u> <ul style="list-style-type: none"> • Tenderness at the A-1 pulley with finger flexion; • Triggering of the digit; • Difficulty flexing and extending the finger with a palpable nodule.

f. **Physical Examination Findings Reference Table: Specific Peripheral Nerve Diagnoses**

DIAGNOSIS	SYMPTOMS	SIGNS (Required Findings)
Carpal Tunnel Syndrome	<p>Specific paresthesias in 2 of the following digits: thumb, index, and middle finger.</p> <p>Shaking of the hand (to relieve symptoms) and nocturnal symptoms are common.</p>	<u>At least one of the following:</u> <ul style="list-style-type: none"> • Positive Phalen's sign; • Positive Tinel's sign over the carpal tunnel; • Positive closed fist test; • Positive compression test; • Thenar atrophy may be present later in course; • Weakness of abductor pollicis brevis;

		<ul style="list-style-type: none"> Sensory loss to pinprick, light touch, two-point discrimination or Semmes-Weinstein monofilament tests in a median nerve distribution. No loss of sensation in the central palm.
DIAGNOSIS	SYMPTOMS	SIGNS (Required Findings)
Cubital Tunnel Syndrome	Paresthesias or dull, aching sensations in the 4th and 5th digits (ring and small fingers) and discomfort near the medial aspect of the elbow.	<p>Paresthesias or dull, aching in the 4th and 5th digits and at least one of the following exam findings:</p> <ul style="list-style-type: none"> Diminished sensation of the fifth and ulnar half of the ring fingers, which may sometimes include sensory loss to pinprick, light touch, two-point discrimination or Semmes-Weinstein monofilament tests in an ulnar nerve distribution; Positive elbow flexion/ulnar compression test; Later stages manifested by: intrinsic atrophy and ulnar innervated intrinsic weakness; Wartenberg's sign; Froment's sign.
Guyon Canal (Tunnel) Syndrome	Paresthesias in the 4th and 5th digits (ring and small fingers) without proximal ulnar complaints.	<p><u>At least one of the following exam findings:</u></p> <ul style="list-style-type: none"> Positive Tinel's at hook of hamate; Numbness or paresthesias of the palm surface of the ring and small fingers; Decreased strength of the adductor pollicis, abductor digiti minimi, and/or lumbricals.

Posterior Interosseous Nerve Entrapment (PIN)	Weakness of finger and thumb extension	Weakness or inability to extend fingers, thumb or wrist in neutral or ulnar deviation;
Pronator Syndrome	Pain/paresthesias in the median nerve distribution distal to the elbow.	Paresthesias in the median nerve distribution and at least one of the following reproduces median nerve symptoms:
DIAGNOSIS	SYMPTOMS	SIGNS (Required Findings)
Pronator Syndrome, continued		<ul style="list-style-type: none"> • Resisted pronation with elbow flexed at 90 degrees or elbow extended; • Positive Tinel's at the proximal edge of the pronator teres muscle over the median nerve.
Radial Tunnel Syndrome	<p>Pain over the lateral posterior forearm. May occur in conjunction with and must be distinguished from lateral epicondylitis.</p> <p>May include paresthesias over the dorsal radial hand and wrist.</p>	<p><u>The following two elements are required:</u></p> <ul style="list-style-type: none"> • Tenderness over the radial nerve near the proximal edge of the supinator muscle; • Resisted supination or resisted middle finger extension with the forearm pronated and extended reproduces symptoms.

2. LABORATORY TESTING

Laboratory tests are generally accepted, well-established and widely used procedures. Patients should be carefully screened at the initial exam for signs or symptoms of diabetes, hypothyroidism, arthritis, and related inflammatory diseases. The presence of concurrent disease does not refute work-relatedness of any specific case. This frequently requires laboratory testing. In one study of patients with cumulative trauma conditions (other than carpal tunnel syndrome) who have been seen by specialists, 3% were diagnosed with diabetes, 6% with hypothyroidism, and 9% with a chronic inflammatory disease including spondyloarthropathy, arthritis, and systemic lupus erythematosus. Up to two thirds of the patients were not aware of their concurrent disease. When a patient's history and physical examination suggest infection, metabolic or endocrinologic disorders, tumorous conditions, systemic musculoskeletal disorders (e.g., rheumatoid arthritis or ankylosing spondylitis), or problems potentially related to medication (e.g., renal disease and non-steroidal anti-inflammatory medications), then laboratory tests, including, but not limited to the following can provide useful diagnostic information:

- a. Thyroid stimulating hormone (TSH) for hypothyroidism;
- b. Diabetic screening: recommended for men and women with a BMI over 30, patients with a family history of diabetes, those from high risk ethnic groups, and patients with a previous history of impaired glucose tolerance. There is some evidence that patients with upper extremity disorders are less likely to control their diabetes. Therefore, it is appropriate to order a hemoglobin A1c to screen any diabetic patients with a cumulative trauma condition or for initial screening;
- c. Serum protein electrophoresis;
- d. Sedimentation rate and C-reactive protein (CRP) are nonspecific but elevated in infection, neoplastic conditions and rheumatoid arthritis. Other screening tests to rule out inflammatory or autoimmune disease may be added when appropriate;
- e. Serum calcium, phosphorus, uric acid, alkaline and acid phosphatase for metabolic, endocrine and neo-plastic conditions;
- f. Complete blood count (CBC), liver and kidney function profiles for metabolic or endocrine disorders, or for adverse effects of various medications;
- g. Bacteriological (microorganism) work-up for wound, blood, and tissue;
- h. Serum B6: Routine screening is **not recommended** due to the fact that Vitamin B6 supplementation has not been proven to affect the course of carpal tunnel

syndrome. However, it may be appropriate for patients on medications that interfere with the effects of Vitamin B6 or for those with significant nutritional problems.

The Division recommends that the workers' compensation carrier cover initial lab diagnostic procedures to ensure that an accurate diagnosis and treatment plan is established. When the authorized treating provider has justification for the test, insurers should cover the costs. Laboratory testing may be required periodically to monitor patients on chronic medications.

3. MEDICAL CAUSATION ASSESSMENT FOR CUMULATIVE TRAUMA CONDITIONS

General Principles of Medical Causation Assessment

The clinician must determine if it is medically probable (greater than 50% likely or more likely than not) that the need for treatment in a case is due to a work-related exposure or injury. Treatment for a work-related condition is covered when: 1) the work exposure causes a new condition; or 2) the work exposure activates or exacerbates a previously asymptomatic latent medical condition; or 3) the work exposure combines with, accelerates, or aggravates a pre-existing symptomatic condition; or 4) the work exposure combines with a pre-existing co-morbid condition, such as diabetes, to render the occurrence of a cumulative trauma condition more probable in combination with the work related exposure. The provider should consider: "Is it medically probable that the patient would need the recommended treatment if the work exposure had not taken place?" If the answer is "yes," then the condition is probably not work-related. In some cases, the clinician may need to order diagnostic testing or job site evaluations to make a judgment on medical probability.

The medical causation assessment for cumulative trauma conditions is not a substitute for a legal determination of causation/compensability by an Administrative Law Judge. Legal causation is based on the totality of medical and non-medical evidence, which may include age, gender, pregnancy, BMI, diabetes, wrist depth/ratio, and other factors based on epidemiologic literature.

The steps in a medical causation assessment for cumulative trauma conditions are:

Step 1: Make a specific and supportable diagnosis. Remember that cumulative trauma, repetitive strain and repetitive motion are not diagnoses. Examples of appropriate diagnoses include: specific tendinopathies, strains, sprains, and mono-neuropathies. Refer to Section F Specific Musculoskeletal Disorders and Section G Specific Peripheral Nerve Disorders for the specific findings of common cumulative trauma conditions. Less common cumulative trauma conditions not

listed specifically in these Guidelines are still subject to medical causation assessment.

- Step 2:** Determine whether the disorder is known to be or is plausibly associated with work. The identification of work-related risk factors is largely based on comparison of the patient's work tasks with risk factors (as described in Section D.3.a Foundations for Evidence of Occupational Relationships and Section D.3.b Using Risk Factors to Determine Causation).
- Step 3:** Interview the patient to find out whether risk factors are present in sufficient degree and duration to cause or aggravate the condition. Consider any recent change in the frequency or intensity of occupational or non-occupational tasks. In some cases, a formal job site evaluation may be necessary to quantify the actual ergonomic risks. Refer to Section E.6.c Job Site Evaluations.
- Step 4:** Complete the required match between the risk factors identified in Section D.3.d Risk Factors Definitions Table and the established diagnosis using the system described in Section D.3.b. Remember that preexisting conditions may be aggravated by, or contribute to, exposures lower than those listed on the table. Those preexisting conditions must be determined by the authorized treating physician based on physiologic plausibility.
- Step 5:** Determine whether a temporal association exists between the workplace risk factors and the onset or aggravation of symptoms.
- Step 6:** Identify non-occupational diagnoses, such as rheumatoid arthritis, obesity, diabetes, as well as avocational activities, such as golf and tennis. This information can affect the medical causation assessment. It may be applicable when exposure levels are low and the case does not meet evidence-based criteria.

a. Foundations for Evidence of Occupational Relationships

All results described in this section are a result of a thorough review of the epidemiologic literature available at the time of these Guidelines. One limitation of an epidemiological literature review is that studies rely most heavily upon healthy worker populations and may not reflect the worker population with other concurrent disease or comorbidities. No single epidemiological study fulfills all the criteria for medical causation. Consequently, individual variability lies outside the scope of epidemiological studies and must be addressed by a physician who takes into account not only force, posture, and repetition but also other premorbid risk factors.

The clinician is responsible for documenting specific information regarding the force, posture, repetition, and other risk factors as listed in Section D.3.d Risk

Factors Definitions Table. Job title alone is not sufficient to determine the risk factors. A job site evaluation is usually necessary.

Many studies have been completed in industrial settings and focus on cumulative trauma conditions or upper extremity complaints in relationship to work exposures. The studies vary in several ways that directly affect the interpretation of their results. Studies that provide the strongest evidence have 1) an accepted clinical exam confirming the diagnosis and 2) work exposures validated by direct observation or questionnaires that were correlated with direct observation. Well-done, prospective, longitudinal studies (cohort studies) are preferred. However, for uncommon disorders, these studies may not be able to identify all factors contributing to causation. These Guidelines consider other large prevalence and incidence studies which meet minimum quality criteria and use reliable questionnaires for self-reported exposure.

Many studies report symptoms rather than diseases. These studies are useful for ergonomic research or as pilot studies but do not directly affect the evidence level for causation. They are mentioned, when useful, as indirect evidence. If multiple well-done symptom studies show no increase in symptomatology with specific activities, it follows that there is very little chance that the studied exposure causes disease.

In addition, there are a few studies which address less common musculoskeletal diagnoses or peripheral nerve conditions other than carpal tunnel syndrome, such as posterior interosseous nerve entrapment and pronator syndrome. In these cases, these Guidelines rely upon studies which report the risks for related conditions.

Many of the original studies identifying diagnosable cumulative trauma conditions were performed in manufacturing industries and meat, fish and poultry processing companies. In these industries, most workers are exposed to highly repetitive mono-task jobs which frequently involve a forceful grip, awkward postures, vibration, and cold environments. The evidence for increased disorders when these multiple risk factors are present is compelling. Research attempting to define clear, threshold exposure limits for increased risk from isolated tasks and/or intermittent exposures has less consistent results.

The quality of keyboarding studies is highly variable. Most of the studies rely on self-report. Self-report appears to approximately double the actual time spent using the keyboard. Some studies show distortion highest in the medium range of use. There appears to be less inflation for self-reported mouse use. Fortunately, a few studies have provided more objective keyboard use data.

The group of studies now available provides good evidence that keyboarding in a reasonable ergonomic posture (wrist with 30 degrees or less of extension and 15

degrees or less of radial deviation) up to 7 hours per day under usual conditions is very unlikely to cause carpal tunnel syndrome or other upper extremity disorders. This conclusion is based on studies of carpal tunnel pressure under a variety of typing and wrist positions as well as a number of studies of workers who keyboard on a regular basis. Clinicians may determine in a particular case that there is a relationship based on the ergonomic conditions or on excessive typing, such as more than 7 hours per day of essentially uninterrupted keyboard use or full-day court reporting.

There is some evidence that mouse use appears to be associated with carpal tunnel syndrome and related symptoms with 4 hours or greater of continuous use per day. Studies of pressure within the carpal tunnel indicated that pressures may rise to levels which could affect the median nerve when the mouse is being dragged or clicked. Again, the actual ergonomics of the work place should be considered for each individual patient before making a final causation decision.

There is a large variety in assessment strategies for lower quality studies. Examples include: 1) symptom only reports; 2) dichotomous choices for exposures, e.g., 1 hour or less per week of repetitive activities versus more than 1 hour per week; 3) self-reported data that does not follow basic pathophysiology, e.g., mouse use between 2.5 and 5 hours per week causing wrist pain; and 4) bias introduced due to prior knowledge of the participants regarding expected work and symptom correlations. In order to reasonably integrate the volume of disparate data, interpretation of lower quality studies took into account reasonable pathophysiology and exposure limits. Dose response relationships were also examined to look for trends in exposure which resulted in increased disease or symptoms.

Most studies were unable to truly assess repetition alone. Indirect evidence from a number of studies supports the conclusion that task repetition up to 6 hours per day unaccompanied by other risk factors is not causally associated with cumulative trauma conditions. Risk factors likely to be associated with specific CTC diagnostic categories include: extreme wrist or elbow postures; force including regular work with hand tools greater than 1 kg or tasks requiring greater than 50% of an individual's voluntary maximal strength; work with vibratory tools at least 2 hours per day; or cold environments.

The variability in study design presented a challenge for creating physiologically reasonable hour limits for the specific primary and secondary risk factors. These Guidelines define risk factor cutoff measures by selecting the strongest studies for specific risks and extrapolating measures. For example, $\frac{3}{4}$ of a day exposure was translated to a 6 hour exposure. Exposure measures and groups extrapolated in this manner constitute the primary risk factor definitions used in these Guidelines.

Regarding secondary risk factors, the previous version of these Guidelines used a 4 hour exposure cutoff for determining physiologically acceptable limits based on: 1) one study which provides some direct evidence of 4 hours for the most common risks and 2) indirect evidence from other studies, such as one assessing upper extremity functional impairment and another determining the presence of upper extremity symptoms. Two new studies now suggest that 3 hours is a preferable cutoff for determining physiologically acceptable secondary risks.

No studies examined the relationship between the development of ganglion cysts and work activities. However, work activities, such as bending or twisting of the wrist repetitively, may cause an aggravation of existing ganglion cysts that interferes with function.

Aggravation of a pre-existing medically established diagnosis must be determined on an individual case basis. A comparison of the worker's specific job duties with usual activities of daily living and the occupational risk factors should contribute to the discussion.

Non-occupational exposures

Most studies demonstrate an association of cumulative trauma conditions with older age; high BMI; the presence of other upper extremity musculoskeletal diagnoses; related diseases such as auto-immune conditions, diabetes, hypothyroidism and rheumatologic diseases; and psychosocial issues including relationships with supervisors. The influence of these non-occupational risk factors varies according to the specific diagnoses involved. These additional factors may contribute to the disorder and may impact legal causation, but they do not negate the actual evidence from the defined risk factors supporting a specific work related condition.

Use Section D.3.d Risk Factors Definitions Table and Section D.3.e Diagnosis-Based Risk Factors Table with the following directions to formulate the causation of diagnoses established as cumulative trauma conditions.

b. Using Risk Factors for Medical Causation Assessment of Cumulative Trauma Conditions

The physician should perform the following:

Step 1. Determine the diagnosis.

Using the history, physical examination and supporting studies, a medical diagnosis must be established. Refer to Section F Specific Musculoskeletal Diagnosis and Section G Specific Peripheral Nerve

Diagnosis. Less common cumulative trauma conditions not listed specifically in these Guidelines are still subject to medical causation assessment.

Step 2. Clearly define the job duties of the worker.

Do not rely solely on the employer's description of job duties. The worker's description of how they actually perform the duties is extremely important. Job site evaluations are always appropriate, but they are sometimes unnecessary when the physician can identify the job duty that appears to be causing the symptoms and provide a method for ergonomically correcting the activity. Job site evaluations performed to identify risk factors should always include appropriate ergonomic alterations. It may not be possible to recommend ergonomic alterations in industrial settings where the employer is incapable of making changes or ergonomic changes are not feasible.

Step 3. Compare the worker's duties with the Primary Risk Factor Definition Table.

Hours are calculated by adding the total number of hours per day during which the worker is exposed to the defined risk. Breaks, time performing other activities, and inactive time are not included in the total time. When the employee meets the definition for a sole Primary Risk Factor and the risk factor is physiologically related to the diagnosis, it is likely that the worker will meet causation for the cumulative trauma condition. When the Primary Risk Factor identified is not physiologically related to the diagnosis, causation will not be established at this point. The provider then needs to consider Step 4.

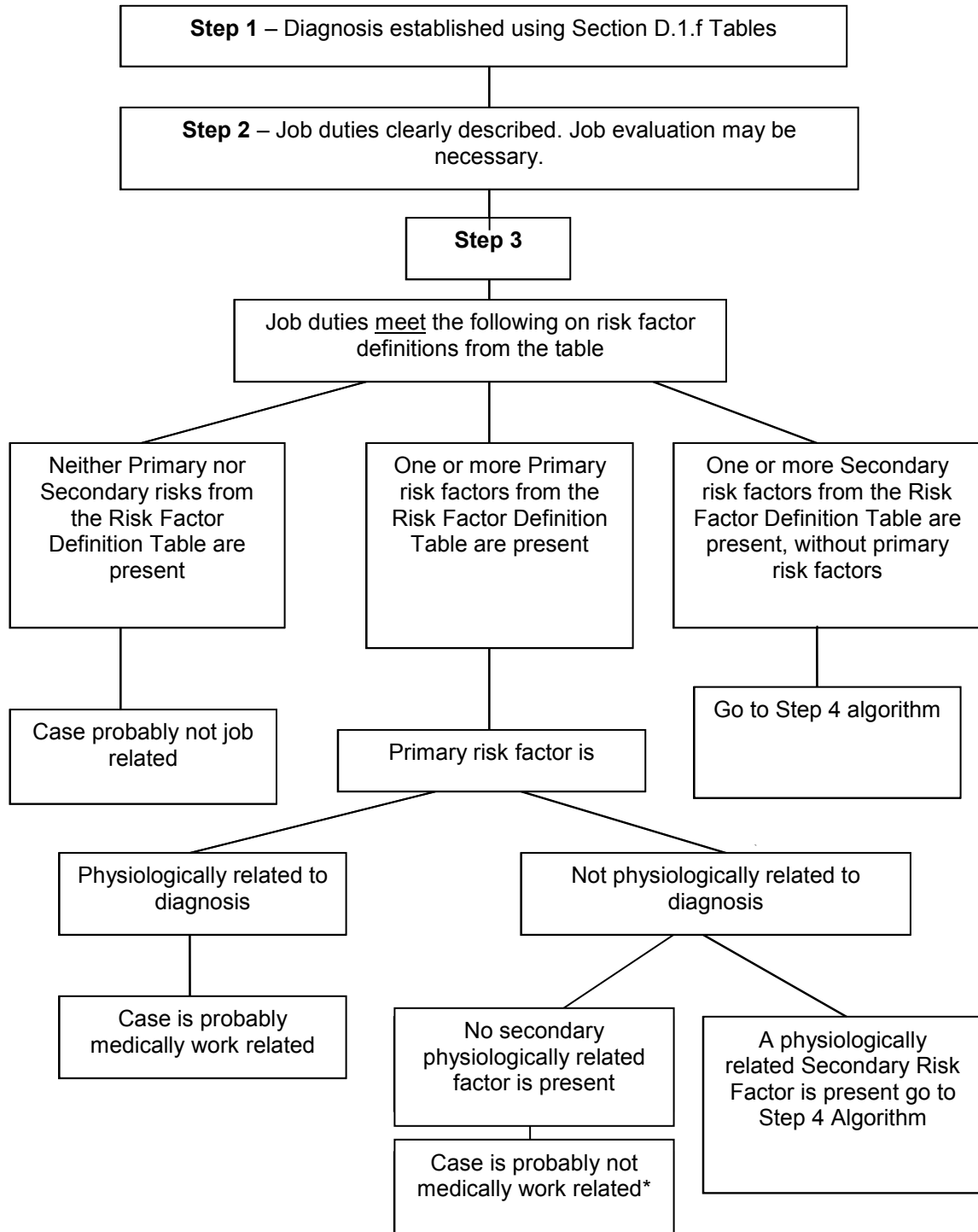
Step 4. Compare the worker's risk factors identified in Step 2 with the Secondary Risk Factor definitions on the Risk Factor Definition Table. If secondary risk factors are identified, proceed to the Diagnosis Based Risk Factor Table.

When no Primary Risk Factors are present but one or more Secondary Risk Factors are found on the Risk Factor Definitions Table, proceed to the Diagnosis Based Risk Factor Table. Elements in this table are listed under the strength of evidence headings. This includes a category for strength of evidence for risks that have been demonstrated not to be related to the diagnosis. Consult the diagnostic category pertaining to the worker. For a number of less common diagnoses, little direct research has been done that meets the quality standards. Therefore, the risk factors for these diagnoses use the risk factors from physiologically

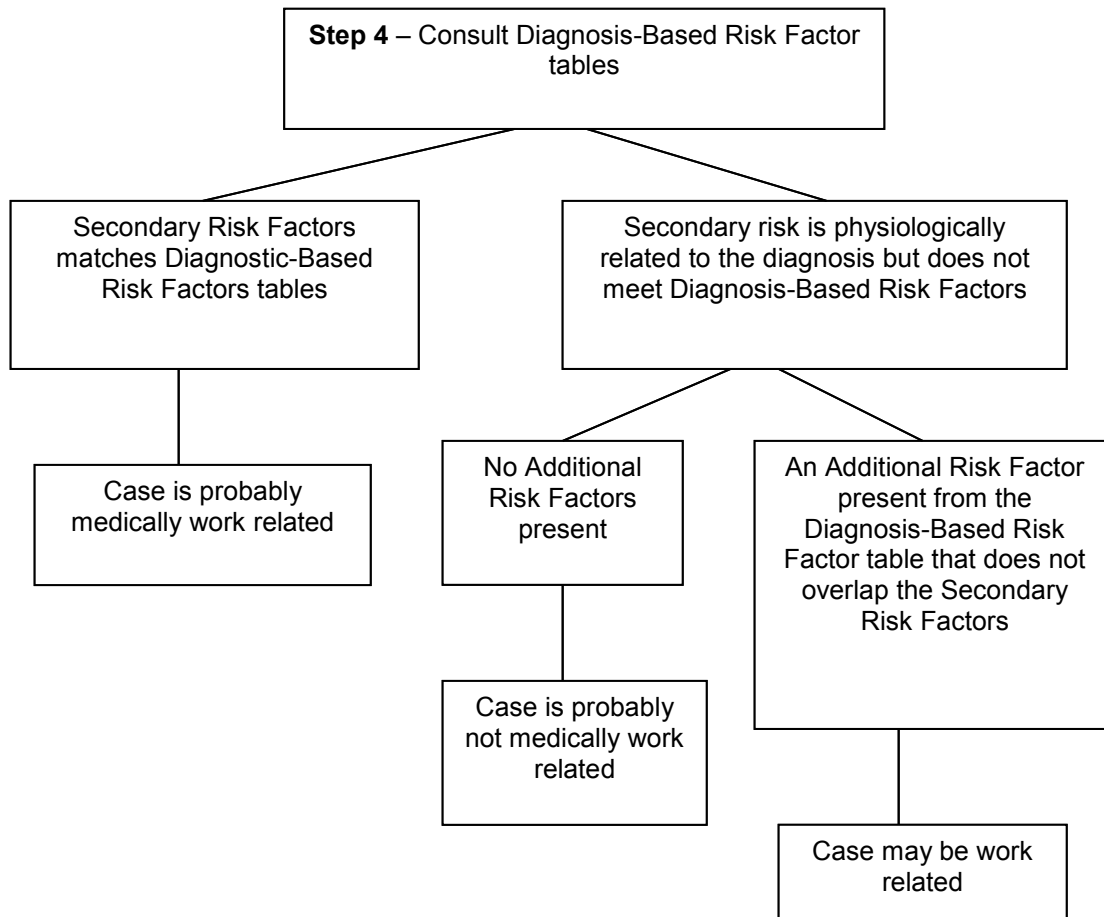
related, better researched diagnostic titles. Initially, check the evidence statements for or against causation based on the secondary risks identified previously. If the Diagnosis Based Risk Factor table establishes a match between the Secondary Risk Factor(s) and other job duties using the evidence based columns for the established diagnosis, the case is likely work-related. If none of the evidence categories match the worker, causation based solely on epidemiological evidence from research has not been established.

Step 5. If an evidence-based medical causation relationship, based on Steps 1-4, has not been established and the worker has one Secondary Risk Factor from Section D.3.d Risk Factors Definitions Table, the physician may consult the last column of Section D.3.e Diagnosis-Based Risk Factors Table entitled “Additional Risk Factors.” This category describes medically accepted physiological risk factors for the diagnosis and risk factors which demonstrated an association with the diagnosis in lower quality studies that did not meet the standards of evidence. Some of the additional risk factors have less clear definitions due to lack of definition in the lower quality studies. These risk factors were added only when the medical professionals on the multi-disciplinary task force agreed they were physiologically plausible. When a Secondary Risk Factor has been identified that does not meet the evidence based definitions Section D.3.e Diagnosis-Based Risk Factors Table, physicians may use the other “Additional Risk Factors,” as appropriate, to establish the presence of combined risk factors. The worker must have met at least one of the Secondary Risk Factor definitions from the Risk Factors Definition Table and that risk factor must be physiologically related to the diagnosis, in order to use the “Additional Risk Factors” in the Diagnosis Based Risk Factor Table. Additional Risk factors that duplicate the conditions in the Secondary Risk Factor identified for the case may not be used. Any conclusions using this methodology are not strictly evidence-based and therefore the physician should include a discussion of why the Additional Risk Factors are pertinent in the particular case.

c. **Algorithmic Steps for Medical Causation Assessment**



Algorithmic Steps for Medical Causation Assessment continued



*In the case of an aggravation or exacerbation of a pre-existing condition, the provider will need to make an individualized causation decision based on the presence of other accompanying conditions.

d. **Risk Factors Definitions Table**

Category	As a Primary Risk Factor	Secondary Risk Factor
Force and Repetition/Duration	6 hrs. of: use of 2 pounds pinch force or 10 pounds hand force 3 times or more per minute.	3 hrs. of: use of 2 pounds pinch force or 10 pounds hand force 3 times or more per minute.
	6 hrs. of: lifting 10 lbs > 60x per hour.	3 hrs. of: lifting 10 lbs > 60x per hour.
	6 hrs. of: use of hand held tools weighing 2 lbs or greater.	3 hrs. of: use of hand held tools weighing 2 lbs or greater.
Awkward Posture and Repetition/Duration	4 hrs. of: Wrist flexion > 45 degrees, extension > 30 degrees, or ulnar deviation > 20 degrees.	3 hrs. of: Elbow - flexion > 90 degrees.
	6 hrs. of: Elbow - flexion > 90 degrees.	3 hrs. of: Supination/pronation of 45° with power grip or lifting.
	4 hrs. of: Supination/pronation with task cycles 30 seconds or less or posture is used for at least 50% of a task cycle.	

Category	As a Primary Risk Factor	Secondary Risk Factor
Computer Work	<p>Note: Up to 7 hours per day at an ergonomically correct workstation is not a risk factor.</p> <p>Refer to Section H. 6.e Ergonomic Considerations Table for definition of ergonomic risk factors.</p> <p>> 4 hrs. of: Mouse use.</p>	
Use of handheld vibratory power tools and Duration	6 hrs. for more common types of vibration exposure.	2 hrs. when accompanied by other risks.
Cold Working Environment		<p>Ambient temperature of 45F or less for 4 hrs. or more, such as handling frozen foods that are 10 degrees. This risk factor does not stand alone. It is used in combination with other secondary risk factors. Refer to the following Diagnostic-Based Risk Factors Table.</p>

e. **Diagnosis-Based Risk Factors Table**

DIAGNOSIS-BASED RISK FACTORS					
Hours are calculated by totaling the cumulative exposure time to the risk over an 8 hour day. Breaks or periods of inactivity or performing other types of work tasks are not included. Unless the hours are specifically stated below, "combination" of factors described below uses the Secondary Risk Factor Definitions from the Risk Factor Definition Table.					
Diagnosis	Evidence FOR Specific Risk Factors			Evidence AGAINST Specific Risk Factors	<u>Non-Evidence-Based Additional Risk Factors to Consider.</u> These factors must be present for at least 4 hours of the work day, and may not overlap evidence risk factors. ¹
	<u>Strong</u> Multiple high quality studies	<u>Good</u> One high quality study or multiple adequate studies	<u>Some</u> One adequate study		
Aggravated Osteoarthritis of the Thumb, Carpometacarpal (CMC) and Wrist	No Quality Evidence Available				Work studies support repetitive thumb movement 20 times per minute in women contributing to CMC arthritis. Awkward Posture (depending on the joint involved). Repetition of activities affecting the joint involved for 4 hrs. Prior Injury.
Carpal Tunnel Syndrome		Combination of force, repetition, and vibration. ^{2,4}	Wrist bending or awkward posture for 4 hrs.		High repetition defined as task cycle times of less than 30 seconds or performing the same task for more than 50% of the total cycle time. ⁵

Diagnosis	Evidence FOR Specific Risk Factors			Evidence AGAINST Specific Risk Factors	Non-Evidence-Based Additional Risk Factors to Consider. These factors must be present for at least 4 hours of the work day, and may not overlap evidence risk factors. ¹
	<u>Strong</u> Multiple high quality studies	<u>Good</u> One high quality study or multiple adequate studies	<u>Some</u> One adequate study		
Carpal Tunnel Syndrome, continued		<p>Combination of repetition and force for 6 hours.</p> <p>Combination repetition and forceful tool use with awkward posture for 6 hours.</p> <p>Combination force, repetition, and awkward posture.</p> <p>Combination of 2 pound pinch or 10 pound hand force 3 times or more per minute for 3 hours.</p>	<p>Mouse use more than 4 hours.</p> <p>Combination cold and forceful repetition for 6 hours - Frozen food handling.</p>	<p>Good evidence - Keyboarding less than or equal to 7 hrs. in good ergonomic position IS NOT RELATED.</p> <p>Good evidence- Repetition alone less than or equal to 6 hrs. IS NOT RELATED.</p>	<p>Tasks using a hand grip.</p> <p>Extreme wrist radial/ulnar positions or elbows in awkward postures.</p>
Cubital Tunnel Syndrome			<p>Combination forceful tool use, repetition and probably posture for 6 hrs- Holding a tool in position with repetition.</p>		<p>Wrist bending and/or full elbow flexion/extension, repetition for 4 hours, vibration.³</p> <p>Repetitive pronation of forearm.³</p> <p>Sustained pressure at the cubital tunnel.</p>

Diagnosis	Evidence FOR Specific Risk Factors			Evidence AGAINST Specific Risk Factors	Non-Evidence-Based Additional Risk Factors to Consider. These factors must be present for at least 4 hours of the work day, and may not overlap evidence risk factors. ¹
	<u>Strong</u> Multiple high quality studies	<u>Good</u> One high quality study or multiple adequate studies	<u>Some</u> One adequate study		
DeQuervain's Disease		Combination force, repetition, & posture. ^{2,4}			Wrist in ulnar deviation. ³ Repetitive thumb abduction and extension. ³ Wrist bending in extreme postures. ³ Precise hand motions e.g., dental hygienists. Repetitive hitting.
Epicondylitis Lateral		Combination – awkward posture (forearm supination past 45 degrees) and forceful lifting. ² Combination force and possible awkward posture – study used repetition and turning and screwing. Combination forearm pronation 45° or greater with power grip or lifting for 3 hours per day.	Combination of wrist bending for 4 hours and rotation the forearm for 2 hours. Combination repetition and awkward posture including static posture.	Some evidence keyboard use IS NOT RELATED.	Wrist posture in extension and repetitive supination of the forearm and/or elbow extension. ³

Diagnosis	Evidence FOR Specific Risk Factors			Evidence AGAINST Specific Risk Factors	Non-Evidence-Based Additional Risk Factors to Consider. These factors must be present for at least 4 hours of the work day, and may not overlap evidence risk factors. ¹
	Strong Multiple high quality studies	Good One high quality study or multiple adequate studies	Some One adequate study		
Epicondylitis Medial		Combination – force & repetition, ⁴ force and wrist and hand repetition.	Combination of wrist bending for 4 hours and rotation the forearm for 2 hours.	Some evidence keyboard use IS NOT RELATED.	Wrist posture in flex and repetitive pronation and/or elbow extension. ³
Extensor tendon disorders of the Wrist		Combination - force & repetition, ⁴ force and wrist and hand repetition. ² Combination - forceful exertion and repetition 6 hours. Combination force, repetition, & posture. ^{2, 4}			Sustained tool use. Awkward posture. ³ No relationship to keyboard use is expected in a good ergonomic workstation. Wrist bending in extreme postures. ³ Repetitive hitting.
Flexor tendon disorders of the Wrist		Combination force, repetition, & posture. ^{2, 4}			Sustained tool use. Awkward posture. ³ No relationship to keyboard use is expected in a good ergonomic workstation. Wrist bending in extreme postures. ³ Repetitive hitting.

Diagnosis	Evidence FOR Specific Risk Factors			Evidence AGAINST Specific Risk Factors	Non-Evidence-Based Additional Risk Factors to Consider. These factors must be present for at least 4 hours of the work day, and may not overlap evidence risk factors. ¹
	<u>Strong</u> Multiple high quality studies	<u>Good</u> One high quality study or multiple adequate studies	<u>Some</u> One adequate study		
Guyon Canal	No Quality Evidence Available.				Ulnar wrist posture and flexion. Direct pressure on the wrist.
Posterior Interosseous Nerve Entrapment	Refer to lateral epicondylitis section above for indirect evidence. No specific evidence available.				Ulnar wrist posture and flexion. Direct pressure on the wrist.
Pronator Syndrome	Refer to medial epicondylitis section above for indirect evidence. No specific evidence available.				Ulnar wrist posture and flexion. Direct pressure on the wrist.
Trigger Finger			Hand tool use – 6 hours.		Repeated digital flexion.
Radial Tunnel Syndrome			Repetition and force - force of 1 kg with cycle time < 1 minute or awkward posture (static posture) elbow > 90 degrees.		Repetitive Supination. Extension of the elbow from 0 to 45 degrees.

Diagnosis	Evidence FOR Specific Risk Factors			Evidence AGAINST Specific Risk Factors	<u>Non-Evidence-Based Additional Risk Factors to Consider.</u> These factors must be present for at least 4 hours of the work day, and may not overlap evidence risk factors. ¹
	<u>Strong</u> Multiple high quality studies	<u>Good</u> One high quality study or multiple adequate studies	<u>Some</u> One adequate study		
Triangular Fibrocartilage Compression	No Quality Evidence Available.				Usually from traumatic hyperextension which may become symptomatic over time. Wrist posture in extension and repetitive supination of the forearm and/or elbow extension. For occupational, usually unilateral with ulnar wrist pain while supinating and extending the wrist as part of the regular work duty.
<p>1. Physiological risk factors are those generally agreed upon by the medical community to cause the specific condition described. Other risk factors described are those identified in lower quality studies that are possibly related. These are consensus risk factors.</p> <p>2. Combined factors refer to the Secondary Risk Factor definitions found in the Risk Factor Definition Table.</p> <p>3. <u>Caution:</u> These additional risk categories may not be used when awkward posture, using a similar definition, has been cited as a Secondary Risk Factor.</p> <p>4. Evidence rated as strong by National Institute for Occupational Safety and Health (NIOSH) 1997 criteria are placed in the “good” category because the NIOSH strong evidence definition matches the Colorado “good” level of evidence requiring multiple adequate studies.</p> <p>5. Due to small case size and a definition of low force/high repetition jobs that likely included many jobs qualifying for a force risk from the “Risk Definitions” table, this study does not support repetition as a sole risk factor.</p>					

4. **STAGING MATRIX TO CALCULATE CUMULATIVE TRAUMA CONDITION IMPAIRMENT**

Cumulative trauma staging is used to rate permanent impairment of specific disorders when no other rating is available in the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment, 3rd Edition Revised. Specific diagnoses must be provided prior to the assignment of an impairment rating. Remember that the terms “cumulative trauma disorder,” “repetitive motion syndrome,” “repetitive strain injury,” and similar nomenclatures are umbrella terms that are not acceptable diagnoses. Cumulative Trauma Conditions can be staged only after taking a thorough history and performing an appropriate physical examination (see Section D.1 History-Taking and Physical Examination). The factors included in the Cumulative Trauma Condition Staging Matrix are:

A = History and Physical Examination.

B = Response to Modification of Specific Aggravating Factors.

C = Activities of Daily Living.

It is expected that objective signs on physical examination will correlate with subjective symptoms. The signs and symptoms are staged in the Cumulative Trauma Staging Matrix as:

Stage 1 = Minimal.

Stage 2 = Mild.

Stage 3 = Moderate.

Stage 4 = Severe.

Stages 3 and 4 frequently may be associated with other secondary symptoms of chronic pain such as sleep alteration or depression.

When using the Staging Matrix for impairment rating at maximum medical improvement (MMI), assignment of the patient to a stage should be based primarily on limitations in ADLs and history and physical examination findings. The response to modification of specific aggravating activities may be used to aid the rater in choosing a number within the available rating range.

The staging number chosen from the “Impairment Grades at MMI” row is to be used as a multiplier in conjunction with the AMA Guides to the Evaluation of Permanent Impairment, 3rd Edition Revised, Chapter 3 and Table 17 to determine the impairment

rating for each specific diagnosis. The primary presenting joint that corresponds to each specific established diagnosis should be rated. Descriptions of painful conditions without clear physiologic findings may not be rated using this chart. Examples include pain in the elbow or other upper extremity joint and myofascial pain disorder.

The staging matrix is only used to rate a cumulative trauma condition diagnosis when there is no impairment rating under range of motion, specific diagnosis, and/or peripheral nerve injuries in the AMA Guides, 3rd Edition Revised. All impairment ratings from this table are provided in upper extremity terms and must be multiplied by the upper extremity total impairment rating for the appropriate joint found in Table 17 on page 48 of the AMA Guides, 3rd Edition Revised. The upper extremity rating is then converted to whole person. The table is not intended to distinguish between permanent partial disability paid under §§ 8-42-107(2) and -107(8), C.R.S. This information is also available in the Impairment Rating Tips Desk Aid #11.

Cumulative Trauma Staging Matrix

	Stage 1 (Minimal)	Stage 2 (Mild)	Stage 3 (Moderate)	Stage 4 (Severe)
History and Physical Examination	1 to 2 symptoms with signs identified on history and supported by physical examination with consistency of subjective and objective findings	2 or more symptoms with signs identified and supported by physical examination with consistency of subjective and objective findings	3 or more symptoms with signs identified and supported by the physical examination with consistency of subjective and objective findings	3 or more symptoms with signs identified and supported by physical examination with consistency of subjective and objective findings
	AND	AND	AND	AND
Response to Modification of Specific Aggravating Factors	Symptoms and/or signs improve or resolve with modification of specific aggravating activity	Symptoms and/or signs may improve but will not resolve completely with modification of specific aggravating activity	Symptoms and/or signs do not improve with modification of the specific aggravating activity but may improve with elimination of the specific aggravating activity	Symptoms and/or signs do not improve with modification or elimination of the specific aggravating activity
	AND	AND	AND	AND
Activities of Daily Living (ADLs)	Minimal problems with ADLs	Noticeable aggravation by more difficult ADLs	Significant interference with most ADLs	Severe limitations of ADLs
Impairment Grades at MMI	0-10%	11-20%	21-30%	31-40%

(See Note below to obtain Multiplier)	
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E. FOLLOW-UP DIAGNOSTIC IMAGING AND TESTING PROCEDURES

One diagnostic imaging procedure may provide the same or distinct information as another procedure. Therefore, the prudent choice of a single diagnostic procedure, a complement of procedures, or a sequence of procedures will optimize diagnostic accuracy, maximize cost effectiveness (by avoiding redundancy), and minimize potential adverse effects to patients.

All diagnostic imaging procedures have a significant percentage of specificity and sensitivity for various diagnoses. None is specifically characteristic of a certain diagnosis. Clinical information obtained by history-taking and physical examination should be the basis for selection and interpretation of imaging procedure results.

Practitioners should be aware of the radiation doses associated with various procedures and provide appropriate warnings to patients. Coloradans have a background exposure to radiation, and unnecessary CT scans or X-rays increase the lifetime risk of cancer death.

When a diagnostic procedure, in conjunction with clinical information, provides sufficient information to establish an accurate diagnosis, the second diagnostic procedure will become a redundant procedure. At the same time, a subsequent diagnostic procedure can be a complementary diagnostic procedure if the first or preceding procedures, in conjunction with clinical information, cannot provide an accurate diagnosis. Usually, preference of a procedure over others depends upon availability, a patient's tolerance, and/or the treating practitioner's familiarity with the procedure.

1. ELECTRODIAGNOSTIC (EDX) STUDIES

This section does not include automated electrodiagnostic testing such as neurometers and portable automated electrodiagnostic devices. These testing devices are not adequate to determine peripheral neuropathies, radiculopathies, or unusual nerve compression syndromes and should not be used. Neurometers and portable electrodiagnostic testing devices may not be used to make a diagnosis and are *not recommended* in treatment settings. Refer also to Section E.5.a.i Electroneurometer and Section E.5.a.ii Portable Automated Electrodiagnostic Devices.

- a. Electrodiagnostic (EDX) studies are well-established and widely accepted for evaluation of patients suspected of having peripheral nerve pathology. They should only be performed by physicians trained in electromyography. Studies may confirm the diagnosis or direct the examiner to alternative disorders. Studies –require clinical correlation due to the occurrence of false positive and false negative results. Symptoms of peripheral nerve pathology may occur with normal EDX studies, especially early in the clinical course.

Because EDX studies may be negative early in the clinical course, they should be delayed until the patient has been symptomatic for 3 to 6 weeks. Refer to Sections F and G on specific diagnoses for details.

When polyneuropathy is suspected, it is prudent to perform electrodiagnostic testing in the lower extremities.

- b. To assure accurate testing, temperature should be maintained at 32 to 34 degrees C, preferably recorded from the hand/digits.
- c. All studies must include normative values for their laboratories.
- d. Patients should follow the electrodiagnostic physician's recommendations prior to their exam. These usually include: 1) Notifying the physician if you are taking blood thinners, if you are taking a medication affecting the nervous system, or if you have a pacemaker, 2) not smoking or using caffeine before the exam, and 3) wearing loose fitting clothing for the exam.

2. IMAGING STUDIES

a. Radiographic Imaging

Radiographic imaging of the upper extremities is a generally accepted, well-established and widely used diagnostic procedure when specific indications based on history and/or physical examination are present. It should not be routinely performed for cumulative trauma injuries. It may be useful when clinical findings suggest a fracture, arthritis, avascular necrosis or ligament or cartilage injuries involving the carpals or pain persists after initial treatment. The mechanism of injury and specific indications for the radiograph should be listed on the request form to aid the radiologist and x-ray technician. For additional specific clinical indications, see Section F Specific Musculoskeletal Diagnosis, Testing and Treatment and Section G Specific Peripheral Nerve Diagnosis, Testing and Treatment.

b. Magnetic Resonance Imaging (MRI)

MRI may show increased T2-weighted signal intensity of the common extensor tendon in lateral epicondylitis, but this is common in the asymptomatic contralateral elbow and not sufficiently specific to warrant the use of MRI as a diagnostic test for epicondylitis. MRI may be helpful to diagnose triangular fibrocartilage complex tears and other suspected ligament or bone pathology when clinical findings suggest these diagnoses. Its routine use for cumulative trauma conditions is ***not recommended***.

c. Computed Axial Tomography (CT)

CT is generally accepted and provides excellent visualization of bone. It is rarely needed for cumulative trauma conditions. When clinical findings suggest possible bone pathology it may be used to further evaluate bony masses and suspected fractures not clearly identified on radiographic window evaluation. Instrument scatter reduction software provides better resolution when metallic artifact is of concern.

d. Diagnostic Sonography

Diagnostic Sonography is an accepted diagnostic procedure to rule out mass lesions. It is rarely appropriate for cumulative trauma condition diagnoses. However, it may be used to rule out ganglions, other space occupying lesions, and tendon injuries. It should not be used to diagnosis carpal tunnel syndrome. The performance of sonography is operator dependent, and is best when done by a specialist in musculoskeletal radiology.

3. JOINT ASPIRATION

Joint aspiration is a generally accepted, well-established and widely used procedure when specifically indicated and performed by individuals properly trained in these techniques. It is rarely indicated for cumulative trauma conditions but may be needed when history and/or physical examination are of concern for a septic joint, gout, or bursitis as well as for some acute injuries. Persistent or unexplained effusions may be examined for evidence of infection, rheumatologic, or inflammatory processes. The presence of fat globules in the effusion strongly suggests occult fracture.

4. PERSONALITY/PSYCHOLOGICAL/PSYCHOSOCIAL EVALUATIONS

These are generally accepted and well-established diagnostic procedures with selective use in the cumulative trauma conditions population but with more widespread use in sub-acute and chronic pain populations. Diagnostic testing procedures may be useful for patients with symptoms of depression, delayed recovery, chronic pain, recurrent painful conditions, disability problems, and for pre-operative evaluation. These procedures also have a possible predictive value for post-operative response. Psychological testing should provide differentiation between pre-existing depression versus injury caused depression, as well as post-traumatic stress disorder. Formal psychological or psychosocial evaluation should be performed on patients not making expected progress within 6 to 12 weeks following injury and whose subjective symptoms do not correlate with objective signs and tests. In addition to the customary initial exam, the evaluation of the injured worker should specifically address the following areas:

- Employment history;
- Interpersonal relationships — both social and work;
- Leisure activities;
- Current perception of the medical system;
- Results of current treatment;
- Perceived locus of control; and
- Childhood history, including abuse and family history of disability.

This information should provide clinicians with a better understanding of the patient, thus allowing for a more effective rehabilitation. The evaluation will determine the need for further psychosocial interventions. In those cases, a Diagnostic Statistical Manual for Mental Disorders (DSM) diagnosis should be determined and documented. An individual with a PhD, PsyD, or Psychiatric MD/DO credentials should perform initial evaluations, which are generally completed within 1 to 2 hours. When issues of chronic pain are identified, the evaluation should be more extensive and follow testing procedures as outlined in the Division's Chronic Pain Disorder Medical Treatment Guidelines.

- ❖ Frequency: 1 time visit for evaluation. If psychometric testing is indicated as a portion of the initial evaluation, time for such testing should not exceed an additional 2 hours of professional time.

5. **ADJUNCTIVE TESTING**

These tests are not used to establish a diagnosis. They may be used to follow the progress of the patient, depending on their diagnosis or to conduct research.

a. **Automated Electrodiagnostic Testing**

- Electroneurometer: ***not recommended*** as a diagnostic tool because it requires patient participation, cannot distinguish between proximal and distal lesions, and does not have well validated reference values.
- Portable Automated Electrodiagnostic Devices: measures distal median nerve motor latency and F-wave latency at the wrist and has been tested in research settings. It performed well in this setting following extensive calibration of the device. Motor nerve latency compared favorably with conventional electrodiagnostic testing, but F-wave latency added little to diagnostic accuracy. It remains an

investigational instrument whose performance in a primary care setting is as yet not established, and is ***not recommended*** as a substitute for conventional electrodiagnostic testing in clinical decision making.

b. Pinch and Grip Strength Measurements

Pinch and grip strength measurements are not generally accepted as a diagnostic tool for cumulative trauma conditions. Strength is defined as the muscle force exerted by a muscle or group of muscles to overcome a resistance under a specific set of circumstances. Pain, the perception of pain secondary to abnormal sensory feedback, and/or the presence of abnormal sensory feedback affecting the sensation of the power used in grip/pinch may cause a decrease in the force exerted and thereby not be a true indicator of strength. When a bell-shaped curve is present, these measures provide a method for quantifying strength that can be used to follow a patient's progress and to assess response to therapy. In the absence of a bell-shaped curve, clinical reassessment is indicated. These measurements may also be useful to determine an individual's fitness for duty or as a reassessment after therapy and/or surgery.

c. Quantitative Sensory Testing (QST)

QST may be used as an assessment tool to monitor the patient's progress throughout treatment. Results of tests and measurements of sensory integrity are integrated with the history and review of systems findings and the results of other tests and measures. QST tests the entire sensory pathway, limiting its ability to localize a deficit precisely. It depends on the patient's report of perception and may not be objective. Cutaneous conditions may alter sensory thresholds.

QST may be useful for peripheral polyneuropathy but not for isolated nerve injury or compression syndromes. Although it is not useful diagnostically, it may be used post-operatively for surgically treated mononeuropathies.

- i. Threshold tests measure topognosis, the ability to exactly localize a cutaneous sensation, and pallesthesia, the ability to detect mechanical sensation using vibration discrimination testing (quickly adapting fibers); and/or Semmes-Weinstein monofilament testing (slowly adapting fibers);
- ii. Density tests also measure topognosis and pallesthesia using static two-point discrimination (slowly adapting fibers); and/or moving two-point discrimination (quickly adapting fibers).

6. **SPECIAL TESTS**

These are generally well-accepted and are performed as part of a skilled assessment of the patient's capacity to return to work, his/her strength capacities, physical work demand classifications, and tolerance. The procedures in this subsection are listed in alphabetical order.

a. **Computer-enhanced Evaluations**

These may include isotonic, isometric, isokinetic and/or isoinertial measurements of movement; range of motion; endurance; or strength. Values obtained can include degrees of motion, torque forces, pressures, or resistance. Indications include determining validity of effort, effectiveness of treatment, and demonstrated motivation. These evaluations should not be used alone to determine return-to-work restrictions.

- ❖ Frequency: One time for evaluation, one for mid-treatment assessment, and one at final evaluation.

b. **Functional Capacity Evaluation (FCE)**

This is a comprehensive or modified evaluation of the various aspects of function as they relate to the worker's ability to return to work. Areas such as endurance, lifting (dynamic and static), postural tolerance, specific range of motion, coordination and strength, worker habits, employability, as well as psychosocial aspects of competitive employment may be evaluated. Reliability of patient reports and overall effort during testing is also reported.

Components of this evaluation may include: (a) musculoskeletal screen; (b) cardiovascular profile/aerobic capacity; (c) coordination; (d) lift/carrying analysis; (e) job-specific activity tolerance; (f) maximum voluntary effort; (g) pain assessment/psychological screening; and (h) non-material and material handling activities. Standardized national guidelines (such as National Institute for Occupational Safety and Health (NIOSH)) should be used as the basis for FCE recommendations.

Most studies examining FCEs were performed utilizing cases involving chronic low back pain. There is some evidence that an FCE fails to predict which injured workers with chronic low back pain will have sustained return to work. Another cohort study concluded that there was a significant relation between FCE information and return to work, but the predictive efficiency was poor. There is some evidence that time off work and gender are important predictors for return to work, and floor-to-waist lifting may also help predict return to work. However, the strength of that relationship has not been determined.

A full review of the literature reveals no evidence to support the use of FCEs to prevent future injuries. There is some evidence in chronic low back pain patients that (1) FCE task performance is weakly related to time on disability and time for claim closure, and (2) even claimants who fail on numerous physical performance FCE tasks may be able to return to work. These same issues may exist for lower extremity injuries.

Full FCEs are rarely necessary. In many cases, a work tolerance screening or return to work performance will identify the ability to perform the necessary job tasks. There is some evidence that a short form FCE reduced to a few tests produces a similar predictive quality compared to the longer 2-day version of the FCE regarding length of disability and recurrence of a claim after return to work.

When an FCE is being used to determine return to a specific job site, the provider is responsible for fully understanding the physical demands and the duties of the job the worker is attempting to perform. A job site evaluation is usually necessary. A job description should be reviewed by the provider and FCE evaluator prior to this evaluation. FCEs cannot be used in isolation to determine work restrictions. It is expected that the FCE may differ from both self-report of abilities and pure clinical exam findings in chronic pain patients. The length of a return to work evaluation should be based on the judgment of the referring physician and the provider performing the evaluation. Since return to work is a complicated multidimensional issue, multiple factors beyond functional ability and work demands should be considered and measured when attempting determination of readiness or fitness to return to work. FCEs should not be used as the sole criteria to diagnose malingering.

- ❖ Frequency: Once, when patient is unable to return to the pre-injury position and further information is desired to determine permanent work restrictions. **Prior authorization is required for repeat Functional Capacity Evaluations.**

c. **Job Site Evaluations and Alterations**

Ergonomic alterations should be done early to assure that appropriate changes are accomplished early in the treatment program. Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Job site evaluation and alteration should include input from a healthcare professional with experience in ergonomics or a certified ergonomist, the employee, and the employer. The employee must be observed performing all pertinent job functions in order for the job site

evaluation to be a valid representation of a typical workday. If the employee is unable to perform the job function for observation, a co-worker in an identical job position may be observed instead. The job site evaluation should include a job demand analysis with an ergonomic evaluation, which directly addresses the causation risk factors described in Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions and the five goals listed below.

A formal job site evaluation is a comprehensive analysis of the physical, mental and sensory components of a specific job. It may be important initially to determine causation. These components may include, but are not limited to: (a) postural tolerance (static and dynamic); (b) aerobic requirements; (c) range-of-motion; (d) torque/force; (e) lifting/carrying; (f) cognitive demands; (g) social interactions; (h) visual perceptual; (i) environmental requirements of a job; (j) repetitiveness; and (k) essential functions of a job. Ergonomic changes that provide a therapeutic benefit or relieve the patient's ongoing symptoms are part of the required medical treatment for cumulative trauma conditions. Therefore, it is assumed that the insurer will be responsible for paying for such job site alterations. Job descriptions provided by the employer are helpful but should not be used as a substitute for direct observation. A job site evaluation may include observation and instruction of how work is done, what material changes (desk, chair) should be made, and determination of readiness to return to work. Refer to Section H.6 Job site Alterations for specific ergonomic recommendations. Requests for a job site evaluation should describe the expected goals for the evaluation. Goals may include, but are not limited to the following:

- i. To determine if there are potential contributing factors to the person's condition and/or for the physician to assess causality;
- ii. To make recommendations for, and to assess the potential for ergonomic changes;
- iii. To provide a detailed description of the physical and cognitive job requirements;
- iv. To assist the patient in their return to work by educating him/her on how to do the job more safely in a bio-mechanically appropriate manner; and/or
- v. To give detailed work/activity restrictions.
- ❖ Frequency: 1 time with additional visits as needed for follow-up per job site.

d. **Vocational Assessment**

Once an authorized practitioner has determined that a patient will not be able to return to his/her former employment and can prognosticate final restrictions, a timely vocational assessment can be implemented. The vocational assessment should provide valuable guidance in the determination of future rehabilitation program goals. It should clarify rehabilitation goals, which optimize both patient motivation and utilization of rehabilitation resources. The effectiveness of vocational rehabilitation may be enhanced when performed in combination with work hardening or work conditioning. If prognosis for return to former occupation is poor, except in the most extenuating circumstances, vocational assessment should be implemented within 3 to 12 months post-injury. Declaration of maximum medical improvement should not be delayed solely due to lack of attainment of a vocational assessment.

❖ Frequency: 1 time with additional visits as needed for follow-up.

e. **Work Tolerance Screening (Fitness for Duty)**

Work Tolerance Screening (Fitness for Duty) is a determination of an individual's tolerance for performing a specific job as based on a job activity or task. It may include a test or procedure to specifically identify and quantify work-relevant cardiovascular demands, physical fitness, and postural tolerance. It may also address ergonomic issues affecting the patient's return-to-work potential. May be used when a full Functional Capacity Evaluation is not indicated.

F. SPECIFIC MUSCULOSKELETAL DIAGNOSIS, TESTING & TREATMENT PROCEDURES

Cumulative trauma related conditions comprise a number of specific diagnoses with diagnostic findings and treatment. Cumulative trauma disorder itself is not a diagnosis and cannot be treated or evaluated until the specific diagnosis is identified. Refer to Section C Definitions and Mechanisms of Injury for details.

Cumulative trauma conditions often involve several diagnoses and conservative treatment of all applicable diagnoses should be treated simultaneously. See Section G for peripheral neuropathies.

1. AGGRAVATED OSTEOARTHRITIS OF THE DIGITS, HAND OR WRIST

- a. **Description/Definition:** Internal wrist joint pathology accompanied by cartilage loss. Pain usually in the carpometacarpal joints or in the metacarpophalangeal joints.
- b. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.
- c. **Specific Physical Exam Findings:** The most common joint affected is the first carpometacarpal joint. The thumb metacarpophalangeal joint may also be involved.
 - i. Required findings are at least one of the following:
 - A) Positive grind test: The “grind test” consists of applying an axial load to the first metacarpal and rotating it medially and laterally. A positive test results in pain and/or crepitus;
 - B) Subluxation of the metacarpal may be induced in advanced cases;
 - C) Tenderness with palpation of thumb carpometacarpal or metacarpophalangeal joint.
 - ii. Additional findings may include:
 - A) Swelling;

- B) Reduced motion; and
- C) Angular deformities.

When a patient presents with pain at the base of the thumb, tests for de Quervain's, flexor carpi radialis tendonitis, and scaphoid pathology should all be considered.

- d. **Diagnostic Testing Procedures:** X-ray, diagnostic injection and/or aspiration, and MRI can be done if space occupying lesions are suspected. X-ray findings do not necessarily correlate with symptomatic arthritis.

- e. **Non-operative Treatment Procedures:**

- i. **Initial Treatment:** Splinting may be used nocturnally and for protection during specific activities. Wrist splinting should maintain neutral mechanics to avoid nerve stretch or ligamentous changes. There is good evidence that custom splints used nocturnally for 1 year decrease pain and increase function. Historically, both hand-based and forearm-based splints have been used effectively and the type of splint should probably be based on patient preference as this will also influence long-term compliance.

There is some evidence that home-based hand exercises with phone call follow-up and monitoring plus hand osteoarthritis (HOA) information is more effective than only giving HOA information in improving hand functionality in women with HOA. Self-application of heat or ice and ergonomic changes of the job site are recommended.

- ii. Medications such as analgesics (including NSAIDs) and over the counter medications for symptomatic relief may be helpful. Topical salicylates and nonsalicylates have been shown to be effective in relieving pain in acute and chronic musculoskeletal conditions. There is good evidence that diclofenac gel reduces pain and improves function in mild-to-moderate hand osteoarthritis. Diclofenac gel has been FDA approved for acute pain due to minor strains, pains, and contusions and for relief of pain due to osteoarthritis of the joints amenable to topical treatment, such as those of the knees and hands (Food and Drug Administration). There is some evidence that topical ketoprofen patches are more effective than placebo in reducing pain of upper extremity tendonitis; however, the need for continuous skin application may limit overall use. Use of ketoprofen topical patch for the disorders described in these Guidelines has not been FDA approved at the time these Guidelines were written. Liver enzymes should be monitored when using topical or oral NSAIDs.

Refer to medication discussions in Section H.7 Medications and Medical Management for further details.

- iii. Patient education: should include instruction in self-management techniques, ergonomics, and home therapy program. One study demonstrated a 70% reduction in the number of patients desiring surgery when they were provided with 3 sessions of hand therapy explaining the use of splints; accessories such as fitted scissors, book support, pen handles; and modification of their work environment. It is strongly suggested that all patients receive hand therapy support before considering surgery, especially if the job requirements place a high demand on fine hand activities. Episodes of recurrence are common, so patient education regarding provocative activities is essential for long term recovery.
- iv. Job site evaluations and alterations: Ergonomic alterations should be done early to assure that appropriate changes are accomplished early in the treatment program.

Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Alterations and Section H.6 Job Site Alteration.

- v. Steroid injections: may decrease inflammation and allow the therapist to progress with rehabilitation therapy. Steroid injections under significant pressure should be avoided, as the needle may be penetrating the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture. Steroid injections may be useful in early stage osteoarthritis when used with a splint.

- ❖ Time to Produce Effect: 1 to 2 injections. If the first injection is unsuccessful and symptoms continue, the second injection should be performed by a specialist with expertise in the anatomy of the upper extremity.
- ❖ Optimum Maximum Frequency: 3 injections in 1 year spaced at least 4 to 8 weeks apart.

- ❖ Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4 Injections for further information on steroid injections.
- vi. Viscosupplementation/Intracapsular acid salts involve the injection of hyaluronic acid and its derivatives into the joint space. Hyaluronic acid is secreted into the joint space by the healthy synovium and has functions of lubrication and cartilage protection.
- vii. There is no evidence that hyaluronate injections are superior to steroid injections for carpometacarpal thumb arthritis. There is some evidence that intra-articular hyaluronan is not superior to placebo for improving pain in the setting of carpometacarpal osteoarthritis. There is also some evidence that intra-articular hyaluronan does not improve function in a clinically important way in the first six months after injection. Therefore, they are **not recommended**.
- viii. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- ix. Other therapies in Section H Therapeutic Procedures – Non-operative may be employed in individual cases.
- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.
 - i. The patient may be a good surgical candidate when functional deficits interfere with activities of daily living and/or job duties after at least 3 months of active patient participation in non-operative therapy including job site changes, medication, injections, and splints.

One study demonstrated a 70% reduction in the number of patients desiring surgery after 7 months when they were provided with 3 sessions of hand therapy explaining the use of splints; accessories such as fitted scissor, book support, pen handles; and modification of their work environment. It is strongly suggested that all patients receive hand therapy support and job site alterations before considering surgery.
 - ii. Thumb carpometacarpal joint arthritis

Early stage arthritis with functional deficits may be amenable to debridement and thermal capsular shrinkage. For later stages, synthetic material and interposition materials may have more complications than biologicals.

- A) Due to the complexity of the wrist joint and the lack of clear superiority of any one procedure, the choice of the type of procedure for an individual patient must be made on a case-by-case basis by the surgeon and patient.

There is currently a lack of convincing evidence that any operative intervention for osteoarthritis of the base of the thumb is more or less effective than any other operative intervention.

The most common current procedures for thumb carpometacarpal arthritis are trapeziectomy with or without suspension procedures, including ligament reconstruction and/or tendon interposition. There is good evidence that these procedures have similar outcomes at 1 year. There is uncertainty regarding the risk of adverse events between simple trapeziectomy and trapeziectomy combined with other procedures. However, a lower risk of complications with simple trapeziectomy cannot be ruled out. Osteotomies may be additional procedures in some cases and fusions are occasionally performed, usually in younger active patients.

Ligament and tendon procedures are thought to protect the other carpal joints from earlier deterioration and allow greater stability for the thumb. Most patients have not been followed long enough to compare rates of subsequent arthritis and resulting functional deficits between those having a simple trapeziectomy and those with suspension procedures. In one follow up study, there was an increase in x-ray joint changes without a clinical impact.

- B) The use of implants or spacers remains highly controversial. Most long-term studies of these have shown unacceptable levels of subsidence, subluxation or breakage. Due to the lack of evidence, implant procedures should only be considered after a second opinion by a hand surgeon specializing in the techniques and thorough understanding of the patient regarding expectation from the procedure, recovery time, and possible complications.

- iii. Arthritis at other joints: Scaphotrapezio-trapezoid joint arthritis resistant to conservative treatment is usually treated with fusion, although trapezoidectomy has also been used. Fusion may be recommended for thumb metacarpophalangeal arthritis when surgery is necessary.
- iv. Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work, as well as possible complications. The patient should agree to comply with the pre- and post-operative treatment plan, including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.
- v. Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.
- vi. Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

- g. **Operative Procedures**: Arthroscopic trapeziectomy with or without suspension procedures including ligament reconstruction and/or tendon transposition; trapezoidectomy; fusion; osteotomy.

Complications from wrist arthroscopy are approximately 4.7%, including ulnar or posterior interosseous nerve damage. Total wrist arthroplasty is not currently recommended due to long-term problems with dislocation or compartment loosening. If it is being considered, then prior authorization and a second opinion by a hand surgeon are required.

h. Post-operative Treatment

- i. An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-operative. In all cases, communication between the physician and the therapist is important to the timing of exercise progressions.
- ii. Hand therapy should be started early to prevent loss of motion in adjacent joints. Treatment may include the following: splinting, restricted activities and other active therapy with or without passive therapy. Exact treatment regimens are based on the surgeon's recommendation and may include other therapies from Section H Therapeutic Procedures – Non-operative.
- iii. There is some evidence that in the post-operative management at one year following trapeziometacarpal (TMC) arthroplasty, there is no significant difference in pain, function, range of motion, or grip strength between patients who wore standard rigid orthoses and patients who wore semi-rigid orthoses from 2 to 6 weeks following TMC arthroplasty.
- iv. Continuous passive motion after metacarpophalangeal joint arthroplasty is not supported by scientific evidence and therefore is ***not recommended***.
- v. Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

2. DE QUERVAIN'S DISEASE

- a. **Description/Definition:** Pain and swelling in or over the first dorsal extensor compartment (anatomical snuffbox) and/or over the radial styloid; pain radiating into the hand and forearm; pain worsened by thumb abduction and/or extension may be caused by thickening of the extensor tendons and extensor retinaculum rather than inflammation.
- b. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections of this guideline.
- c. **Specific Physical Exam Findings:** De Quervain's disease affects the first dorsal extensor compartment.
 - i. Required elements for diagnosis of de Quervain's disease are at least one of the following:
 - A) Pain worsened by resisted thumb abduction and/or extension with or without resistance;
 - B) Positive Finkelstein's: The Finkelstein test is positive when localized pain results from ulnar wrist deviation with the thumb adducted;
 - C) Positive Stress Finkelstein's: Finkelstein's maneuver with pressure over the abductor pollicis longus.
 - ii. Other possible exam findings include:
 - A) Positive Eichhoff-thumb clinched in fist followed by wrist ulnar movement;
 - B) Positive Tinel's may be present over the superficial radial sensory nerve;
 - C) Crepitus may be present, and tenderness over the first dorsal compartment is common.
 - D) Less common and examiner-dependent findings include thickening of the first dorsal tendon sheath, swelling in the same area.

- d. **Diagnostic Testing Procedures:** X-ray and other imaging may be performed to rule out other differential diagnoses or when there is an indication that additional pathology, such as a space-occupying lesion, may be present. Electro diagnostic testing can be considered to rule out neurological sources of pain.

e. **Non-operative Treatment Procedures:**

- i. Initial Treatment: over-the-counter medications for symptomatic relief, thumb spica, splint or cast, ice, contrast baths and restriction of activities.
- ii. Patient education: should include instruction in self-management techniques, ergonomics, and a home therapy program. Episodes of recurrence are common, so patient education regarding provocative activities is essential for long term recovery.
- iii. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.

Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Generally, patients should avoid repetitive thumb or wrist movements, grasping, and wrist ulnar deviation. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.

- iv. Steroid injections: The proceduralist must exercise caution as the needle may disrupt the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture.

Observational studies suggest that steroid injections may be beneficial even when splints are not used. However, there is insufficient evidence to favor steroid injections over thumb spica splinting. There is some evidence that in the setting of de Quervain's disease, functional benefits of a corticosteroid injection are enhanced by a thumb spica cast which reduces stress on the abductor pollicis longus and extensor pollicis brevis tendons. There is inadequate evidence to show that a thumb spica cast, compared to other splinting methods, is necessary to achieve this added benefit. There is not

clear evidence that steroid injections are more effective than splinting alone.

These injections are best performed by a specialist. Ultrasound guided injections may assist when a separation is present between the extensor pollicis brevis and the abductor pollicis longus although there is insufficient evidence to routinely recommend this treatment.

Post injection, the hand is usually placed at rest for several days and a splint may be used.

- ❖ Time to Produce Effect: 1 to 2 injections. If the first injection is unsuccessful and symptoms continue, the second injection should be performed by a specialist with expertise in the anatomy of the upper extremity.
- ❖ Optimum Frequency: 3 injections in 1 year spaced at least 2 to 8 weeks apart injection.
- ❖ Maximum Frequency: 4 per year if injections result in functional benefit without local reactions or complications.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4.c Steroid Injections for further details.

- v. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- vi. Other therapies in Section H Therapeutic Procedures – Non-operative may be employed in individual cases.

- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

First extensor compartment release is rarely necessary. Most cases resolve spontaneously over a number of months. Surgery may be performed to achieve functional gains for those with the required diagnostic exam findings who continue to have significant ongoing impaired activities of daily living after 8 weeks of treatment which include job modifications, injections, and other therapy.

There is some evidence that endoscopic and open release result in equally satisfactory 24 week outcomes and approximately equal return to work times for de Quervain's tenosynovitis. However, with endoscopic release there is a lower risk of transient injury to the superficial radial nerve, better scar satisfaction, and a slightly more rapid resolution of pain and functional limitations.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work, as well as possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

- g. **Operative Procedures:** First extensor compartment release, open or endoscopic. Complications may include: radial sensory nerve injury, volar subluxation of tendon, and infection.
- h. **Post-operative Treatment:**
 - i. An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-operative. In all cases, communication between the physician and therapist is important to

the timing of exercise progression. Treatment may include the following: elevating the hand and moving fingers to prevent scar adhesions, splinting to rest hand and decrease thumb activity, and other active therapy with or without passive therapy.

- ii. Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

3. **EPICONDYLITIS (EPICONDYLALGIA) – LATERAL AND MEDIAL**

- a. **Description/Definition- Lateral Epicondylitis:** Lateral epicondylitis is also known as tennis elbow, lateral elbow pain, rowing elbow, tendinopathy of the common extensor origin, and peri-tendinopathy of the elbow. It is characterized by elbow pain and tenderness over the lateral epicondyle of the humerus. Patients describe tenderness to palpation slightly anterior and distal to the lateral epicondyle and/or over the bony prominence of the lateral epicondyle. Patients frequently complain of pain with grasping when the elbow is extended and pronated.
- b. **Description/Definition - Medial Epicondylitis:** Pain emanating from the medial elbow; mild grip weakness; medial elbow pain exacerbated by repetitive wrist extensions or forward flexion.
- c. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.
- d. **Specific Physical Exam Findings - Lateral Epicondylitis:**
 - i. Required elements for the diagnosis of lateral epicondylitis are as follows:
 - A) The patient must report tenderness to palpation at/near lateral epicondyle; and
 - B) In addition, at least one of the following examiner maneuvers must result in pain over the lateral epicondyle and/or extensor mass of the forearm:
 - Active or resisted wrist extension;
 - Active or resisted middle finger extension;
 - Active or resisted supination.

- ii. Pain may also increase with gripping. Swelling, erythema, and warmth are generally not seen in this condition.

e. **Specific Physical Exam Findings - Medial Epicondylitis:**

- i. Required elements for the diagnosis of medial epicondylitis are as follows:
 - A) The patient must report tenderness to palpation at/near medial epicondyle; **and**
 - B) In addition, at least one of the following examiner maneuvers must result in pain over the medial epicondyle and/or flexor mass of the forearm:
 - Active or resisted wrist flexion;
 - Active or resisted long finger flexion;
 - Active or resisted pronation.
- ii. The exam may include elements for diagnosing cubital tunnel syndrome if appropriate.

- f. **Diagnostic Testing Procedures:** The clinical diagnosis of epicondylitis is made by the combination of patient complaints and required objective physical findings. Additional studies such as plain radiographs, MRI, and sonogram examinations are not routinely ordered to establish the diagnosis of epicondylitis. However, these studies may be used to rule out other conditions that may produce similar symptoms, including radial tunnel syndrome, cervical radiculopathy, osteochondral radiocarpal lesion, posterolateral elbow plica, and posterolateral elbow instability. X-rays may be normal or demonstrate spur formation over the involved epicondyle.

Electro diagnostic studies can be considered to rule out neurological sources of pain, such as radial tunnel syndrome or posterior interosseous nerve entrapment.

g. **Non-operative Treatment Procedures:**

- i. Initial Treatment: over-the-counter medications for symptomatic relief, ice, bracing, and restriction of activities. Topical NSAIDs are commonly used, although there is no evidence that topical or oral NSAIDs are effective.

Literature indicates that over 80% of patients with greater than 4 weeks of pain recovered by 1 year. The natural history of epicondylitis supports an expectation of improvement within 3 months of using patient education and modified activities.

- ii. Patient education: should include instruction in self-management techniques, ergonomics, and home therapy program. Episodes of recurrence are common, so patient education regarding provocative activities is essential for long term recovery.
- iii. Bracing: The rationale for braces is to rest the wrist extensor or flexor muscles while reducing tension at the extensor or flexor origin, allowing healing of the muscle and tendon.

Brace types include proximal forearm band/sleeve, cock-up wrist splint, forearm/hand splint, and dynamic extensor brace.

Braces may be used in patients who are able to tolerate wearing the brace during activity and do not experience worsening pain and/or additional symptoms due to brace, but should be discontinued in the event of adverse effects.

There is no evidence that one brace type is superior to other types. However, some brace types may be impractical for use in most workers. For example, surgical technicians and food handlers would be unable to use most braces involving the wrist due to incompatibility with occupational function. The forearm band brace type appears to be the least cumbersome brace option and may be the best tolerated. However, this brace has the disadvantage of sometimes putting pressure on the radial nerve or occasional incorrect use by the patient.

Selecting the appropriate brace type is a decision that should be made by both patient and treating physician or therapist and should include appropriate patient education and follow-up. Braces which restrict range of motion should not be used continuously as this may result in permanent loss of motion. Compression straps should not be positioned in a manner which would irritate branches of the radial nerve. Braces should achieve maximum function and patient comfort.

- iv. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.

Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.

- v. Steroid injections: may decrease inflammation, pain, and allow the therapist to progress with rehabilitation therapy.

Steroid injections under significant pressure should be avoided as the needle may be penetrating the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture.

There is strong evidence that in the setting of lateral epicondylitis, the effects of corticosteroid injections on pain and function are more favorable than placebo in the first four weeks, but these benefits are reversed by six months and are detrimental compared to placebo injections in the intermediate and long term. Thus, injections for epicondylitis must include a discussion with the patient regarding lack of long-term benefits compared to no injection, as well as the need to combine other therapy, including a slow increase of activities that aggravate the condition. Steroid injections do provide short term benefit and may be considered an adjunctive therapy for some patients.

- ❖ Time to Produce Effect: 1 to 2 injections. If the first injection is unsuccessful and symptoms continue, the second injection should be performed by a specialist with expertise in the anatomy of the upper extremity.
- ❖ Optimum Frequency: 3 injections in 1 year spaced at least 2 to 8 weeks apart.
- ❖ Maximum Frequency: 3 to 4 per year if injections result in functional benefit without local reactions or complications.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose

levels at least daily for 2 weeks after injections. Refer to Section H.4.c Steroid Injections for further details.

- vi. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- vii. Botulinum toxin injection: The rationale for botulinum toxin treatment is that it reversibly paralyzes the extensor muscles and thereby prevents repetitive micro-trauma of the tendinous fibers at their origin from the osseous lateral epicondyle. The unit dosage varies significantly depending on the brand used. Usage for lateral and medial epicondylitis is not FDA approved at the time of these Guidelines writing. There is good evidence that botulinum toxin can alleviate the pain of lateral epicondylitis in the short term, with significant but reversible extensor weakness. However, the long-term consequences and functional benefits are unknown. There is also good evidence that botulinum toxin A injections cause weakness in finger extension and/or digit paresis. Additional complications may include: allergic reaction to medications, increased risk of systemic effects in patients with motor neuropathy or disorders of the neuromuscular junction.

Botulinum toxin injection is known to cause short-term third (middle) finger strength deficits and possible digit paresis, which may persist for up to 3 to 4 months. Botulinum toxin injection should only be used in patients whose occupational performance will be unaffected by this side effect, and should not be used in patients with physically demanding job descriptions.

It should not be considered a first line of treatment. Other conservative measures should be tried first. A single botulinum toxin type A injection may provide pain reduction for up to 3 to 4 months in patients with chronic lateral epicondylitis which has persisted after 3 months of treatment.

Botulinum toxins are manufactured at different potencies, and units of the different manufacturers are not equivalent. Careful botulinum toxin dosing should be used to avoid complete paresis and allow maintained functionality and return to work.

The decision to use botulinum toxin for pain relief from chronic lateral epicondylitis symptoms should be made carefully by both patient and treating physician, with knowledge of the known side effects and consideration of the individual occupational demands of the patient.

Botulinum injection should only be performed by a physician or surgeon who has expertise in the anatomy of the upper extremity and who is experienced in the use of this agent. Ultrasound guidance may be helpful. **Prior authorization is required.**

❖ Maximum: One injection episode.

viii. Other injections:

A) Prolotherapy and polidocanol (sclerosing agent) have all been used in studies too small and/or inadequate to make any recommendations. Due to lack of evidence of their effectiveness and the cost involved, prolotherapy and polidocanol are ***not recommended***.

B) Autologous Whole Blood Injections/Platelet-Rich Plasma Injections:

1) Autologous Whole Blood Injections: are relatively inexpensive treatments and may be used in patients who have not made sufficient functional progress with initial therapy for lateral or medial epicondylitis after 10 to 12 weeks.

There is some evidence that, for patients with symptoms lasting 6 months or more, autologous blood injections result in better pain and functional outcomes after 1 year than steroid injections.

❖ Optimum Frequency: 2 injections may be required.

2) Platelet-Rich Plasma Injections: There is good evidence that, for patients with symptoms lasting 6 months or more, platelet-rich plasma injections result in better pain and functional outcomes after 1 year than steroid injections.

There is good evidence that in the setting of lateral epicondylitis, platelet-rich plasma injections may lead to a small to moderate functional benefit in comparison to autologous whole blood or saline at two to three months, but effects on pain are uncertain.

There is good evidence that platelet-rich plasma injections produces more favorable symptomatic and functional improvement than triamcinolone injection in patients with chronic lateral epicondylitis, with this advantage persisting for 24 months after treatment.

In summary, there is strong evidence for the use of platelet-rich plasma injections in patients who have not improved with conservative therapy.

❖ Optimum Frequency: 2 injections may be required.

- ix. There is no clinical evidence or sound physiologic rationale for magnets or diathermy, therefore, they are ***not recommended***.
- x. Low Level Laser: There is good evidence that low level laser is not more effective than placebo for lateral epicondylitis, and its use is ***not recommended***.
- xi. Extracorporeal shock wave therapy (ESWT): The natural history of epicondylitis supports an expectation of improvement within 3 months using patient education and modified activities. There is some evidence that highly motivated tennis players may show up to a 35% additional improvement over no other treatment when administered low energy shock wave treatment without local anesthesia. Two other studies are not of sufficient quality to qualify as evidence. There is some evidence that three weekly sessions of radial ESWT and sham ESWT lead to statistically similar symptomatic and functional outcomes at three months. However, a benefit of radial ESWT cannot be ruled out due to uncertainties in the data. The preponderance of evidence does not support the efficacy of ESWT in the working population; therefore, it is ***not recommended***.
- xii. Acupuncture: There is some evidence that acupuncture has a very short term 2 week effect on pain compared to sham acupuncture for lateral epicondylitis. The patients may request this treatment. Refer to Section H.1 Acupuncture for more information.
- xiii. Other therapies in Section H Therapeutic Procedures – Non-operative may be employed in individual cases.
 - A) Topical Glyceryl Trinitrate: There is some evidence from a small study that wearing a topical patch containing glyceryl trinitrate over an area of tendinopathy is more effective than a

placebo patch in reducing pain and improving overall clinical recovery in subjects with lateral epicondylitis over a period of 6 months. However, improvement in function was not clearly demonstrated. There is also some evidence that topical glyceryl trinitrate is not effective for lateral epicondylitis from a study demonstrating no benefit compared to placebo with varied doses. Side effects include headaches. The patch must be applied every day. Therefore it is ***not generally recommended*** and may only be used if there is failure of other conservative care at 8-12 weeks.

- B) Ultrasound with corticosteroids (phonophoresis) and iontophoresis may be used occasionally to facilitate other therapy, but there is no evidence that they alter long-term function. Thus these passive treatments may be used on a limited basis.

A systematic review of low quality studies found a lack of evidence for the effectiveness of ultrasound, laser, pulsed electromagnetic field therapy, TENS, and extracorporeal shock wave for the treatment of lateral epicondylitis. Therefore, they are ***not recommended***. However, high volt or interferential may be useful in some patients.

ix. Physical Therapy, Mobilization, and Manipulation:

This subsection reviews the evidence base for using physical therapy, including mobilization and manipulation, in the treatment of epicondylitis.

There is good evidence that there are early benefits from an 8 week program of weekly, individualized physical therapy for patients who do not receive a corticosteroid injection. However, the natural history of the condition tends to obscure these early benefits at one year from the time therapy begins.

There is some evidence that for subjects with long-term lateral epicondylalgia, a daily 6-week eccentric home exercise regimen is effective in increasing pain-free hand-grip, increasing wrist-extensor strength, and reducing the number of cases that meet the diagnostic criteria for lateral epicondylalgia.

There is some evidence that the addition of Mulligan mobilization to a regimen comprising of ultrasound therapy and progressive exercises is more effective in decreasing pain and increasing pain-free grip

strength than ultrasound therapy and progressive exercises alone in the treatment of lateral epicondylitis.

Although one Cochrane found inadequate evidence to support deep transverse friction massage alone, another study is supportive of deep tissue massage combined with manipulation. There is some evidence that both Cyriax physiotherapy (deep transverse friction massage combined with Mills manipulation) and phonophoresis with supervised exercise and static stretching are effective over a period of 4 weeks of treatment for lateral epicondylalgia in decreasing pain, increasing pain-free grip strength, and improving functional status. However, Cyriax physiotherapy provides a superior benefit compared to phonophoresis with supervised exercise and static stretching.

The muscle energy technique is a manual therapy technique in which the patient performs voluntary contraction against a counter force from the provider to stretch muscles and improve range of motion. There is some evidence that the muscle energy technique is superior to corticosteroid injection in improving grip strength in lateral epicondylitis. However, it is not clear that the technique is better than no treatment.

There is good evidence that manual and manipulative therapy combined with exercise and/or multimodal therapy shows small, clinically important reductions in pain and improved physical function in the short-term care (≤ 3 -6 months) of patients with lateral epicondylitis and carpal tunnel syndrome.

There is good evidence that physical therapy using manipulation, home exercise and supervised exercise reduced pain at 6 weeks but not at 52 weeks. This may be appropriate therapy to hasten return to work.

In summary, physical therapy including manual and manipulative therapy is encouraged based on good evidence.

- ❖ Time to Produce Effect: 4 treatments.
- ❖ Optimum Frequency: 12 treatments over 6 weeks.

- h. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

Lateral epicondyle release/debridement is generally accepted; however, over 80% of cases improve with conservative therapy only. Intermittent discomfort may recur over 6 months to 1 year after initial conservative treatment.

The patient may be a good surgical candidate when the diagnosis is confirmed on physical exam (Refer to Section D.1.d Physical Examination) and functional deficits interfere with activities of daily living and/or job duties after at least 3 months of active patient participation in non-operative therapy including worksite changes, medication, splints, and injections or other therapy noted above.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals, the likelihood of achieving improved ability to perform activities of daily living or work, and possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

- i. **Operative Procedures:** Lateral or medial epicondyle release/debridement. There is good evidence that no specific surgical intervention is effective for lateral elbow pain.
- j. **Post-operative Treatment:**
 - i. An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-operative. In all cases, communication between the physician and therapist is important to the timing of exercise progressions. Treatment may include the following: splinting, and active therapy with or without passive therapy.
 - ii. Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon. Full return to normal activities usually occurs by approximately 3 months.

4. **EXTENSOR TENDON DISORDERS OF THE DIGIT OR WRIST**

- a. **Description/Definition:** pain localized to the affected tendon(s) and muscles that is worsened by active and/or resisted wrist or finger extension. A number of specific disorders may occur including intersection syndrome and extensor carpi ulnaris tenosynovitis.
- b. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.
- c. **Specific Physical Exam Findings:**
 - i. Required elements for the diagnosis of extensor tendon disorders of the wrist are the following: pain and/or tenderness with active or resisted wrist/digit extension, specific to the extensor mechanism involved.
 - ii. Intersection Syndrome is due to the action of the extensor pollicis brevis and the abductor pollicis longus on the wrist extensors in the second dorsal compartment. It is frequently accompanied by a sandpaper appearance to the dermis. It is reproduced by wrist extension.
 - iii. Extensor carpi ulnaris tenosynovitis is identified when resisted ulnar wrist deviation with forearm pronation or wrist extension with forearm supination reproduces the pain.

- iv. Other common findings include creaking/crepitus with wrist extension and swelling along the dorsal aspects of the hand/wrist/forearm.
- d. **Diagnostic Testing Procedures:** X-ray and other imaging may be also performed to rule out other differential diagnoses or when there is an indication additional pathology may be present.
- e. **Non-operative Treatment Procedures:**
 - i. Initial Treatment: over-the-counter medications for symptomatic relief, wrist splints for wrist flexors and splinting.
 - ii. Patient education: should include instruction in self-management techniques, ergonomics, and a home therapy program. Episodes of recurrence are common so patient education regarding provocative activities is essential for long term recovery.
 - iii. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.

Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.

- iv. Steroid Injections: may decrease inflammation, pain, and allow the therapist to progress with rehabilitation therapy. Steroid injections under significant pressure should be avoided as the needle may be penetrating the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture.
 - ❖ Time to Produce Effect: 1 to 2 injections. If the first injection is unsuccessful and symptoms continue, the second injection should be performed by a specialist with expertise in the anatomy of the upper extremity.
 - ❖ Optimum Frequency: 3 injections in 1 year spaced at least 2 to 8 weeks apart.

- ❖ Maximum Frequency: 3 to 4 per year if injections result in functional benefit without local reactions or complications.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4.c Steroid Injections for further details.

- v. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- vi. Other therapies in Section H Therapeutic Procedures – Non-operative may be employed in individual cases.

- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity. Surgery is indicated when a tendon is ruptured, chronically enlarged or entrapped, or on rare occasions when conservative measures have failed and tendonitis is clearly present.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals, the likelihood of achieving improved ability to perform activities of daily living or work, and possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery.

Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

- g. Operative Procedures:** Tenosynovectomy, synovectomy, repair, and/or reconstruction of the extensor tendon.
- h. Post-operative Treatment:**
 - i. An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-operative. In all cases, communication between the physician and therapist is important to the timing of exercise progressions. Treatment may include the following: splinting, and active therapy with or without passive therapy.
 - ii. Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

5. FLEXOR TENDON DISORDERS OF THE DIGIT OR WRIST

- a. Description/Definition:** pain and/or tenderness localized to the affected tendons; pain in the affected tendons associated with wrist/digit flexion and ulnar deviation, especially against resistance.
- b. Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.
- c. Specific Physical Exam Findings:**
 - i. Required elements for the diagnosis of general wrist or digit flexion tendon disorders include one of the following:
 - A) Reproduction of pain with active or resisted wrist/digit flexion;
 - B) Ulnar deviation specific to flexor mechanism involved; or
 - C) Flexor carpi radialis may present with accompanying radial volar wrist pain with resisted wrist flexion and radial deviation.
 - ii. Crepitus with active motion of the flexor tendons may also be present.

- d. **Diagnostic Testing Procedures:** X-ray and other imaging may be also performed to rule out other differential diagnoses or when there is an indication additional pathology may be present.
- e. **Non-operative Treatment Procedures:**
 - i. Initial Treatment: over-the-counter medications for symptomatic relief, wrist splints for wrist flexors and splinting.
 - ii. Patient education: should include instruction in self-management techniques, ergonomics, home therapy program and intermittent splinting for contractures. Recurrence is common, so patient education regarding provocative activities is essential for long term recovery.
 - iii. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.

Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.

- iv. Steroid Injections: may decrease inflammation and pain and allow the therapist to progress with rehabilitation therapy. Steroid injections under significant pressure should be avoided as the needle may be penetrating the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture.
 - ❖ Time to Produce Effect: 1 to 2 injections. If the first injection is unsuccessful and symptoms continue, the second injection should be performed by a specialist with expertise in the anatomy of the upper extremity.
 - ❖ Optimum Frequency: 3 injections in 1 year spaced at least 2 to 8 weeks apart.
 - ❖ Maximum Frequency: 3 to 4 per year if injections result in functional benefit without local reactions or complications.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4.c Steroid Injections for further details.

- v. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return- to-Work.
- vi. Other therapies in Section H Therapeutic Procedures – Non-operative may be employed in individual cases. Refer to Section H.4.c Steroid Injections for further details.

- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

Surgery is rarely necessary but may be indicated when a tendon is ruptured, chronically enlarged or entrapped, or on rare occasions when conservative measures have failed and tendonitis is clearly present.

Any decision for surgical intervention should be based on a hand surgeon's evaluation of need and the existence of a clear functional deficit that can be corrected by surgical intervention.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals, the likelihood of achieving improved ability to perform activities of daily living or work, and possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered

by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

- g. Operative Procedures:** The surgical procedures will depend on the specific condition and may include tenosynovectomy, synovectomy, or repair/reconstruction of the flexor tendon.
- h. Post-operative Treatment:**
 - i. An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-operative. In all cases, communication between the physician and therapist is important to the timing of exercise progressions. Treatment may include the following: splinting, and active therapy with or without passive therapy.
 - ii. Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

6. TRIANGULAR FIBROCARILAGE COMPLEX TEAR (TFCC)

- a. Description/Definition:** pain and/or tenderness localized to the affected tendons; pain in the affected tendons associated with wrist/digit flexion and ulnar deviation, especially against resistance.
- b. Occupational Relationship:** This condition may be asymptomatic and then aggravated due to occupational exposures and require treatment. Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.
- c. Specific Physical Exam Findings:**
 - i. Required elements for the diagnosis of TFCC are:
 - A) Tenderness over the TFCC complex; and

B) One positive provocative test with localizing pain, clicking or findings of abnormal motion. Provocative tests include:

- Forced supination and pronation with axial pressure on an ulnar deviated wrist;
- The patient pushes up from a seating position using the hand; and/or
- Ballottement of the distal ulna with the wrist supinated causes abnormal motion as compared to the asymptomatic side.

ii. Crepitus: clicking/popping are frequently present.

iii. Extensor or flexor carpi ulnaris tendinitis may also be confused with TFCC.

d. **Diagnostic Testing Procedures:** x-ray and MRI or MRI arthrography (MRA). There is good evidence that MRA is a more sensitive and more specific diagnostic test for TFCC than MRI. There is also good evidence that many patients who do not have TFCC can be more accurately identified with MRA rather than MRI. As with knee degenerative changes, many patients with TFCC tears are asymptomatic. In one study of patients with a history of TFCC and related falls, ligament disruptions were commonly found in the opposite asymptomatic hand over 50% of the time. Therefore, it may be reasonable to also image the opposite wrist if it is asymptomatic. Those with a corresponding abnormality in the opposite wrist should have an especially rigorous diagnostic review before proceeding to a surgical intervention.

e. **Non-operative Treatment Procedures:**

i. Initial Treatment: rest, splinting, ice and later heat.

ii. Medications such as analgesics and over-the-counter medications for symptomatic relief may be helpful. Refer to medication discussions in Section H.7 Medications and Medical Management.

iii. Patient education: should include instruction in self-management techniques, ergonomics, and a home therapy program. Episodes of recurrence are common, so patient education regarding provocative activities is essential for long term recovery.

- iv. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.

Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and H.6 Job Site Alteration.

- v. Steroid Injections: may decrease inflammation and pain and allow the therapist to progress with rehabilitation therapy. Steroid injections under significant pressure should be avoided as the needle may be penetrating the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture.

- ❖ Time to Produce Effect: 1 to 2 injections. If the first injection is unsuccessful and symptoms continue, the second injection should be performed by a specialist with expertise in the anatomy of the upper extremity.
- ❖ Optimum Frequency: 3 injections in 1 year spaced at least 2 to 8 weeks apart.
- ❖ Maximum Frequency: 3 to 4 per year if injections result in functional benefit without local reactions or complications.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections.

- vi. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- vii. Other therapies in Section H Therapeutic Procedures – Non-operative may be employed in individual cases. Refer to Section H.4.c Steroid Injections for further details.

- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

A patient may be a surgical candidate if there are concomitant fractures, instability, or if symptoms continue to interfere with ADLs or job duties after non-surgical interventions for 2 to 3 months.

- i. Non-surgical interventions should include: rest from inciting factors, ergonomic job changes, and steroid injections. Pathology is usually identified on MRI and there should not be another diagnosis which better explains the patient's complaints.

Those with a corresponding abnormality in the opposite wrist should have an especially rigorous diagnostic review before proceeding to a surgical intervention.

- ii. Prior to surgical intervention, the patient and treating physician should identify functional operative goals, the likelihood of achieving improved ability to perform activities of daily living or work, and possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the

program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

For both non-union and soft-tissue: Smokers have a higher risk of non-union and post-operative costs. Therefore, if a treating physician recommends a specific smoking cessation program peri-operatively, it should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels.

The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7 Medications for further details.

- g. Operative Procedures:** numerous procedures including arthroscopy debridement and/or repair, ulnar shortening and wafer procedure when there is a carpal detachment or detachment of the radius. The surgical procedures will depend on the specific deficit.
- h. Post-operative Treatment:**

 - i. An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-operative. In all cases, communication between the physician and therapist is important to the timing of exercise progressions. Treatment may include the following: splinting, and active therapy with or without passive therapy.
 - ii. Wrist splints are usually required for 6 weeks, and power grip and axial loading are discouraged. Range of motion is usually begun at 2 weeks.
 - iii. Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon. Usually light activity only is recommended for 3 months.

7. **TRIGGER DIGIT**

- a. **Description/Definition:** difficulty extending and flexing the digit which may be accompanied by a history of “catching” or “triggering.” Other conditions may be related to this complaint. Thus, history alone does not confirm the diagnosis.
- b. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.
- c. **Specific Physical Exam Findings:** Required elements for the diagnosis of trigger digits include one of the following:
 - i. Tenderness at the A1 pulley with digit motion;
 - ii. Triggering of the digit;
 - iii. A history of difficulty flexing and extending the digit with a palpable nodule.

Active range of motion may be affected, usually only in severe cases.

- d. **Diagnostic Testing Procedures:** X-ray and other imaging may be performed to rule out other differential diagnoses or when there is an indication that additional pathology may be present.
- e. **Non-operative Treatment Procedures:**
 - i. **Initial Treatment:** over-the-counter medications for symptomatic relief.
 - ii. **Orthosis:** a metacarpal or proximal interphalangeal joint blocking splint for 3 – 6 weeks.
 - iii. **Patient education:** should include instruction in self-management techniques, ergonomics, and home therapy program. Recurrence is common, so patient education regarding provocative activities is essential for long term recovery.
 - iv. **Job site evaluations and alterations:** Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.

Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in

the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.

- v. Steroid injections for trigger digit provide decreased symptoms and are frequently a first line treatment.

There is some evidence that in the intermediate term (up to three months), injections with triamcinolone and with diclofenac are equally effective in patients with trigger digit.

The patient should rest the digit partially or completely for 0 – 7 days after the injection.

Steroid Injections: may decrease inflammation and pain and allow the therapist to progress with rehabilitation therapy. Steroid injections under significant pressure should be avoided as the needle may be penetrating the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture.

- ❖ Time to Produce Effect: 1 to 2 injections. If the first injection is unsuccessful and symptoms continue, the second injection should be performed by a specialist with expertise in the anatomy of the upper extremity.
- ❖ Optimum Frequency: 3 injections in 1 year spaced at least 2 to 8 weeks apart.
- ❖ Maximum Frequency: If additional injections are being considered, referral to a specialist should be considered.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4.c Steroid Injections for further details.

- vi. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.

- vii. Other therapies in Section H Therapeutic Procedures – Non-operative may be employed in individual cases. Refer to Section H.4.c Steroid Injections for further details.

- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

Surgery is often not necessary. Any decision for surgical intervention should be based on a hand surgeon's evaluation of need and the existence of a clear functional deficit that can be corrected by surgical intervention. Trigger digit release, open or percutaneous, may be indicated when: 1) diagnosis has been verified; and 2) symptoms persist after conservative management including steroid injections over at least 4 weeks. Surgery should be performed to achieve functional gains on those with significant ongoing impaired activities of daily living or work-related functions. There is good evidence that open and percutaneous trigger digit release have similar success rates and similar complication rates. There is good evidence that percutaneous release has a lower rate of recurrence than does a steroid injection.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals, the likelihood of achieving improved ability to perform activities of daily living or work, and possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3

months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

g. Operative Procedures: trigger digit release.

h. Post-operative Treatment:

- i. An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-operative. In all cases, communication between the physician and therapist is important to the timing of exercise progressions. Treatment may include the following: splinting, elevating the hand post-operatively, and active therapy with or without passive therapy. Digital motion per surgeon's instructions will avoid scar formation.
- ii. Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon. Usually no heavy lifting or forceful activity for 2 – 4 weeks post-operatively.

G. SPECIFIC PERIPHERAL NERVE DIAGNOSIS, TESTING & TREATMENT PROCEDURES

1. CARPAL TUNNEL SYNDROME

- a. **Description/Definition:** The median nerve is vulnerable to compression and injury in the region of the wrist and palm. In this area, the nerve is bound by the wrist bones and the transverse carpal ligament. The most common site of compression is at the proximal edge of the flexor retinaculum (an area near the crease of the wrist). Stenosing tenosynovitis may occur proximal and distal to the carpal tunnel area. There is often a myofascial component in the patient's presentation. This should be considered when proceeding with the diagnostic testing and therapeutic intervention.

The following elements are commonly associated with carpal tunnel syndrome:

- i. Exacerbating and alleviating factors of the reported symptoms. The physician should explore and report on non-work related, as well as work-related activities.
- ii. Prior occupational and non-occupational injuries to the same area including specific prior treatment and any prior bracing devices.
- iii. Discussion of any symptoms present in the unexposed extremity.

- b. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To properly assess causation, the reader must comply with all sections.
- c. **Non-Occupational relationship:** Hypothyroidism, diabetes types 1 and 2, and being overweight all are modest risk factors for carpal tunnel syndrome. Obesity and a square shaped wrist also increase the probability of carpal tunnel in the wrist, with an odds ratio of around 2. However, causation should be determined by the assessment in these Guidelines. These additional factors may only be considered for cases not meeting the evidence based criteria. Pregnancy is a known risk factor with up to 20% experiencing symptoms which are more frequent in later pregnancy.

- d. **Specific Physical Exam Findings**: No one test is predictive of carpal tunnel syndrome. Multiple tests should be recorded with the patient's exact response. Final diagnosis is dependent on a correlation of symptoms, physical exam findings, and nerve conduction velocity (NCV) testing as any of these alone may have a false positive or false negative result. Phalen's and Tinel's appear to have similar predictive values as the flick test, between 73 and 87% for the positive predictive value and negative predictive values between 35 and 40%. Comparing physical exam findings to electrodiagnostic findings, Phalen's and Durkan's have an accuracy of 64-68% and weakness tests have a higher sensitivity.
- i. The clinical diagnosis is confirmed by 1) patient's history of paresthesia in two of the following digits: thumb, index and middle finger; and 2) at least one of the physical exam signs listed below. Provocative tests must recreate symptoms in the median nerve distribution.
- A) Positive Phalen's sign.
 - B) Modified Phalen's test: There is some evidence that in patients with suspected carpal tunnel syndrome, a modified Phalen's test can, in comparison with the traditional Phalen's test, increase the sensitivity of the physical examination without sacrificing specificity. The test involves placing the hands of the patient in the usual flexed position for the traditional Phalen's test and applying a 2.83 unit Semmes-Weinstein monofilament perpendicular to the palmar aspect and to the lateral side of the distal phalanx of the digits innervated by the median nerve. Report as positive any test result in which the patient is unable to detect the application of the filament. The distal phalanx of the fifth digit should be used as a control.
 - C) Positive Tinel's sign over the carpal tunnel.
 - D) Positive closed fist test (holding fist closed for 60 seconds reproducing median nerve paresthesia).
 - E) Positive compression test (applying compression over the median nerve for 30 to 60 seconds reproducing symptoms).
 - F) Compression with wrist flexed at 60°, elbow flexed and forearm supinated.
 - G) Thenar atrophy may be present, usually late in the course.

- H) Weakness of the abductor pollicis brevis. Apply resistance at the first metacarpophalangeal joint.
 - I) Sensory loss to pinprick, light touch, two-point discrimination, or Semmes Weinstein monofilament tests in a median nerve distribution. No loss of sensation in the central palm. The middle finger is likely to demonstrate 2 point discrimination or Semmes Weinstein changes that correlate to positive electrodiagnostic tests.
 - J) The scratch test is interesting but appears to be less accurate than other tests.
- ii. Physicians should be aware that both NCV-diagnosed carpal tunnel syndrome and physician-diagnosed carpal tunnel syndrome fluctuate over time in both directions for individual cases.
 - iii. Evaluation of the contralateral wrist is recommended due to the frequency of bilateral involvement.
 - iv. Evaluation of the proximal upper extremity and cervical spine for other conditions is recommended: cervical radiculopathy, thoracic outlet syndrome, other peripheral neuropathies, and other musculoskeletal conditions.
 - v. Assessment for signs of underlying medical disorders associated with carpal tunnel syndrome is recommended (e.g., diabetes mellitus, arthropathy, and hypothyroidism).
 - vi. Myofascial findings requiring treatment may present in additional soft tissue areas. These should be identified and treated in accordance with medical treatment guidelines.

e. Diagnostic Testing Procedures:

- i. Diagnostic Steroid Injections: Classic findings of carpal tunnel syndrome include subjective numbness or dysesthesias confined to the median nerve distribution, worsening of symptoms at night, and positive exam findings. When the diagnosis is in question, steroid injection into the carpal tunnel is a strongly supportive test if it is followed by significant relief of symptoms. A negative diagnostic steroid injection does not eliminate the diagnosis of carpal tunnel syndrome.

- ii. Electrodiagnostic (EDX) Testing: Nerve conduction needle electromyography (EMG) and nerve conduction velocity (NCV) are well-established and widely accepted for evaluation of patients suspected of having carpal tunnel syndrome. The results are sensitive and specific for the diagnosis when clinical symptoms are present. Studies may confirm the diagnosis or direct the examiner to alternative conditions. When polyneuropathy is suspected, it may be worthwhile to perform electrodiagnostic testing in the lower extremities. Studies require clinical correlation due to the occurrence of false positive and false negative results. Symptoms of carpal tunnel syndrome may occur with normal EDX studies, especially early in the clinical course.

EDX studies are imperfect indicators of the outcome of treatment of carpal tunnel syndrome, since they may be only weakly correlated with functional scores. However, they may provide useful information when symptomatic and functional recovery after treatment has not occurred.

EDX findings in carpal tunnel syndrome reflect slowing of median motor and sensory conduction across the carpal tunnel region due to demyelination. Axonal loss, when present, is demonstrated by needle electromyography in median nerve supplied thenar muscles.

- A) Needle electromyography of a sample of muscles innervated by the C5 to T1 spinal roots, including a forearm muscle and/or thenar muscle innervated by the median nerve of the symptomatic limb, is frequently required.
- B) The following EDX studies are **not recommended** to confirm a clinical diagnosis of carpal tunnel syndrome:
- 1) Due to low sensitivity and specificity compared to other EDX studies, multiple median F wave parameters and sympathetic skin response are **not recommended**.
 - 2) Investigational studies: Evaluation of the effect on median nerve conduction with limb ischemia, dynamic hand exercises, and brief or sustained wrist positioning are **not recommended**.
 - 3) Electroneurometer: This is **not recommended** as a diagnostic tool because it requires patient participation, cannot distinguish between proximal

and distal lesions, and does not have well-validated reference values.

- 4) Portable Automated Electrodiagnostic Device: measures distal median nerve motor latency and F-wave latency. It remains an investigational instrument whose performance in a primary care setting is not yet established and is **not recommended** as a substitute for conventional electrodiagnostic testing in clinical decision making. Refer to Section E Follow-up Diagnostic Imaging and Testing Procedures for details.
- C) To assure accurate testing, temperature should be maintained at 32 to 34C, preferably recorded from the hand/digits. For temperature below 32C, the hand should be warmed.
- D) Positive Findings: Any of these nerve conduction study findings must be accompanied by median nerve symptoms to establish the diagnosis:
- 1) Slowing of median distal sensory and/or motor conduction through the carpal tunnel region.
 - 2) Electromyographic changes in the median thenar muscles in the absence of proximal abnormalities.
 - 3) Suggested guidelines for the upper limits of normal latencies:
 - a) Median distal motor latency (DML): 4.5 ms / 8 cm.
 - b) Median distal sensory peak latency (DSL): 3.6 ms / 14 cm.
 - c) Median intrapalmar peak latency (palm/wrist): 2.2 ms / 8 cm.
 - d) Median-ulnar palmar sensory latency difference: 0.4 ms at 8 cm.
 - e) Median Comparison with radial nerve sensory/mixed latency: 0.4 ms at 10 cm.

- f) Some examiners suggest comparing the sensory latencies for index and ring finger both the half distance and full distance to confirm the diagnosis.
 - g) Other comparisons may also be used.
 - 4) Because laboratories establish their own norms, a degree of variability from the suggested guideline values (as described in 3 above) is acceptable.
- E) Normative values may be provided with the neuro-diagnostic evaluation.
- F) Suggested grading scheme by electrodiagnostic criteria for writing a consultation or report may be:
 - 1) Mild carpal tunnel syndrome: prolonged (relative or absolute) median sensory or mixed action potential distal latency (orthodromic, antidromic, or palmar).
 - 2) Moderate carpal tunnel syndrome: abnormal median sensory latencies as above and prolongation (relative or absolute) of median motor distal latency.
 - 3) Severe carpal tunnel syndrome: prolonged median motor and sensory distal latencies, with either absent sensory or palmar potential, or low amplitude or absent thenar motor action potential. Needle examination reveals evidence of acute or chronic denervation with axonal loss.
- G) Frequency of Studies/Maximum Number of Studies:
 - 1) Indications for Initial Testing:
 - a) Patients with clinically significant carpal tunnel syndrome who do not improve symptomatically or functionally with conservative measures for carpal tunnel syndrome over a 3 to 4 week period.
 - b) Patients for whom the diagnosis is in question.

- c) Patients for whom surgery is contemplated.
 - d) To rule out other nerve entrapments or alternative radiculopathy.
 - 2) Repeated studies may be performed, preferably by the previous electrodiagnostician:
 - a) At 8 to 12 weeks for inadequate improvement with non-surgical treatment.
 - b) At 12 weeks or longer when the initial studies were normal and carpal tunnel syndrome is still suspected.
 - c) Post-operative 3 to 6 months for persistent or recurrent symptoms following carpal tunnel release, unless an earlier evaluation is required by the surgeon.
- iii. Laboratory Tests: In one study of carpal tunnel patients seen by specialists, 9% of patients were diagnosed with diabetes, 7% with hypothyroidism, and 15% with chronic inflammatory disease including spondyloarthropathy, arthritis, and systemic lupus erythematosus. Up to two thirds of the patients were not aware of their concurrent disease. Estimates of the prevalence of hypothyroidism in the general population vary widely, but data collected from the Colorado Thyroid Disease Prevalence Study revealed subclinical hypothyroidism in 8.5% of participants not taking thyroid medication. The prevalence of chronic joint symptoms in the Behavioral Risk Factor Surveillance System (BRFSS) from the Centers for Disease Control (CDC) was 12.3%. If initial history suggests concomitant disease or after 2 to 3 weeks the patient is not improving, the physician should strongly consider the following laboratory studies: thyroid function studies, rheumatoid screens, chemical panels, and others if clinically indicated. In one study, 14% of carpal tunnel syndrome patients were diagnosed with new onset diabetes. There is some evidence that diabetic patients with upper extremity disorders are more likely to be under poor diabetic control. Therefore, it is appropriate to order a hemoglobin A1c for any diabetic patients with a carpal tunnel syndrome or other laboratory tests to detect diabetes.

Laboratory testing for cumulative trauma conditions may be required periodically to monitor patients on chronic medications.

iv. Other Tests:

- A) Imaging, MRI, and sonography are ***not recommended*** unless a space occupying lesion is suspected.
- B) Electroneurometer and other portable automated electro-diagnostic devices are ***not recommended***. Refer to Section E Follow-up Diagnostic Imaging and Testing Procedures.
- C) Ultrasound has been shown to be useful. However, it has not surpassed the need for EMG to determine the need for surgery.

f. Non-operative Treatment Procedures:

- i. Initial Treatment: medications such as analgesics and over the counter medications for symptomatic relief, wrist splint at night, and restriction of activities based on a job site ergonomic evaluation when indicated.

There is strong evidence that, in patients with carpal tunnel syndrome which has not become chronic, carpal tunnel release leads to a moderate treatment advantage with respect to functional improvement 6 months after surgery. While there is considerable benefit from conservative treatment such as splinting and individualized hand therapy, there is insufficient evidence to identify which patients are likely not to benefit from conservative treatment sufficiently to avoid surgery.

- ii. Patient education: should include instruction in self-management techniques, including sleeping postures which avoid excessive wrist flexion; ergonomics; and a home therapy program. Episodes of recurrence are common, so patient education regarding provocative activities is essential for long term recovery.

- iii. Job site evaluations and alterations: Ergonomic alterations should be done early to assure that appropriate changes are accomplished early in the treatment program. In a 2007 published study, it was noted that 73% of mild cases referred for carpal tunnel surgery received splints, 23% steroid injections and only 15% modification in activities recommendations. This emphasizes the need for basic initial care including job site modification for all patients, especially in milder cases that may not require surgery.

There is insufficient evidence to support ergonomic positioning or keyboards as clearly beneficial for carpal tunnel syndrome.

One study of a variety of vertical and gel mouse pads did not support the use of any particular pad to decrease carpal tunnel pressure.

Whenever a case is identified as a work related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite.

Ergonomic job site evaluation and change are a required treatment for all cumulative trauma conditions as this may eliminate the need for invasive treatment.

Suggested ergonomic changes usually also apply to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.

- iv. Medications and Medical Treatment: Use of medications in the treatment of carpal tunnel syndrome is appropriate for controlling acute and chronic pain and inflammation. All drugs should be used according to patient needs. A thorough medication history, including use of alternative and over the counter medications, should be performed at the time of the initial visit and updated periodically.

There is good evidence that NSAIDs and diuretics add no benefits for symptom improvement compared to placebo at 4 weeks, and some evidence that Vitamin B6 adds no benefit on symptom improvement compared to placebo at 10-12 weeks. The American Academy of Orthopaedic Surgeons (AAOS) says there is moderate evidence against non-steroid oral medications. Although NSAIDs are not curative, they and other analgesics may provide symptomatic relief.

Oral Steroids: There is good evidence that oral steroids are more effective than placebo in improving symptoms in the short term, and there is some evidence that they are not effective in the long term (12 months). There is some evidence that 6 weeks of oral steroids are more effective than splinting in improving function but not symptoms in the short term. Given the lack of long term effects and the problematic side effects, steroids are ***not recommended***.

- v. Orthotics/Immobilization with Splinting: Splints should be loose and soft enough to maintain comfort while supporting the wrist in a

relatively neutral position. This can be accomplished using a soft or rigid splint with a metal or plastic support. Some splints include immobilization of the metacarpophalangeal joints. Splint comfort is critical and may affect compliance. Although off-the-shelf splints are usually sufficient, custom thermoplastic splints may provide a better fit for certain patients.

There is no evidence in favor of full-time use of a wrist splint compared with night-only use. There is no evidence in favor of a wrist splint in the neutral position compared to an extended wrist position of 20° in the short term (2 weeks). There is insufficient evidence to support a specific type of splint for splinting over other treatment.

There is some evidence in the short term (4 weeks) and absence of evidence in the midterm (4-6 months) that a nocturnal hand brace is more effective for reducing pain and improving function compared to no treatment. There is some evidence in the short term that a 3-month night treatment with either the soft hand brace or the wrist splint is effective in reducing symptoms and improving function, but there is no significant difference between the 2 interventions.

Splints may be effective when worn at night or during portions of the day, depending on activities. Depending on job activities, intermittent daytime splinting can also be helpful. Splint use is rarely mandatory. Providers should be aware that over-usage is counterproductive and should counsel patients to minimize daytime splint use in order avoid detrimental effects such as stiffness and dependency over time.

- ❖ Time to Produce Effect: 2 to 4 weeks. If after 4 weeks, the patient has partial improvement, continue to follow since neuropathy may worsen, even in the face of diminished symptoms.

- vi. Steroid injections: may be considered for management of mild to moderate carpal tunnel symptoms after conservative therapies have failed. There is good evidence that steroid injections have better results at 3 months than oral steroids. There is good evidence that a steroid injection produces a significant decrease in carpal tunnel symptoms for up to 10 weeks, with outcomes comparable to surgery. Another study showed some evidence of significant improvement in symptom scores at 6 weeks in both injection and surgery. However, by 20 weeks, there was a diminishing of the response to injection while the surgery group had a persistent improvement in symptoms. It should be noted that while the symptoms worsened over time in the

injection group, there was still an increase in grip strength at 4 months of 2.4kg whereas the surgery group had a decrease of 1.7kg. There is also good evidence showing that improvement in symptoms after steroid injection begins to decrease over time and by 1 year, 73-81% of those patients receiving steroids require surgical intervention due to relapsing symptoms. An additional study demonstrated some evidence that only 51% percent of patients with mild to moderate carpal tunnel symptoms responded to steroid injections with a significant response, and of those that responded, 49% required additional injections and/or surgery by 1 year.

There is good evidence that in patients with carpal tunnel syndrome who have not improved after 2 months of splinting, an injection of 80 mg of methylprednisolone and of 40 mg of methylprednisolone are equally likely to lead to short-term 5-week improvements in carpal tunnel symptoms compared to placebo. However, the success of methylprednisolone in avoiding surgery in carpal tunnel syndrome patients is modest. Although approximately 92% of placebo-injected patients are likely to require carpal tunnel release within one year, about three quarters of patients who have a methylprednisolone injection are also likely to have surgery. However, this modest difference in rates of surgery may prevent a large number of carpal tunnel release operations if steroid injections are offered to a large population of carpal tunnel syndrome patients who continue to have symptoms after a 2 month trial of splinting.

There is some evidence that 60mg methylprednisone injection is more effective than 20 or 40mg methylprednisone at 6 months but not at one year. There is some evidence that there is no significant difference between a single corticosteroid injection of 15mg methylprednisolone compared with 2 local corticosteroid injections regarding symptom improvement at 8, 24, and 40 weeks after injection.

When approaching the decision to consider steroid injection in a patient with mild to moderate carpal tunnel syndrome, it is important to consider the trend of a good initial therapeutic response followed by a diminishing response after 3 months and high rates of relapse by 1 year. Underlying medical conditions and potential ergonomic risk factors for carpal tunnel syndrome should be considered and addressed, if possible. In the case of an identified modifiable condition, a steroid injection may provide a less invasive short-term response to manage symptoms. Shared decision making with the patient should be had regarding the high risk of relapse and the potential lack of response after steroid injection. If a steroid injection is

performed and symptoms recur following the first injection symptomatic relief, the decision to perform a second injection must be weighed against alternative treatments such as surgery.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4.c Steroid Injections for further details.

- ❖ Time to Produce Effect: 1 to 2 injections. If the first injection is unsuccessful and symptoms continue, the second injection should be performed by a specialist with expertise in the anatomy of the upper extremity.
- ❖ Maximum Frequency: 3 injections.

- vii. Nerve Gliding: Exercises consist of range of motion of the upper extremity and neck that produce tension and longitudinal movement along the length of the median and other nerves of the upper extremity.

These exercises are based on the principle that the tissues of the peripheral nervous system are designed for movement and that tension and glide (excursion) of nerves may have an effect on neurophysiology through alterations in vascular and axoplasmic flow. The exercises are simple to perform and can be done by the patient after brief instruction. Biomechanical principles have been more thoroughly studied than clinical outcomes.

There is no evidence in favor of the addition of tendon and nerve gliding exercises to 4 weeks of night splinting compared to splinting alone.

There is good evidence that neuro-dynamic technique plus splinting add no benefit to reduce pain or improve function compared to splinting alone after 3 weeks.

Due to lack of quality evidence, use of mobilization and exercise should be based on patient preference and provider expertise.

- ❖ Time to Produce Effect: 2 to 4 weeks.
- ❖ Frequency: Up to 5 times per day by patient (patient-initiated).

❖ Optimum Duration: 2 provider-directed sessions.

❖ Maximum Duration: 3 provider-directed sessions.

- viii. Manual Therapy Techniques: There is good evidence that manual and manipulative therapy combined with exercise and/or multimodal therapy shows small, clinically important reductions in pain and improved physical function in the short-term care (≤ 3 -6 months) of patients with lateral epicondylitis and carpal tunnel syndrome.

There is some evidence from a high quality randomized controlled trial that an initial treatment approach for carpal tunnel syndrome involving physical manual therapy directed at the entire course of the median nerve from the scalene muscles to the wrist, in combination with nerve and tendon gliding exercises, is as successful as carpal tunnel release at 6 months and at 1 year. The physical manual therapy combined with nerve and tendon gliding exercises may show advantages over surgery at 1 and 3 months. However, there was incomplete analysis of patient data.

There is good evidence that soft tissue mobilization plus home exercises is effective in reducing pain and improving function at 6 months.

Use of mobilization and exercise should be based on patient preference and provider expertise.

❖ Time to Produce Effect: 4 to 6 weeks.

❖ Frequency: 1 to 3 times per week.

❖ Optimum Duration: 4 to 6 weeks.

❖ Maximum Duration: 8 weeks.

- ix. Ultrasound: There is some evidence that ultrasound is no more effective than placebo at 2 weeks of follow-up regarding pain, symptoms, and function. However, there is some evidence that ultrasound is more effective in improving symptoms only, not function, compared to placebo at 7 weeks of follow-up and in the midterm (4-6 months). There is some evidence that there is no significant difference between an ultrasound intensity of $1.5\text{W}/\text{cm}^2$ compared with $0.8\text{W}/\text{cm}^2$ regarding pain and symptom improvement after 2 weeks. There is some evidence that ultrasound is more effective on pain and function than low level laser therapy at 4 weeks; however, low level

laser is ineffective. There is some evidence that there is no beneficial effectiveness of pulsed or continuous ultrasound combined with splint therapy compared to sham ultrasound and splint therapy in reducing pain and symptoms and improving functionality for treating patients with mild or moderate idiopathic carpal tunnel syndrome. This study is inconclusive in its ability to find an effect due to only 70% power and a small sample size.

Another systematic review found insufficient evidence to support ultrasound therapy.

There is some evidence that ultrasound therapy plus splinting is no more effective than placebo ultrasound plus splinting in reducing pain and symptoms and improving functionality in the conservative treatment of patients with carpal tunnel syndrome.

Therefore, ultrasound without phonophoresis is ***not recommended***.

- x. Low Level Laser Therapy (LLLT): There is some evidence that LLLT adds no short term benefit for reducing symptoms and improving function compared to full-time splinting for 3 months. There is good evidence that laser therapy is ineffective regarding pain and function compared with placebo as an intervention to treat carpal tunnel syndrome in the short term. This is some evidence that LLLT is no more effective than placebo LLLT in reducing pain and symptoms and improving functionality in the conservative treatment of patients affected by carpal tunnel syndrome. There is some evidence that LLLT plus splinting is no more effective than splinting alone in reducing carpal tunnel symptoms and improving functionality in the conservative treatment of patients affected by carpal tunnel syndrome. There is good evidence from a number of adequate studies that LLLT does not add benefit and it is ***not recommended***.
- xi. Yoga: There is some evidence that yoga is equally as effective in reducing pain and improving grip strength as wrist splinting in the short term. There is some evidence that Hatha yoga instruction may reduce pain and improve grip strength as effectively as splinting. However, the evidence was inadequate to show superiority over splinting. This, as is the case with other complementary/alternative exercise, should be done with oversight of a physician or other appropriate healthcare professional for motivated patients preferring this treatment.

❖ Time to Produce Effect: 2 to 6 treatments.

- ❖ Frequency: 2 times per week.
 - ❖ Optimum and Maximum Duration: 4 to 8 weeks.
- xii. Iontophoresis: may be an appropriate option for patients refusing or wishing to delay surgery and injections. There is no evidence in favor of dexamethasone iontophoresis on symptom improvement compared to a placebo control group at 3 and 6 months. Under current FDA regulations, the physician will issue a prescription to the patient for the dexamethasone for this treatment and the patient will usually need to transport the medication to the treatment location.
- ❖ Optimum and Maximum Frequency: 6 to 9 sessions over 5 weeks.
- xiii. Acupuncture and Magnets: There is no evidence for the use of magnets, laser acupuncture, or chiropractic treatment. Therefore, these interventions are **not recommended**.
- There is some evidence that laser acupuncture adds no benefits to night pain improvement compared to placebo at 3 weeks. There is some evidence that there are no differences between needle acupuncture combined with a wrist brace and placebo needle acupuncture combined with a wrist brace. Neither treatment is clinically effective in improving function in patients with mild or moderate carpal tunnel syndrome. Therefore, it is **not recommended**.
- xiv. There is no evidence in favor of massage therapy, heat wrap therapy, and cupping therapy for the treatment of carpal tunnel syndrome in the short term.
- xv. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- xvi. Other therapies in Section H Therapeutic Procedures – Non-Operative may be used for myofascial symptoms accompanying carpal tunnel syndrome.

- g. Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

There is strong evidence that in patients with carpal tunnel syndrome which has not become chronic, carpal tunnel release leads to a moderate treatment advantage with respect to functional improvement 6 months after surgery. However, there is considerable benefit to conservative treatment such as worksite ergonomic changes, splinting, and individualized hand therapy, which are appropriate for first-line treatment. There is insufficient evidence to identify which patients are likely not to benefit from conservative treatment sufficiently to avoid surgery.

For patients with clinically typical carpal tunnel symptoms of median nerve distribution numbness, with or without pain, which awakens the patient at night and is alleviated by shaking the hand: there is some evidence that the symptom and function outcomes of mini-open carpal tunnel release are similar at 6 months for patients who do and do not undergo preoperative nerve conduction studies. However, the study excluded patients with atypical symptoms or unusual courses of disease, recurrent syndrome, diabetic neuropathy, and cervical radiculopathy.

Overall, it is probably reasonable to expect that 40 to 50% of patients with mild exam findings may improve or remain stable overtime.

There is strong evidence that surgery is more effective than splinting or injections in producing long-term symptom relief and normalization of median nerve conduction velocity for those patients with clinically significant carpal tunnel syndrome with positive nerve conduction velocity findings. There is also a positive cost utility for surgery over conservative care for patients with positive nerve conduction studies. There is good evidence that surgery improves symptoms more effectively than steroid injection for up to five months.

In one prospective study, duration of symptoms prior to surgery, up to 5 years, did not affect the ability to achieve symptom or functional outcome success with surgery. Patients with more severe symptoms and longer duration of symptoms showed significant improvement with surgery. Patients with thenar atrophy, weakness of the abductor pollicis brevis, and fixed sensory deficits may still improve with surgery. Patients with mild symptoms and functional deficits demonstrated the smallest changes from pre- to post-operative scores. However, their post-operative scores were higher than the post-operative scores of those with more severe symptoms.

- i. Surgery should be considered as an initial therapy in situations where clinical evidence of carpal tunnel syndrome is present based on the criteria below.
 - A) Median nerve trauma has occurred; “acute carpal tunnel syndrome;” or
 - B) Thenar atrophy is present and due to median nerve compression; or
 - C) Electrodiagnostic evidence of moderate to severe entrapment or compression neuropathy is present. EMG findings showing evidence of acute or chronic motor denervation suggest the possibility that irreversible damage may be occurring. There is good evidence that surgery is more beneficial than non-surgical treatment for patients with a motor latency of more than 4.5 ms.
- ii. For cases with positive EDX findings, non-surgical treatment may be beneficial in some cases. Therefore, conservative management, including job alterations, should be tried over 4 to 6 weeks before surgery is considered. One prospective cohort study notes that negative electrodiagnostic testing decreases the likelihood of surgery by 11%. At least one study suggests that patients with more severe symptoms who fail one course of conservative therapy should progress to surgery.
- iii. Surgery may be considered in cases where electro diagnostic testing is normal and initial non-operative therapy has failed. A second opinion from a hand surgeon is strongly recommended. The following criteria should be considered in deciding whether to proceed with surgery:
 - A) The patient's signs and symptoms are specific for carpal tunnel syndrome;
 - AND
 - B) The patient experiences significant temporary relief of at least 80% improvement on a Visual Analog Scale following steroid injection into the carpal tunnel.
- iv. Prior to surgical intervention, the patient and the treating physician should identify functional operative goals, the likelihood of achieving improved ability to perform activities of daily living or work, and

possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

- v. Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.
- vi. Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

h. Operative Procedures:

- i. Open and endoscopic carpal tunnel release techniques: There is some evidence that, in patients with carpal tunnel syndrome requiring surgery, endoscopic carpal tunnel release (ECTR) leads to earlier recovery of grip strength and earlier return to work than open carpal tunnel release (OCTR). There is good evidence that ECTR and OCTR are nearly equivalent with respect to short-term and long-term pain, numbness, and patient-reported general hand function. Choice of technique should be left to the discretion of the surgeon.
- ii. Complications: Endoscopic and open carpal tunnel releases have low rates of serious complications, reportedly up to 0.5%. However, some studies have reported higher rates of complex regional pain syndrome after surgery unrelated to the anesthetic technique. The most commonly seen serious complications are incomplete transection of the transverse carpal ligament and inadvertent nerve or vessel

injuries. Serious complications are rare and include permanent nerve damage and infection. Pillar pain may persist for 20 months; a burning sensation and scar tenderness are also common in up to 18% of cases. Reoccurrence is possible, although reoperation usually occurs in less than 5% of the population.

- iii. There is some evidence that, in patients undergoing endoscopic carpal tunnel release, local anesthesia controls intraoperative pain as effectively as intravenous regional anesthesia, and local anesthesia may be simpler and less invasive to perform, with shorter tourniquet inflation and operating room times than intravenous regional anesthesia.
- iv. Neurolysis: has not been proven advantageous for carpal tunnel syndrome. Internal neurolysis should never be done.
- v. Tenosynovectomy: For routine cases of carpal tunnel syndrome, tenosynovectomy has not proven to be beneficial. Although achy pain in the wrist and forearm commonly may accompany carpal tunnel syndrome, paresthesias tends to be the predominant complaint. In occasional cases, pain may be the predominant complaint. If a patient with documented carpal tunnel syndrome experiences pain along the volar wrist, hand, and/or distal forearm as the predominant symptom, clearly overshadowing the paresthesias, there may be a significant component of tenosynovitis. Tenosynovectomy should be considered in these unusual cases at the time of carpal tunnel release.

i. **Post-operative Treatment:**

- i. Patients should receive a home therapy protocol involving stretching, range of motion, scar management, and resistive exercises. Patients should be encouraged to use the hand as much as possible for daily activities, allowing pain to guide their activities.
- ii. There is some evidence that immediate mobilization of the wrist following surgery is associated with less scar pain and faster return to work. There is some evidence that removal of a bulky dressing after mini-open Carpal Tunnel Release and replacement with an adhesive strip at 48 to 72 hours causes no wound complications and results in equal short-term (2-week) clinical and subjective outcome measures compared with using a bulky dressing for 2 weeks. Final decisions regarding the need for splinting post-operatively should be left to the discretion of the treating physician based upon the surgical technique used and the specific conditions of the patient.

- iii. An individualized rehabilitation program may be helpful in patients who do not show functional improvements post-operatively or in patients with heavy or repetitive job activities. There is good evidence that routine use of hand therapy after surgery does not improve pain, function, or return to work in carpal tunnel syndrome uncomplicated by endocrine disease, arthritis, or advanced median nerve disease. However, workers' compensation patients may have slower return to work and therefore at least 2 visits with the therapist are recommended to insure appropriate scar management and return to function.

There is insufficient evidence to formulate a post-operative care plan.

The rehabilitation program should be based upon communication between the surgeon and the therapist and using therapies as outlined in Section H Therapeutic Procedures – Non-Operative. In all cases, communication between the physician and therapist is important to the timing of exercise progressions.

- iv. Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

Suggested parameters for return-to-work are:

Time Frame	Activity Level
2 days	Return to work with restrictions on utilizing the affected extremity
2 to 3 weeks	Sedentary and non-repetitive work
4 to 6 weeks	Case-by-case basis
6 to 12 weeks	Heavy labor, forceful and repetitive

Note: All return-to-work decisions are based upon clinical outcome.

- v. Considerations for repeat surgery: The single most important factor in predicting symptomatic improvement following carpal tunnel release is the severity of preoperative neuropathy. Patients with moderate electro diagnostic abnormalities have better results than those with either very severe and/or mild findings. Incomplete cutting of the

transverse carpal ligament or iatrogenic injury to the median nerve are rare.

Relief from steroid injections may provide additional confirmation. If median nerve symptoms do not improve following initial surgery or the symptoms improve initially and then recur but are unresponsive to non-operative therapy (Section H Therapeutic Procedures – Non-Operative), consider the following:

- A) Recurrent synovitis;
- B) Repetitive work activities may be causing “dynamic” carpal tunnel syndrome;
- C) Scarring;
- D) Work-up for systemic diseases.

A second opinion by a hand surgeon and repeat nerve conduction studies are required if repeat surgery is contemplated. The decision to undertake repeat surgery must factor in all of the above possibilities. Results of surgery for recurrent carpal tunnel syndrome vary widely depending on the etiology of recurrent symptoms.

2. CUBITAL TUNNEL SYNDROME

- a. **Description/Definition:** The following are typical symptoms of cubital tunnel syndrome:
 - i. Activity related pain/paresthesias involving the 4th and 5th fingers coupled with discomfort near the medial aspect of the elbow;
 - ii. Pain/paresthesias worse at night;
 - iii. Decreased sensation of the 5th finger and ulnar half of the ring finger (including dorsum 5th finger);
 - iv. Progressive inability to separate fingers;
 - v. Loss of power grip and dexterity.

- b. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.
- c. **Specific Physical Exam Findings:** Required elements for the diagnosis include paresthesias or dull ache in the 4th and 5th digits and at least one of the following exam findings:
- i. Diminished sensation of the fifth and ulnar half of the ring fingers, which may sometimes include sensory loss to pinprick, light touch, two-point discrimination or Semmes Weinstein monofilament tests in an ulnar nerve distribution;
 - ii. Positive elbow flexion/ulnar compression test. The combination flexion pressure test can be performed by fully flexing the elbow in supination and applying pressure to the ulnar nerve proximal to the cubital tunnel for 60 seconds. Reproduction of symptoms is a positive test;
 - iii. Testing elbow maximum flexion at 1 and 3 minutes also appears to have reasonable sensitivity and specificity;
 - iv. Later stages manifested by intrinsic atrophy or weakness and ulnar innervated intrinsic weakness. Specific physical signs include clawing of the ulnar 2 digits, ulnar drift of the 5th finger (Wartenberg's sign), or flexion at the thumb interphalangeal (IP) joint during pinch (Froment's sign).

d. **Diagnostic Testing Procedures:**

MRI: Imaging is generally not indicated but may be useful when space occupying lesions are suspected.

EDX: Electrodiagnostic (EDX) studies are well-established and widely accepted for evaluation of patients suspected of having peripheral nerve pathology. Studies may confirm the diagnosis or direct the examiner to alternative disorders. When polyneuropathy is suspected, it may be worthwhile to perform electrodiagnostic testing in the lower extremities. Studies require clinical correlation due to the occurrence of false positive and false negative results. Symptoms of peripheral nerve pathology may occur with normal EDX studies, especially early in the clinical course.

To assure accurate testing, temperature should be maintained at 32 to 34 degrees C, preferably recorded from the hand/digits. For temperature below 32 degrees C, the hand should be warmed.

All studies must include normative values for their laboratories. Studies of both upper extremities may be done for comparison.

During the study, the elbow should be maintained in moderate flexion, usually 70-90 degrees. Two positive findings in this position constitute a positive test. The following criteria are used:

- i. Absolute motor nerve conduction velocity from above elbow to below elbow less than 50 ms.
- ii. Above to below elbow segment more than 10 ms slower than the below elbow to wrist segment.
- iii. Decrease in compound muscle action potential (CMAP) negative peak amplitude from below the elbow to above the elbow of 20%.
- iv. Significant change in CMAP configuration at the above elbow site compared to below elbow.
- v. Desynchronization of the motor action potential after stimulation proximal, but not distal, to the ulnar groove.
- vi. Focal slowing on inching studies across the elbow; latency exceeding 0.7 milliseconds across 2 inches.
- vii. Indications for testing:
 - A) Initial testing:
 - 1) Patients with clinically significant cubital tunnel findings who do not improve symptomatically or functionally with conservative measures, including job site alteration over a 3 to 4 week period.
 - 2) Patients for whom the diagnosis is in question.
 - 3) Patients for whom surgery is contemplated.
 - 4) To rule out other nerve entrapments, or alternative radiculopathy, including C8 or brachial plexopathy.
 - B) Other studies may be performed:
 - 1) At 3 months or longer when the initial studies were normal and cubital tunnel syndrome is still suspected.

- 2) At 8 to 12 weeks for inadequate improvement with non-surgical treatment.
- 3) Post-operative 3 to 6 months for persistent or recurrent symptoms following ulnar nerve surgery, unless an earlier evaluation is required by the surgeon.

e. **Non-operative Treatment Procedures:**

- i. Initial Treatment: Medications such as analgesics and over the counter medications for symptomatic relief; elbow pad anteriorly at 30 to 60 degrees or towel around elbow at night, optional posterior pad for daywear, and restriction of activities.
- ii. Patient education: should include instruction in self-management techniques including avoidance of excessive or repetitive elbow flexion, ergonomics, and a home therapy program. There is some evidence that a trial of conservative treatment for cubital tunnel syndrome is as effective as a treatment program involving nocturnal bracing and a program involving gliding exercises. However, this conservative treatment should educate the patient on nerve anatomy, causes of symptoms, and appropriate elbow movements. Recurrence is common, so patient education regarding provocative activities is essential for long term recovery.
- iii. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program. It is important to avoid activities that apply mechanical pressure to the elbow or cause repetitive flexion.
- iv. Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Workers should avoid repetitive full flexion or extension or posterior pressure on the elbow. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.
- v. Steroid injections are ***not recommended*** due to the lack of evidence and difficulty entering the correct area without causing damage.

- vi. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- vii. Other therapies in Section H Therapeutic Procedures – Non-Operative may be employed in individual cases.

f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

Surgery may be considered when 1) findings on history and objective evidence correlate specifically with the diagnosis; 2) job site alteration and other conservative measures have not alleviated the symptoms; and 3) functional deficits persist after 6 to 8 weeks.

Subjective complaints should be localized and appropriate to the diagnosis, neurologic complaints should be consistent with the nerve distribution in question, and physical exam findings should correlate with the history. Objective evidence should be present and include: positive physical exam findings as described in Section G.2.c or a motor deficit commensurate with the suspected neurologic lesion. In general, patients with minimal symptoms or without objective findings of weakness tend to respond better to conservative treatment.

Surgery may be considered as an initial therapy in situations where there is clinical and electrodiagnostic evidence of severe or progressive neuropathy.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals, the likelihood of achieving improved ability to perform activities of daily living or work, and possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

A second opinion by a hand surgeon and repeat nerve conduction studies are required if repeat surgery is contemplated.

- g. Operative Procedures:** simple decompression or transposition with or without, medial epicondylectomy, anterior subcutaneous transfer, and submuscular or intramuscular transfer. There is good evidence that simple decompression and anterior transposition lead to equally good functional outcomes. There is good evidence that the complication rate in terms of post-operative infection is considerably higher with anterior transposition than with simple decompression, for which the infection rate is approximately two thirds lower. Transposition is a more complicated procedure requiring greater operative experience. Simple decompression appears to be cost effective and may be a preferable procedure.

Simple decompression appears to be effective even in patients with more severe disease, and it has fewer complications. There may be a subset of patients not yet identified by the current literature who would benefit more from a transposition. The complications and complexity of these procedures varies. Patients should understand the risks of each procedure, expected recovery, and need for follow-up therapy before consenting to the procedure.

- h. Post-operative Treatment:** an individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-Operative. In all cases, communication between the physician and therapist is important to the timing of exercise progressions. Treatment may include the following: splinting, scar management, nerve gliding, and active therapy with or without passive therapy. Early active motion is appropriate for most patients. Work restrictions vary based on the procedure from approximately 2 – 6 weeks.

Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

3. **GUYON CANAL (TUNNEL) SYNDROME**

- a. **Description/Definition:** Typical symptoms/findings are (1) paresthesias in the ulnar nerve distribution (ring and small fingers) distal to the wrist, and/or (2) weakness in digital adductors, abductors or lumbricals, without proximal ulnar complaints.
- b. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections. Occupational and non-occupational causes frequently result from mechanical pressure on the wrist or palm, e.g., cycling, vibratory tools.
- c. **Specific Physical Exam Findings:** Required elements for the diagnosis must include at least one of the following exam findings:
 - i. Positive Tinel's at hook of hamate.
 - ii. Numbness or paresthesias of the palmar surface of the ring and small fingers without proximal ulnar complaints.
 - iii. Later stages or types may affect ulnar innervated intrinsic muscle strength.

There are five types of the Guyon Canal Syndrome based on the anatomic area of compression and neurological signs. Testing should include strength of the adductor pollicis, abductor digiti minimi, and lumbricals. Testing the ability of the long finger to cross the index finger is useful.

- d. **Diagnostic Testing Procedures:** Nerve conduction velocity studies of both sides for comparison to normal side. EMGs may be needed to rule out radiculopathy or more proximal ulnar nerve compression. When polyneuropathy is suspected, it may be worthwhile to perform electrodiagnostic testing in the lower extremities. Several sites of ulnar nerve entrapment at the wrist may be documented with electrodiagnostic testing.

MRI or ultrasound may be used to rule out space occupying lesions.

Diagnostic injections may be done to confirm the diagnosis.

e. **Non-operative Treatment Procedures:**

- i. Initial Treatment: medications such as analgesics and over the counter medications for symptomatic relief, wrist bracing, splints, restriction of activities and ergonomic changes. For those with mild symptoms lasting less than 3 months, a neutral wrist splint not immobilizing fingers may be tried.
- ii. Patient education: should include instruction in self-management techniques, ergonomics, and a home therapy program. The provider should thoroughly discuss activities that may cause mechanical compression with the patient. Recurrence is common, so patient education regarding provocative activities is essential for long term recovery.
- iii. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.

Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.

- iv. Steroid injections: may decrease inflammation and allow the therapist to progress with rehabilitation therapy, although the Guyon's canal is narrow. Steroid injections under significant pressure should be avoided as the needle may be penetrating the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture.

❖ Time to Produce Effect: 1 injection.

❖ Maximum Frequency: 3 injections in 1 year spaced at least 4 to 8 weeks apart.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4 Injections for further details.

- v. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work for further details.
- vi. Other therapies in Section H Therapeutic Procedures – Non-Operative may be employed in individual cases.

- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

Surgery may be considered when: 1) findings on history and objective evidence correlate specifically with the diagnosis; 2) job site alteration and other conservative measures have not alleviated the symptoms; and 3) functional deficits persist after 6 to 8 weeks. Subjective complaints should be localized and appropriate to the diagnosis, neurologic complaints should be consistent with the nerve distribution in question, and physical exam findings should correlate with the history. Objective evidence should be present and includes: positive physical exam findings as described in Section G.3.c; positive electrodiagnostic (EDX) studies, diagnostic peripheral nerve block which eradicates the majority of the patient's symptoms, or a motor deficit commensurate with the suspected neurologic lesion.

Surgery may be considered as an initial therapy in situations where there is clinical and electrodiagnostic evidence of severe or progressive neuropathy.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals, the likelihood of achieving improved ability to perform activities of daily living or work, and possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a

specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

- g. Operative Procedures:** ulnar nerve decompression at the wrist (ulnar tunnel release or Guyon's Canal release). Complications may occur and include infection, injury to the nerve, and deformity at the operative site.
- h. Post-operative Treatment:** an individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-Operative. In all cases, communication between the physician and therapist is important to the timing of exercise progressions. Treatment may include the following: bracing, scar management, edema control, ergonomic advice to prevent mechanical loading of the nerve, and active therapy with or without passive therapy. Splinting is usually not necessary unless protection from mechanical stress is needed or for severe pain.

Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

4. POSTERIOR INTEROSSEOUS NERVE ENTRAPMENT (PIN)

- a. Description/Definition:** weakness of finger and thumb extension. Complaints of pain can be present. Symptoms are similar to radial tunnel syndrome.
- b. Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.

- c. **Specific Physical Exam Findings:** Required exam findings include weakness or inability to extend fingers or thumb with wrist in neutral or ulnar deviation. Usually can extend wrist in radial deviation. Weakness of thumb abduction usually occurs. If paresthesias in the radial nerve distribution or significant weakness of the wrist, suspect other diagnoses. Testing the ability of the long finger to cross the index finger is useful.
- d. **Diagnostic Testing Procedures:** nerve conduction velocity studies of both sides for comparison to normal side. EMGs may be needed to rule out radiculopathy. When polyneuropathy is suspected, it may be worthwhile to perform electrodiagnostic testing in the lower extremities. Diagnostic injections may be useful.

MRI can be done if space occupying lesions are suspected.

- e. **Non-operative Treatment Procedures:**
 - i. Initial Treatment: medications such as analgesics and over the counter medications for symptomatic relief, splints, restriction of activities, ergonomic changes, stretching and exercise.
 - ii. Patient education: should include instruction in self-management techniques, ergonomics, and a home therapy program. Recurrence is common, so patient education regarding provocative activities is essential for long term recovery.
 - iii. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.
 - iv. Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.
 - v. Steroid injections: may decrease inflammation and allow the therapist to progress with rehabilitation therapy. Steroid injections under significant pressure should be avoided as the needle may be penetrating the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture.

- ❖ Time to Produce Effect: 1 injection.
- ❖ Maximum Frequency: 3 injections in 1 year spaced at least 4 to 8 weeks apart

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4.c Steroid Injections for further details.

- vi. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- vii. Other therapies in Section H Therapeutic Procedures – Non-Operative may be employed in individual cases.

- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

Surgery may be considered when 1) findings on history and objective evidence correlate specifically with the diagnosis; 2) job site alteration and other conservative measures have not alleviated the symptoms; and 3) functional deficits persist after 8 to 10 weeks. Subjective complaints should be localized and appropriate to the diagnosis, neurologic complaints should be consistent with the nerve distribution in question, and physical exam findings of weakness should correlate with the history. Objective evidence should be present and may include: positive physical exam findings as described in section 6.c; positive electrodiagnostic (EDX) studies; or a motor deficit commensurate with the suspected neurologic lesion.

Surgery may be considered as an initial therapy in situations where there is clinical and electrodiagnostic evidence of severe or progressive neuropathy.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work, as well as possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

- g. Operative Procedures:** nerve decompression.
- h. Post-operative Treatment:** An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-Operative. In all cases, communication between the physician and therapist is important to the timing of exercise progressions. Treatment may include the following: bracing, scar management and active therapy with or without passive therapy.

Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

5. **PRONATOR SYNDROME**

- a. **Description/Definition:** pain/paresthesias in median nerve distribution distal to elbow.
- b. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.
- c. **Specific Physical Exam Findings:** Required elements for the diagnosis include paresthesias in the median nerve distribution and at least one of the following related exam findings:
 - i. Tingling in median nerve distribution on resisted pronation with elbow flexed at 90 degrees or elbow extended. When symptoms are reproduced with resisted elbow flexion in supination, the lacertus fibrosis may be responsible. The flexor digitorum superficialis may be responsible if symptoms are reproduced with resisted flexion of the proximal interphalangeal joint of the long finger.
 - ii. Positive Tinel's at the proximal edge of the pronator teres muscle over the median nerve.

There may be sensation loss over the palm and over the thenar eminence which is not present with carpal tunnel syndrome.
- d. **Diagnostic Testing Procedures:** X-rays of the elbow may be useful to rule out other conditions. Nerve conduction velocity tests of both extremities for comparison to normal; however, findings are frequently negative. EMG should always be included to test median nerve innervated muscles below and above the wrist to rule out carpal tunnel syndrome. When polyneuropathy is suspected, it may be worthwhile to perform electrodiagnostic testing in the lower extremities.
- e. **Non-operative Treatment Procedures:**
 - i. Initial Treatment: medications such as analgesics and over the counter medications for symptomatic relief; posterior elbow splint, wrist splint, and restriction of activities such as forceful gripping, and repetitive elbow flexion or forearm pronation.
 - ii. Patient education: should include instruction in self-management techniques, ergonomics, and a home therapy program. Recurrence is common so patient education regarding provocative activities is essential for long term recovery.

- iii. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.
- iv. Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.
- v. Steroid injections: may decrease inflammation and allow the therapist to progress with rehabilitation therapy. Ultrasound guidance may be useful. Steroid injections under significant pressure should be avoided because the needle may penetrate the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture.

❖ Time to Produce Effect: 1 injection.

❖ Maximum Frequency: 3 injections in 1 year spaced at least 4 to 8 weeks apart.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4.c Steroid Injections for further details.

- vi. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- vii. Other therapies in Section H Therapeutic Procedures – Non-Operative may be employed in individual cases.

- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

Most patients with this condition recover with conservative therapy. Surgery may be considered when: 1) findings on history and objective evidence

correlate specifically with the diagnosis; and 2) job site alteration and other conservative measures have not alleviated the symptoms; and 3) functional deficits persist after 8 to 10 weeks. Subjective complaints should be localized and appropriate to the diagnosis, neurologic complaints should be consistent with the nerve distribution in question, and physical exam findings should correlate with the history. Objective evidence should be present and includes: positive physical exam findings as described in Section G.4.c; positive electrodiagnostic (EDX) studies; or a diagnostic peripheral nerve block which eradicates the majority of the patient's symptoms. Surgery may be considered as an initial therapy in situations where there is clinical and electrodiagnostic evidence of severe or progressive neuropathy.

When no objective evidence is present and the patient continues to have signs and symptoms consistent with the diagnosis after 6 months of conservative treatment including a psychological evaluation, a second opinion should be obtained before operative treatment is considered.

Electrodiagnostic (EDX) studies may show delayed median nerve conduction in the forearm. If nerve conduction velocity is normal with suggestive clinical findings, the study may be repeated after a 3 to 6 month period of continued conservative treatment. If the study is still normal, the decision on treatment is made based on the consistency of clinical findings and the factors noted above.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work, as well as possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with

laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

- g. **Operative Procedures:** median nerve decompression in the forearm (pronator teres or flexor digitorum superficialis release).
- h. **Post-operative Treatment:** An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-Operative. Some motion is usually allowed 1 week after surgery. In all cases, communication between the physician and therapist is important to the timing of exercise progressions. Treatment may include the following: bracing, scar management, and active therapy with or without passive therapy.

Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

6. **RADIAL TUNNEL SYNDROME**

- a. **Description/Definition:** pain over the lateral posterior forearm. May occur in conjunction with and must be distinguished from lateral epicondylitis. Often includes paresthesias over the dorsal radial hand and wrist. Symptoms are similar to posterior interosseous nerve entrapment.
- b. **Occupational Relationship:** Refer to Section D.3 Medical Causation Assessment for Cumulative Trauma Conditions. To perform a proper causation assessment, the reader must comply with all sections.
- c. **Specific Physical Exam Findings:** The following two elements are required for the clinical diagnosis:
 - i. Tenderness over the radial nerve near the proximal edge of the supinator muscle. This may be tested by applying pressure along the radial nerve at points corresponding to the diameter of a half dollar beginning just distal to the elbow. At the third pressure point, no symptoms should be reproducible. There may be subtle weakness of finger extension but weakness of wrist extension suggests nerve compression proximal to the radial tunnel as do sensation changes.

- ii. Resisted supination or resisted middle finger extension with the forearm pronated and extended reproduces symptoms.

- d. **Diagnostic Testing Procedures:** nerve conduction velocity studies of both sides for comparison to normal side. EMGs may be needed to rule out radiculopathy. When polyneuropathy is suspected, it may be worthwhile to perform electrodiagnostic testing in the lower extremities. Electrodiagnostic (EDX) studies are helpful when positive. However, negative studies do not exclude the diagnosis.

MRI or ultrasound may be done if space occupying lesions are suspected.

X-rays may be normal or demonstrate spur formation over the involved epicondyle.

Diagnostic lidocaine injections may be used to confirm the diagnosis if surgery is being considered, as EMGs are frequently normal in this condition.

- e. **Non-operative Treatment Procedures:**

- i. Initial Treatment: medications such as analgesics and over the counter medications for symptomatic relief; restriction of activities and ergonomic changes. Most cases should respond to conservative treatment.
- ii. Patient education: should include instruction in self-management techniques, ergonomics, and a home therapy program. Recurrence is common, so patient education regarding provocative activities is essential for long term recovery.
- iii. Job site evaluations and alterations: Ergonomic alterations should be done early to assure the appropriate changes are accomplished early in the treatment program.

Whenever a case is identified as a work-related cumulative trauma condition, job alterations are an expected treatment. These may be in the form of: 1) instructing the worker how specific duties might be performed to meet ergonomic standards; 2) actual job worksite or duty changes; and/or 3) a formal job site evaluation at the worksite. Employers should consider applying the ergonomic changes to uninjured workers in the same job position. Refer to Section E.6.c Job Site Evaluations and Section H.6 Job Site Alteration.

- iv. Steroid injections: may decrease inflammation and allow the therapist to progress with rehabilitation therapy. Steroid injections under

significant pressure should be avoided as the needle may be penetrating the tendon and injection into the tendon can cause tendon breakdown, tendon degeneration, or rupture.

- ❖ Time to Produce Effect: 1 injection.
- ❖ Maximum Frequency: 3 injections in 1 year spaced at least 4 to 8 weeks apart.

Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose levels at least daily for 2 weeks after injections. Refer to Section H.4.c Steroid Injections for further details.

- v. Return to work with appropriate restrictions should be considered early in the course of treatment. Refer to Section H.11 Return-to-Work.
- vi. Other therapies in Section H Therapeutic Procedures – Non-Operative may be employed in individual cases.

- f. **Surgical Indications/Considerations:** Since cumulative trauma conditions often involve several areas in an upper extremity, surgical treatment of one problem should be performed in conjunction with conservative treatment of other problems in the upper extremity.

Surgery may be considered when: 1) findings on history and objective evidence correlate specifically with the diagnosis; 2) job site alteration and other conservative measures have not alleviated the symptoms; and 3) functional deficits persist after 8 to 10 weeks. Subjective complaints should be localized and appropriate to the diagnosis, neurologic complaints should be consistent with the nerve distribution in question, and physical exam findings should correlate with the history. Objective evidence should be present and includes: positive physical exam findings as described in Section G.5.c.; positive electrodiagnostic (EDX) studies, or diagnostic peripheral nerve block which eradicates the majority of the patient's symptoms.

When no objective evidence is present and the patient continues to have signs and symptoms consistent with the diagnosis after 6 months of conservative treatment and a psychological evaluation, a second opinion should be obtained before operative treatment is considered.

Most cases improve with conservative treatment. Surgery should only be performed to achieve functional gains on those with significant ongoing impaired activities of daily living.

Complications: Radial nerve decompression is reported to have good success. However, complications can occur and include infection, damage to the posterior interosseous nerve, or damage to the extensor carpi radialis brevis or extensor digitorum communis.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals, the likelihood of achieving improved ability to perform activities of daily living or work, and possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about six weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section H.7.f Smoking Cessation Medications and Treatment for further details.

g. Operative Procedures: radial nerve decompression.

h. Post-operative Treatment:

i. An individualized rehabilitation program based upon communication between the surgeon and the therapist using therapies as outlined in Section H Therapeutic Procedures – Non-Operative. In all cases,

communication between the physician and therapist is important to the timing of exercise progressions.

- ii. Treatment may include the following: bracing, scar management and active therapy with or without passive therapy. Stretching is usually started early and strengthening may begin 3 to 6 weeks after surgery. Recovery is expected to last no longer than 4 months.
- iii. Return to work and restrictions after surgery may be made by an attending physician experienced in occupational medicine in consultation with the surgeon or by the surgeon.

H. THERAPEUTIC PROCEDURES – NON-OPERATIVE

Treating providers, employers, and insurers are highly encouraged to reference Section B General Guidelines Principles before initiating any therapeutic procedure. All treatment plans should specify frequency, duration, and expected treatment milestones. Before initiation of any therapeutic procedure, the authorized treating provider, employer, and insurer must consider these important issues in the care of the injured worker.

First, patients undergoing therapeutic procedure(s) should be released or returned to modified- or restricted-duty during their rehabilitation at the earliest appropriate time. Refer to Section H.11 Return-to-Work for detailed information.

Second, cessation and/or review of treatment modalities should be undertaken when no further significant subjective or objective improvement in the patient's condition is noted. If patients are not responding within the recommended duration periods, alternative treatment interventions, further diagnostic studies, or consultations should be pursued.

Third, providers should provide and document patient education. Functional progression is expected through prescribed activity such as neuromuscular and postural re-education/re-patterning exercises. Before diagnostic tests or referrals for invasive treatment take place, the patient should be able to clearly articulate the goals of the intervention, the general side effects, and associated risks, as well as agree with the expected treatment plan.

Lastly, formal psychological or psychosocial evaluation should be performed on patients not making expected progress within 6 to 12 weeks following injury and whose subjective symptoms do not correlate with objective signs and tests.

Home therapy is an important component of therapy and may include active and passive therapeutic procedures as well as other modalities to assist in alleviating pain, swelling, and abnormal muscle tone.

1. **ACUPUNCTURE**

ACUPUNCTURE: When acupuncture has been studied in randomized clinical trials, it is often compared with sham acupuncture and/or no acupuncture (usual care). The differences between true acupuncture and usual care have been moderate but clinically important. These differences can be partitioned into two components: non-specific effects and specific effects. Non-specific effects include patient beliefs and expectations, attention from the acupuncturist, administration of acupuncture in a relaxing setting, and other components of what is often called the placebo effect. Specific effects refer to any additional effects which occur in the same setting of expectations and attention, but they are attributable to the penetration of the skin in

the specific, classic acupuncture points on the surface of the body by the needles themselves.

A sham procedure is a non-therapeutic procedure that appears similar to the patient as the purported therapeutic procedure being tested. In most controlled studies, sham and classic acupuncture have produced similar effects. However, the sham controlled studies have shown consistent advantages of both true and sham acupuncture over no acupuncture when the studies have included a third comparison group that was randomized to usual medical care. Having this third comparison group has helped to interpret the non-specific effects of acupuncture, since the third comparison group controls for some influences on study outcome. These influences include more frequent contact with providers, the natural history of the condition, regression to the mean, the effect of being observed in a clinical trial, and--if the follow-up observations are done consistently in all three treatment groups--biased reporting of outcomes. Controlling for these factors enables researchers to more closely estimate the contextual and personal interactive effects of acupuncture as it is generally practiced.

Clinical trials of acupuncture typically enroll participants who are interested in acupuncture, and who may respond to some of the non-specific aspects of the intervention more than patients who have no interest in or desire for acupuncture. The non-specific effects of acupuncture may not be produced in patients who have no wish to be referred for it.

Another study provides good evidence that true acupuncture at traditional meridians is marginally better than sham acupuncture with blunt needles in reducing pain, but effects on disability are unclear. In these studies, 5–15 treatments were provided. Comparisons of acupuncture and sham acupuncture have been inconsistent, and the advantage of true over sham acupuncture has been small in relation to the advantage of sham over no acupuncture.

Acupuncture is recommended for subacute or chronic pain patients who are trying to increase function and/or decrease medication usage and have an expressed interest in this modality. It is also recommended for subacute or acute pain for patients who cannot tolerate NSAIDs or other medications.

Acupuncture is not the same procedure as dry needling for coding purposes. However, some acupuncturists may use acupuncture treatment for myofascial trigger points. Dry needling is performed specifically on myofascial trigger points. Refer to Section H.4.d Trigger Point Injections.

Acupuncture should generally be used in conjunction with manipulative and physical therapy/rehabilitation.

Credentialed practitioners with experience in evaluation and treatment of chronic pain patients must evaluate prior to acupuncture treatments. The exact mode of action is

only partially understood. Western medicine studies suggest that acupuncture stimulates the nervous system at the level of the brain, promotes deep relaxation, and affects the release of neurotransmitters. Acupuncture is commonly used as an alternative or in addition to traditional Western pharmaceuticals. It may be used when pain medication is reduced or not tolerated; as an adjunct to physical rehabilitation and surgical intervention; and/or as part of multidisciplinary treatment to hasten the return of functional activity. Acupuncture must be performed by practitioners with the appropriate credentials in accordance with state and other applicable regulations. Therefore, if not otherwise within their professional scope of practice and licensure, those performing acupuncture must have the appropriate credentials, such as L.A.c. R.A.c, or Dipl. Ac.

There is some evidence that acupuncture has a very short term 2 week effect on pain compared to sham acupuncture for lateral epicondylitis.

Indications: All patients being considered for acupuncture treatment should have subacute or chronic pain (lasting approximately 3-4 weeks depending on the condition) and meet the following criteria:

- they should have participated in an initial active therapy program; and
 - they should show a clear preference for this type of care or previously have benefited from acupuncture; and
 - they must continue to be actively engaged in physical rehabilitation therapy and return to work.
- a. **Acupuncture:** is the insertion and removal of filiform needles to stimulate acupoints (acupuncture points). Needles may be inserted, manipulated and retained for a period of time. Acupuncture can be used to reduce pain, reduce inflammation, increase blood flow, increase range-of-motion, decrease the side effect of medication-induced nausea, relax an anxious patient, and reduce muscle spasm.

Indications include joint pain, joint stiffness, soft tissue pain and inflammation, paresthesia, post-surgical pain relief, muscle spasm, and scar tissue pain.

- b. **Acupuncture with Electrical Stimulation:** is the use of electrical current (micro-amperage or milli-amperage) on the needles at the acupuncture site. It is used to increase effectiveness of the needles by continuous stimulation of the acupoint. Physiological effects (depending on location and settings) can include endorphin release for pain relief, reduction of inflammation, increased blood circulation, analgesia through interruption of pain stimulus, and muscle relaxation.

It is indicated to treat chronic pain conditions, radiating pain along a nerve pathway, muscle spasm, inflammation, scar tissue pain, and pain located in multiple sites.

- c. **Total Time Frames for Acupuncture & Acupuncture with Electrical Stimulation:** Time frames are not meant to be applied to each of the above sections separately. The time frames are to be applied to all acupuncture treatments regardless of the type or combination of therapies being provided.

❖ Time to Produce Effect: 3 to 6 treatments.

❖ Frequency: 1 to 3 times per week.

❖ Optimum Duration: 1 to 2 months.

❖ Maximum Duration: 14 treatments.

Any of the above acupuncture treatments may extend longer if objective functional gains can be documented and symptomatic benefits facilitate progression in the patient's treatment program. Treatment beyond 14 treatments must be documented with respect to need and ability to facilitate positive symptomatic or functional gains. Such care should be re-evaluated and documented with each series of treatments.

- d. **Other Acupuncture Modalities:** Acupuncture treatment is based on individual patient needs and therefore may include a combination of procedures to enhance treatment effect. Other procedures may include the use of heat, soft tissue manipulation/massage, and exercise. Refer to Section H.13 Therapy-Active (Therapeutic Exercise) and Section H.14 Therapy-Passive (Massage and Superficial Heat and Cold Therapy) for a description of these adjunctive acupuncture modalities and time frames.

2. **BIOFEEDBACK**

BIOFEEDBACK: Biofeedback is a form of behavioral medicine that helps patients learn self-awareness and self-regulation skills to increase control of their physiology, such as muscle activity, brain waves, and measures of autonomic nervous system

activity. Stress-related psycho-physiological reactions may arise as a reaction to organic pain and in some cases may cause pain. Electronic instrumentation is used to monitor the targeted physiology and then displayed or fed back to the patient visually, auditorily, or tactilely, with coaching by a biofeedback specialist. There is good evidence that biofeedback or relaxation therapy is equal in effect to cognitive behavioral therapy for chronic low back pain.

Indications for biofeedback include cases of musculoskeletal injury, in which muscle dysfunction or other physiological indicators of excessive or prolonged stress response affects and/or delays recovery. Other applications include training to improve self-management of pain, anxiety, panic, anger or emotional distress, opioid withdrawal, insomnia/sleep disturbance, and other central and autonomic nervous system imbalances. Biofeedback is often utilized for relaxation training. Mental health professionals may also utilize it as a component of psychotherapy, where biofeedback and other behavioral techniques are integrated with psychotherapeutic interventions. Biofeedback is often used in conjunction with physical therapy or medical treatment.

- ❖ Time to Produce Effect: 3 to 4 sessions.
- ❖ Frequency: 1 to 2 times per week.
- ❖ Optimum Duration: 5 to 6 sessions.
- ❖ Maximum Duration: 10 to 12 sessions. Treatment beyond 12 sessions must be documented with respect to need, expectation, and ability to facilitate functional gains.

3. EDUCATION/INFORMED DECISION MAKING

EDUCATION/INFORMED DECISION MAKING: of patients, families, employers, insurers, policy makers, and the community should be the primary emphasis in the treatment of shoulder pain and disability. Unfortunately, practitioners often think of education and informed decision making last, after medications, manual therapy, and surgery.

Informed decision making is the hallmark of a successful treatment plan. In most cases, the continuum of treatment from the least invasive to the most invasive (e.g., surgery) should be discussed. The intention is to find the treatment along this continuum which most completely addresses the condition. Patients should identify their personal functional goals of treatment at the first visit. It is recommended that specific individual goals are articulated at the beginning of treatment as this is likely to lead to increased patient satisfaction above that achieved from improvement in pain or other physical function. Progress toward the individual functional goals identified

should be addressed at follow up visits and throughout treatment by other members of the health care team as well as the authorized physicians.

Documentation of this process should occur whenever diagnostic tests or referrals from the authorized treating physician are contemplated. The informed decision making process asks the patients to set their personal functional goals of treatment, describe their current health status and any concerns they have regarding adhering to the diagnostic or treatment plan proposed. The provider should clearly describe the following:

- a. The expected functional outcomes from the proposed treatment, or expected results and plan of action if diagnostic tests are involved.
- b. Any side effects and risks to the patient.
- c. Required post treatment rehabilitation time and impact on work, if any.
- d. Alternative therapies or diagnostic testing.

Before diagnostic tests or referrals for invasive treatment take place, the patient should be able to clearly articulate the goals of the intervention, the general side effects and risks associated with it, and their decision regarding compliance with the suggested plan. There is some evidence that information provided only by video is not sufficient education.

Practitioners must develop and implement an effective strategy and skills to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with reassuring information to the patient and informed decision making. More in-depth education currently exists within a treatment regimen employing functional restoration, prevention, and cognitive behavioral techniques. Patient education and informed decision making should facilitate self-management of symptoms and prevention.

- ❖ Time to produce effect: Varies with individual patient
- ❖ Frequency: Should occur at every visit.

4. INJECTIONS – THERAPEUTIC

INJECTIONS – THERAPEUTIC: are generally accepted, well-established procedures that may play a significant role in the treatment of patients with upper extremity pain or pathology. Therapeutic injections involve the delivery of anesthetic and/or anti-inflammatory medications to the painful structure. Therapeutic injections have many

potential benefits. Ideally, a therapeutic injection will: (a) reduce inflammation in a specific target area; (b) relieve secondary muscle spasm; and (c) diminish pain and support therapy directed to functional recovery. Diagnostic and therapeutic injections should be used early and selectively to establish a diagnosis and support rehabilitation. If injections are overused or used outside the context of a monitored rehabilitation program, they may be of significantly less value.

Special Considerations: The use of injections has become progressively sophisticated. Each procedure considered has an inherent risk. Risk versus benefit should be evaluated when considering injection therapy. In addition, all injections must include sterile technique.

Contraindications: General contraindications include local or systemic infection, bleeding disorders, allergy to medications used, and patient refusal. Specific contraindications may apply to individual injections.

a. Autologous Whole Blood Injections/Platelet-Rich Plasma Injections:

- i. Autologous Whole Blood Injections: Autologous whole blood injections are inexpensive and may be used in patients who have not made sufficient functional progress with initial therapy for lateral or medial epicondylitis after 10 to 12 weeks. Refer to Section F.3.g Non-operative Treatment Procedures (Epicondylitis) and Section F.4.e Non-operative Treatment Procedures (Extensor Tendon Disorders).

There is some evidence in literature on lateral epicondylitis that, for patients with symptoms lasting 6 months or more, autologous blood injections result in better pain and functional outcomes after 1 year than steroid injections.

- ii. Platelet-Rich Plasma (PRP) Injections: There is good evidence in literature on lateral epicondylitis that, for patients with symptoms lasting 6 months or more, platelet-rich plasma injections result in better pain and functional outcomes after 1 year than steroid injections.

There is good evidence that, in the setting of lateral epicondylitis, PRP may lead to a small to moderate functional benefit in comparison to autologous whole blood or saline at two to three months, but effects on pain are uncertain.

There is good evidence that PRP produces more favorable symptomatic and functional improvement than triamcinolone injection in patients with chronic lateral epicondylitis, with this advantage persisting for 24 months after treatment.

In summary, there is strong evidence for the use of PRP in patients who have not improved with conservative therapy. Ultrasound guided may be useful.

❖ Optimum frequency: 2 injections may be required

- b. **Botulinum Toxin Injections:** Botulinum toxin treats lateral and medial epicondylitis by reversibly paralyzing the extensor muscles and thereby preventing repetitive micro-trauma of the tendonous fibers at their origin from the osseous lateral/medial epicondyle. The unit dosage varies significantly depending on the brand used. Usage for lateral and medial epicondylitis is not FDA approved at the time of this guideline writing. There is good evidence that botulinum toxin A injection may provide short-term pain relief from pain due to chronic (3 months or longer) lateral epicondylitis. However, the long-term functional benefits are unknown. There is also good evidence that botulinum toxin A injections cause weakness in finger extension and/or digit paresis. Additional complications may include: allergic reaction to medications, increased risk of systemic effects in patients with motor neuropathy or disorders of the neuromuscular junction.

Botulinum toxin injections should not be considered a first line of treatment. Other conservative measures should be tried first. Careful botulinum toxin dosing should be used to avoid complete paresis and maintain function and return to work.

Botulinum toxin injections are listed in this guideline as a treatment option for lateral and medial epicondylitis. **Prior authorization is required.** For more specific details, the reader must refer to Section F.3.g Non-operative Treatment Procedures (Epicondylitis) and Section F.4.e Non-operative Treatment Procedures (Extensor Tendon Disorders).

❖ Maximum: 1 injection per episode of symptomatic treatment (for some conditions there may be re-occurrences).

- c. **Steroid Injections:** including joint, bursa and peri-tendonous insertions are well-established procedures with varying degrees of evidence depending on the diagnosis. Peri-tendonous injections under significant pressure should be avoided as the needle may inadvertently penetrate the tendon. Injection into the tendon can cause tendon degeneration, tendon breakdown, or rupture. When performing peri-tendonous injections, the risk of tendon rupture should be discussed with the patient and the need for temporary restricted-duty emphasized.

There is strong evidence that, in the setting of lateral epicondylitis, the effects of corticosteroid injections on pain and function are more favorable than placebo in the first four weeks, but these benefits are reversed by six months.

In addition, corticosteroid injections are detrimental compared to placebo injections in the intermediate and long term.

There is some evidence for steroid injections as a short term treatment in carpal tunnel syndrome. Refer to Section G.1 Carpal Tunnel Syndrome for more details.

General complications of injections may include transient neurapraxia, nerve injury, infection, hematoma, glucose elevation, and endocrine changes.

The majority of diabetic patients will experience an increase in glucose following steroid injections. Average increases in one study were 125mg/dL and returned to normal in 48 hours. In other studies, the increased glucose levels remained elevated up to 7 days, especially after multiple injections. All diabetic patients should be told to follow their glucose levels carefully over the 7 days after a steroid injection. For patients who have not been diagnosed with diabetes, one can expect some increase in glucose due to insulin resistance for a few days after a steroid injection. Clinicians should consider diabetic screening tests for those who appear to be at risk for type 2 diabetes and checking hemoglobin A1c and/or glucose for diabetics. Caution should be used when considering steroid injections for patients with an A1c level of 8% or greater.

Intra-articular or epidural injections cause rapid drops in plasma cortisol levels which usually resolve in one to 4 weeks. There is some evidence that an intra-articular injection of 80 mg of methylprednisolone acetate into the knee has about a 25% probability of suppressing the adrenal gland response to exogenous adrenocorticotrophic hormone ACTH for four or more weeks after injection, but complete recovery of the adrenal response is seen by week 8 after injection. This adrenal suppression could require treatment if surgery or other physiologically stressful events occur.

Case reports of Cushing's syndrome, hypopituitarism and growth hormone deficiency have been reported uncommonly and have been tied to systemic absorption of intra-articular and epidural steroid injections. Cushing's syndrome has also been reported from serial occipital nerve injections and paraspinal injections.

Morning cortisol measurements may be ordered prior to repeating steroid injections or prior to the initial steroid injection when the patient has received multiple previous steroid injections.

Given this information regarding increase in blood glucose levels, effects on the endocrine system, and possible osteoporotic influence, it is suggested that intra-articular and epidural injections be limited to a total of 3 to 4 per year (*all*

joints combined). For further specific recommendations, refer to diagnostic sections of this guideline.

- ❖ Time to Produce Effect: Immediate with local anesthesia, or within 3 days if no anesthesia.
- ❖ Optimum Duration: Usually 1 to 2 injections is adequate.
- ❖ Maximum Frequency: Not more than 3 to 4 times annually.

- d. **Trigger Point Injections:** Although generally accepted, have only rare indications in the treatment of cumulative trauma disorders. Therefore, the Division does not recommend their routine use in the treatment cumulative trauma disorders.

Description: Trigger point injections and dry needling are both generally accepted treatments. Trigger point treatments can consist of dry needling or the injection of local anesthetic, with or without corticosteroid, into highly localized, extremely sensitive bands of skeletal muscle fibers. These muscle fibers produce local and referred pain when activated. Medication is injected in a four-quadrant manner in the area of maximum tenderness. Injection and dry needling efficacy can be enhanced if treatments are immediately followed by myofascial therapeutic interventions, such as vapo-coolant spray and stretch, ischemic pressure massage (myotherapy), specific soft tissue mobilization and physical modalities. There is conflicting evidence regarding the benefit of trigger point injections. A truly blinded study comparing dry needle treatment of trigger points is not feasible. There is no evidence that injection of medications improves the results of trigger-point injections. Needling alone may account for some of the therapeutic response of injections. Needling must be performed by practitioners with the appropriate credentials in accordance with state and other applicable regulations.

There is no indication for conscious sedation for patients receiving trigger point injections or dry needling. The patient must be alert to help identify the site of the injection.

Indications: Trigger point injections and dry needling may be used to relieve myofascial pain and facilitate active therapy and stretching of the affected areas. They are to be used as an adjunctive treatment in combination with other treatment modalities such as active therapy programs. Trigger point injections should be utilized primarily to facilitate functional progress. Patients should continue in an aggressive aerobic and stretching therapeutic exercise program, as tolerated, while undergoing intensive myofascial interventions.

Myofascial pain is often associated with other underlying structural problems. Any abnormalities need to be ruled out prior to injection.

Trigger point injections and dry needling are indicated in patients with consistently observed, well-circumscribed trigger points. Trigger point injections and dry needling may demonstrate a local twitch response, characteristic radiation of pain pattern, and local autonomic reaction such as persistent hyperemia following palpation. Generally, neither trigger point injections nor dry needling are necessary unless consistently observed trigger points are not responding to specific, noninvasive, myofascial interventions within approximately a 6-week time frame. However, both trigger point injections and dry needling may be occasionally effective when utilized in the patient with immediate, acute onset of pain or in a post-operative patient with persistent muscle spasm or myofascial pain.

Complications: Potential but rare complications of trigger point injections and dry needling include infection, pneumothorax, anaphylaxis, penetration of viscera, neurapraxia, and neuropathy. If corticosteroids are injected in addition to local anesthetic, there is a risk of local myopathy. Severe pain on injection suggests the possibility of an intraneural injection, and the needle should be immediately repositioned. The following treatment parameters apply to both interventions combined.

- ❖ Time to produce effect: Local anesthetic 30 minutes; 24 to 48 hours for no anesthesia.
- ❖ Frequency: Weekly. Suggest no more than 4 injection sites per session per week to avoid significant post-injection or post-needling soreness.
- ❖ Optimum duration: 4 weeks total for all sites.
- ❖ Maximum duration: 8 weeks total for all sites. Occasional patients may require 2 to 4 repetitions of trigger point injection or dry needling series over a 1 to 2 year period.

- e. **Prolotherapy**: (also known as sclerotherapy) consists of peri-articular injections of hypertonic dextrose with or without phenol. The goal of prolotherapy is to induce an inflammatory response that will recruit cytokine growth factors involved in the proliferation of connective tissue. Advocates of prolotherapy propose that these injections will alleviate complaints related to joint laxity by promoting the growth of connective tissue and stabilizing the involved joint.

Laboratory studies may lend some biological plausibility to claims of connective tissue growth, but high quality published clinical studies are lacking. The dependence of the therapeutic effect on the inflammatory response is poorly defined, raising concerns about the use of conventional anti-inflammatory drugs when proliferate injections are given. There is no evidence that prolotherapy compared to a steroid injection for aggravated carpometacarpal arthritis provides a clinically meaningful advantage. Therefore, it is ***not recommended***.

- f. **Viscosupplementation/Intracapsular Acid Salts**: involves the injection of hyaluronic acid and its derivatives into the joint space. Hyaluronic acid is normally secreted by the healthy synovium into the joint space and functions to lubricate the joint and protect the cartilage. These injections may only be used for osteoarthritis.

There is no evidence that hyaluronate injections are superior to steroid injections for carpometacarpal thumb arthritis. There is some evidence that intra-articular hyaluronan is not superior to placebo for improving pain in the setting of carpometacarpal osteoarthritis and that it does not improve function in a clinically important way in the first six months after injection. Therefore, they are ***not recommended***.

5. **INTERDISCIPLINARY REHABILITATION PROGRAMS**

INTERDISCIPLINARY REHABILITATION PROGRAMS: This is the gold standard of treatment for individuals who have not responded to less intensive modes of treatment. There is good evidence that interdisciplinary programs that include screening for psychological issues, identification of fear-avoidance beliefs and treatment barriers, and establishment of individual functional and work goals will improve function and decrease disability. These programs should assess the impact of pain and suffering on the patient's medical, physical, psychological, social, and/or vocational functioning. In general, interdisciplinary programs evaluate and treat multiple and sometimes irreversible conditions. These conditions include, but are not limited to, painful musculoskeletal, neurological, and other chronic pain conditions and psychological issues; drug dependence, abuse, or addiction; high levels of stress and anxiety; failed surgery; and pre-existing or latent psychopathology. The number of professionals on the team in a chronic pain program may vary due to the complexity of

the needs of the person served. The Division recommends consideration of referral to an interdisciplinary program within six months post-injury in patients with delayed recovery, unless successful surgical interventions or other medical and/or psychological treatment complications are at issue.

Chronic pain patients need to be treated as outpatients within a continuum of treatment intensity. Outpatient chronic pain programs are available with services provided by a coordinated interdisciplinary team within the same facility (formal) or as coordinated among practices by the authorized treating physician (informal). Formal programs are able to provide a coordinated, high-intensity level of services and are recommended for most chronic pain patients who have received multiple therapies during acute management.

Patients with addiction problems, high-dose opioid use, or abuse of other drugs may require inpatient and/or outpatient chemical dependency treatment programs before or in conjunction with other interdisciplinary rehabilitation. Guidelines from the American Society of Addiction Medicine are available and may be consulted relating to the intensity of services required for different classes of patients in order to achieve successful treatment.

Informal interdisciplinary pain programs may be considered for patients who are currently employed, those who cannot attend all-day programs, those with language barriers, or those living in areas not offering formal programs. Before treatment has been initiated, the patient, physician, and insurer should agree on treatment approach, methods, and goals. Generally, the type of outpatient program needed will depend on the degree of impact the pain has had on the patient's medical, physical, psychological, social, and/or vocational functioning.

When referring a patient for formal outpatient interdisciplinary pain rehabilitation, an occupational rehabilitation program, or an opioid treatment program, the Division recommends the program meets the criteria of the Commission on Accreditation of Rehabilitation Facilities (CARF).

Inpatient pain rehabilitation programs are rarely needed but may be necessary for patients with any of the following conditions: (a) high risk for medical instability; (b) moderate-to-severe impairment of physical/functional status; (c) moderate-to-severe pain behaviors; (d) moderate impairment of cognitive and/or emotional status; (e) dependence on medications from which he/she needs to be withdrawn; and (f) the need for 24-hour supervised nursing. Whether formal or informal programs, programs should have the following dimensions:

- Communication: To ensure positive functional outcomes, communication between the patient, insurer, and all professionals involved must be coordinated and consistent. Any exchange of information must be provided to

all parties, including the patient. Care decisions should be communicated to all parties and should include the family and/or support system.

- **Documentation:** Through documentation by all professionals involved and/or discussions with the patient, it should be clear that functional goals are being actively pursued and measured on a regular basis to determine their achievement or need for modification. It is advisable to have the patient undergo objective functional measures.
- **Treatment Modalities:** Use of modalities may be necessary early in the process to facilitate compliance with and tolerance to therapeutic exercise, physical conditioning, and increasing functional activities. Active treatments should be emphasized over passive treatments. Active and self-monitored passive treatments should encourage self-coping skills and management of pain, which can be continued independently at home or at work. Treatments that can foster a sense of dependency by the patient on the caregiver should be avoided. Treatment length should be decided based upon observed functional improvement. For a complete list of active and passive therapies, refer to Section H.13 Therapy – Active and H.14 Therapy – Passive. All treatment timeframes may be extended based on the patient's positive functional improvement.
- **Therapeutic Exercise Programs:** A therapeutic exercise program should be initiated at the start of any treatment rehabilitation. Such programs should emphasize education, independence, and the importance of an on-going exercise regimen. There is good evidence that exercise, alone or as part of a multi-disciplinary program, results in decreased disability for workers with non-acute low back pain. There is not sufficient evidence to support the recommendation of any particular exercise regimen over any other exercise regimen.
- **Return-to-Work:** The authorized treating physician should continually evaluate the patients for their potential to return to work. For patients who are currently employed, efforts should be aimed at keeping them employed. Formal rehabilitation programs should provide assistance in creating work profiles. For more specific information regarding return to work, refer to H.11 Return-to-Work.
- **Patient Education:** Patients with pain need to re-establish a healthy balance in lifestyle. All providers should educate patients on how to overcome barriers to resuming daily activity, including pain management, decreased energy levels, financial constraints, decreased physical ability, and change in family dynamics.
- **Psychosocial Evaluation and Treatment:** Psychosocial evaluation should be initiated, if not previously done. Providers should have a thorough

understanding of the patient's personality profile, especially if dependency issues are involved. Psychosocial treatment may enhance the patient's ability to participate in pain treatment rehabilitation, manage stress, and increase their problem-solving and self-management skills.

- Vocational Assistance: Vocational assistance can define future employment opportunities or assist patients in obtaining future employment. Refer to H.11 Return-to-Work for detailed information.
- Interdisciplinary programs are characterized by a variety of disciplines that participate in the assessment, planning, and/or implementation of the treatment program. These programs are for patients with greater levels of perceived disability, dysfunction, de-conditioning, and psychological involvement. Programs should have sufficient personnel to work with the individual in the following areas: behavioral, functional, medical, cognitive, pain management, psychological, social, and vocational.

a. Formal Interdisciplinary Rehabilitation Programs:

- i. Interdisciplinary Pain Rehabilitation: An Interdisciplinary Pain Rehabilitation Program provides outcome-focused, coordinated, goal-oriented interdisciplinary team services to measure and improve the functioning of persons with pain and encourage their appropriate use of health care system and services. The program can benefit persons who have limitations that interfere with their physical, psychological, social, and/or vocational functioning. The program shares information about the scope of the services and the outcomes achieved with patients, authorized providers, and insurers.

The interdisciplinary team maintains consistent integration and communication to ensure that all team members are aware of the plan of care for the patient, are exchanging information, and implement the plan of care. The team members make interdisciplinary team decisions with the patient and then ensure that decisions are communicated to the entire care team.

The Medical Director of the pain program should ideally be board certified in pain management. Alternatively, he/she should be board certified in his/her specialty area and have completed a one-year fellowship in interdisciplinary pain medicine or palliative care recognized by a national board. As a final alternative, he or she should have two years of experience in an interdisciplinary pain rehabilitation program. Teams that assist in the accomplishment of functional, physical, psychological, social, and vocational goals must include: a medical director, pain team physician(s), who should

preferably be board certified in an appropriate specialty, and a pain team psychologist. Professionals from other disciplines on the team may include, but are not limited to: a biofeedback therapist, an occupational therapist, a physical therapist, a registered nurse (RN), a case manager, an exercise physiologist, a psychologist, a psychiatrist, and/or a nutritionist.

- ❖ Time to Produce Effect: 3 to 4 weeks.
- ❖ Frequency: Full time programs – No less than 5 hours per day, 5 days per week; part-time programs – 4 hours per day, 2–3 days per week.
- ❖ Optimum Duration: 3 to 12 weeks at least 2–3 times a week. Follow-up visits weekly or every other week during the first 1 to 2 months after the initial program is completed.
- ❖ Maximum Duration: 4 months for full-time programs and up to 6 months for part-time programs. Periodic review and monitoring thereafter for 1 year, and additional follow-up based on the documented maintenance of functional gains.

- ii. Occupational Rehabilitation: This is a formal interdisciplinary program addressing a patient's employability and return to work. It includes a progressive increase in the number of hours per day in which a patient completes work simulation tasks until the patient can tolerate a full work day. A full work day is case specific and is defined by the previous employment of the patient. Safe workplace practices and education of the employer and family and/or social support system regarding the person's status should be included. This is accomplished by addressing the medical, psychological, behavioral, physical, functional, and vocational components of employability and return to work.

There is some evidence that an integrated care program, consisting of workplace interventions and graded activity teaching that pain need not limit activity, is effective in returning patients with chronic low back pain to work, even with minimal reported reduction of pain. The occupational medicine rehabilitation interdisciplinary team should, at a minimum, be comprised of a qualified medical director who is board certified with documented training in occupational rehabilitation; team physicians having experience in occupational rehabilitation; an occupational therapist; and a physical therapist.

As appropriate, the team may also include any of the following: chiropractor, an RN, a case manager, a psychologist, a vocational specialist, or a certified biofeedback therapist.

- ❖ Time to Produce Effect: 2 weeks.
- ❖ Frequency: 2 to 5 visits per week, up to 8 hours per day.
- ❖ Optimum Duration: 2 to 4 weeks.
- ❖ Maximum Duration: 6 weeks. Participation in a program beyond 6 weeks must be documented with respect to need and the ability to facilitate positive symptomatic and functional gains.

iii. Opioid/Chemical Treatment Programs: Refer to the Division's Chronic Pain Disorder Medical Treatment Guidelines.

- b. **Informal Interdisciplinary Rehabilitation Program**: A coordinated interdisciplinary pain rehabilitation program is one in which the authorized treating physician coordinates all aspects of care. This type of program is similar to the formal programs in that it is goal-oriented and provides interdisciplinary rehabilitation services to manage the needs of the patient in the following areas: (a) functional, (b) medical, (c) physical, (d) psychological, (e) social, and (f) vocational.

This program is different from a formal program in that it involves lower frequency and intensity of services/treatment. Informal rehabilitation is geared toward those patients who do not need the intensity of service offered in a formal program or who cannot attend an all-day program due to employment, daycare, language, or other barriers.

Patients should be referred to professionals experienced in outpatient treatment of chronic pain. The Division recommends the authorized treating physician consult with physicians experienced in the treatment of chronic pain to develop the plan of care. Communication among care providers regarding clear objective goals and progress toward the goals is essential. Employers should be involved in return to work and work restrictions. The family and/or social support system should be included in the treatment plan. Professionals from other disciplines likely to be involved include: a biofeedback therapist, an occupational therapist, a physical therapist, an RN, a psychologist, a case manager, an exercise physiologist, a psychiatrist, and/or a nutritionist.

- ❖ Time to Produce Effect: 3 to 4 weeks.
- ❖ Frequency: Full-time programs – No less than 5 hours per day, 5 days per week; Part-time programs – 4 hours per day for 2–3 days per week.
- ❖ Optimum Duration: 3 to 12 weeks at least 2–3 times a week. Follow-up visits weekly or every other week during the first 1 to 2 months after the initial program is completed.
- ❖ Maximum Duration: 4 months for full-time programs and up to 6 months for part-time programs. Periodic review and monitoring thereafter for 1 year, and additional follow-up based upon the documented maintenance of functional gains.

6. JOB SITE ALTERATION

General Principles of Job Site Alteration

There is no single factor or combination of factors that is proven to prevent or ameliorate cumulative trauma conditions, but a combination of ergonomic and psychosocial factors are generally considered to be important. Ergonomic factors that may be considered include use of force, repetition, awkward positions, upper extremity vibration, cold environment, and contact pressure on the nerve. Psychosocial factors to be considered include pacing, degree of control over job duties, perception of job stress, and supervisory support.

All job site evaluations should include suggested ergonomic changes as applicable. It is inappropriate to limit a job site evaluation to a strict isolated evaluation of causation risk factors only.

Job evaluation and modification should include input from a licensed health care professional with training in ergonomics or a certified ergonomist; the employee; and the employer. The employee must be observed performing relevant job functions in order for the job site evaluation to be a valid representation of a typical workday. If the employee is unable to perform the job function for observation, a co-worker in an identical job position may be observed instead. Periodic follow-up is recommended to assess the effectiveness of the intervention and need for additional ergonomic changes.

Because ergonomic changes are a required medical treatment for cumulative trauma conditions and the person performing the evaluations is a health care professional, it is assumed the insurer will pay for the job site evaluation.

- a. **Interventions:** There are no conclusive studies with convincing evidence of standard ergonomic changes that will accommodate all workers. Individual characteristics, such as height or strength, affect the ideal organization of the workstation. The worksite should be adjusted to support neutral, yet natural, positions. In addition, workers should be counseled to vary tasks throughout the day whenever possible. OSHA suggests that workers who perform repetitive tasks, including keyboarding, change activities over a 5-minute interval every hour. Mini-breaks may include stretching exercises. The following should be considered: engineering controls, e.g., mechanizing the task, and changing the tool used, or adjusting the job site; or administrative controls, e.g., adjusting the time an individual performs the task.
- b. **Seating Description:** The following description may aid in evaluating seated work positions: The head should be in a neutral position, and if a monitor is used, there should be at least 18 inches of viewing distance with no glare. Arms should rest naturally, with the elbow at the side and flexed to 90 degrees or slightly extended. Some individuals may prefer a wrist pad to reduce wrist extension. Wrists should be straight or minimally extended. It is generally preferable to avoid dependence on arm rests. The back must be properly supported by a chair with the back upright or leaning backwards slightly, allowing change in position with backrest adjustment. There should be good knee and legroom, with the feet resting comfortably on the floor or footrest. Tools should be within easy reach, and twisting or bending should be avoided.
- c. **Job Hazard Checklist:** The following table entitled, "Ergonomic Considerations," is adopted with modification from Washington State's job hazard checklist. This table is a generally accepted guide for identifying job duties which may pose ergonomic hazards. The fact that an ergonomic hazard exists at a specific job, or is suggested in the table, does not establish a causal relationship between a job and a musculoskeletal injury. However, when an individual has a work-related injury and ergonomic hazards exist that affect the injury, appropriate job modifications should be made. Proper correction of hazards may prevent future injuries to others, as well as aid in the recovery of the injured worker.

- d. **Tools**: The tools should be assessed for the individual and not used universally. It is important to select the right tool for the task. In general, the person should work in the most neutral position possible and use the least force possible. For force tools, the grip should not span more than 3.5 inches, and the handle diameter should not be greater than 2 inches. Precision tools may require a smaller diameter. If possible, highly repetitive forearm tasks requiring manual supination/pronation should be avoided by using power tools.

SEE NEXT PAGE FOR ERGONOMIC CONSIDERATIONS TABLE

e. **Ergonomic Considerations Table: ***

Type of Job Duty	Hours per Day
<p><u>Pinching</u> an unsupported object(s) weighing 2 lbs or more per hand, or pinching with a force of 4 lbs or more per hand (comparable to pinching a half-ream of paper):</p> <p>1. Highly repetitive motion.</p> <p>2. Wrist palmar flexion greater than 45 degrees, wrist extension greater than 30 degrees, ulnar deviation greater than 20 degrees, or radial deviation greater than 20 degrees.</p> <p>3. Most of the work cycle performed with the elbow flexed equal to or greater than 90 degrees.</p>	More than 3 hours total/day
4. No other risk factors.	More than 4 hours total/day
<p><u>Gripping</u> (an) unsupported object(s) weighing 10 lbs or more/hand, or gripping with a force of 10 lbs or more/hand (comparable to clamping light duty automotive jumper cables onto a batter): *Handles should be rounded and soft, with at least 1.25"-2.0" in diameter grips at least 5" long. Preferably, a power grip should be used.</p> <p>1. Highly repetitive motion.</p> <p>2. Wrist palmar flexion greater than 45 degrees, wrist extension greater than 30 degrees, ulnar deviation greater than 20 degrees, or radial deviation greater than 20 degrees.</p> <p>3. Most of the work cycle performed with the elbow flexed equal to or greater than 90 degrees.</p>	More than 3 hours total/day
No other risk factors.	More than 4 hours total/day

<u>Repetitive Motion</u> (using the same motion with little or no variation) with a cycle time 30 seconds or less or greater than 50% of cycle time performing the same task:	
1. High, forceful exertions with the hands, with wrist palmar flexion greater than 45 degrees, wrist extension greater than 30 degrees, ulnar deviation greater than 20 degrees, or radial deviation greater than 20 degrees.	More than 2 hours total/day
2. Most of the work cycle performed with the elbow flexed equal to or greater than 90 degrees.	
3. No other risk factors.	More than 6 hours total/day
<u>Intensive Keying:</u>	
1. Wrist palmar flexion greater than 45 degrees, wrist extension greater than 30 degrees, ulnar deviation greater than 20 degrees, or radial deviation greater than 20 degrees.	More than 4 hours total/day
2. Most of the work cycle performed with the elbow flexed equal to or greater than 90 degrees.	
3. No other risk factors.	More than 7 hours total/day
<u>Repeated Impact:</u>	
1. Using the hand (heel/base of palm) as a hammer more than once per minute.	More than 2 hours total/day
<u>Vibration:</u> Two determinants of the tolerability of segmental vibration of the hand are the frequency and the acceleration of the motion of the vibrating tool, with lower frequencies being more poorly tolerated at a given level of imposed acceleration, expressed below in multiples of the acceleration due to gravity.	
1. Frequency range 8-15 Hz and acceleration 6 g	More than 30 minutes at a time
2. Frequency range 80 Hz and acceleration 40 g	
3. Frequency range 250 Hz and acceleration 250 g	

Vibration, continued:	More than 4 hours at a time
4. Frequency range 8-15 Hz and acceleration 1.5 g	
5. Frequency range 80 Hz and acceleration 6 g	
6. Frequency range 250 Hz and acceleration 20 g	

* This table may not be used to establish causation. Refer to Section D.3 Medical Causation for Cumulative Trauma Conditions. Recommendations for ergonomic changes to make the workplace more comfortable and efficient for the worker are not identical to risk factors which may cause an identified cumulative trauma condition.

7. **MEDICATIONS AND MEDICAL MANAGEMENT** Use of medications in the treatment of cumulative trauma related conditions is generally accepted for controlling acute pain and inflammation. Use of medications will vary widely due to the spectrum of injuries from simple strains to post-surgical analgesia. A thorough medication history, including use of alternative and over-the-counter medications, should be performed at the time of the initial visit and updated periodically. Treatment for pain control is initially accomplished with acetaminophen and/or NSAIDs. The patient should be educated regarding the interaction with prescription and over the counter medications as well as the contents of over the counter herbal products.

Oral non-steroidal anti-inflammatory drugs (NSAIDs) and acetaminophen are useful in treating conditions associated with degenerative joint disease and/or inflammation. Topical medications may also be useful in controlling pain.

- a. **Acetaminophen**: an effective analgesic with anti-pyretic but not anti-inflammatory activity. Acetaminophen is generally well-tolerated, causes little or no gastrointestinal (GI) irritation, and is not associated with ulcer formation. Acetaminophen has been associated with liver toxicity in overdose situations or in chronic alcohol use. Patients may not realize that many over-the-counter preparations contain acetaminophen. The total daily dose of acetaminophen is recommended not to exceed three grams per 24-hour period, from all sources, including narcotic-acetaminophen combination preparations.

There is good evidence that acetaminophen is not more effective than placebo for the treatment of knee osteoarthritis. Thus, it may not be useful for upper extremity osteoarthritis. It may be used on patients with contraindications to other medications.

- ❖ Optimum Duration: 7 to 10 days.
- ❖ Maximum Duration: Long-term use as indicated on a case-by-case basis. Use of this substance long-term (for 3 days per week or greater) may be associated with rebound pain upon cessation.

- b. **Minor Tranquilizer/Muscle Relaxants**: They are generally **not recommended** for use in patients with cumulative trauma conditions and, if used, should not exceed 2 weeks total.
- c. **Nonsteroidal Anti-Inflammatory Drugs (NSAIDs)**: useful for pain and inflammation. In mild cases, they may be the only drugs required for analgesia. There are several classes of NSAIDs. The response of the individual injured worker to a specific medication is unpredictable. For this reason, a range of NSAIDs may be tried in each case, with the most effective preparation being continued. Patients should be closely monitored for adverse reactions. The FDA advises that many NSAIDs may cause an increased risk of serious cardiovascular thrombotic events, myocardial infarction, and stroke, which can be fatal. There is good evidence that naproxen has the least risk for cardiovascular events when compared to other NSAIDs. Administration of proton pump inhibitors, Histamine 2 Blockers or prostaglandin analog misoprostol along with these NSAIDs may reduce the risk of duodenal and gastric ulceration, in patients at higher risk for this adverse event (e.g., age > 60, concurrent antiplatelet or corticosteroid therapy). They do not impact possible cardiovascular complications. Due to the cross-reactivity between aspirin and NSAIDs, NSAIDs should not be used in aspirin-sensitive patients, and it should be used with caution in all asthma patients. NSAIDs are associated with abnormal renal function, including renal failure, as well as abnormal liver function. Patients with renal or hepatic disease may need increased dosing intervals with chronic use. Chronic use of NSAIDs is ***generally not recommended*** due to increased risk of cardiovascular events and GI bleeding.

Topical NSAIDs may be more appropriate for some patients as there is some evidence they are associated with fewer systemic adverse events than oral NSAIDs.

NSAIDs may be associated with non-unions; thus, their use with fractures is questionable.

Certain NSAIDs may have interactions with various other medications. Individuals may have adverse events not listed above. Intervals for metabolic screening are dependent on the patient's age and general health status and should be within parameters listed for each specific medication. Complete Blood Count (CBC) and liver and renal function should be monitored at least every six months in patients on chronic NSAIDs and initially when indicated.

- i. **Non-Selective Non-Steroidal Anti-Inflammatory Drugs**: includes NSAIDs and acetylsalicylic acid. Serious GI toxicity, such as bleeding, perforation, and ulceration can occur at any time, with or without warning symptoms, in patients treated with traditional NSAIDs.

Physicians should inform patients about the signs and/or symptoms of serious GI toxicity and what steps to take if they occur. Anaphylactoid reactions may occur in patients taking NSAIDs. NSAIDs may interfere with platelet function. Fluid retention and edema have been observed in some patients taking NSAIDs.

- ❖ Optimal Duration: 1 week.
- ❖ Maximum duration: 1 year. Use of these substances long-term (3 days per week or greater) is associated with rebound pain upon cessation.

- ii Selective Cyclo-oxygenase-2 (COX-2) Inhibitors: COX-2 inhibitors differ from the traditional NSAIDs in adverse side effect profiles. The major advantages of selective COX-2 inhibitors over traditional NSAIDs are that they have less GI toxicity and no platelet effects. COX-2 inhibitors can worsen renal function in patients with renal insufficiency; thus, renal function may need monitoring.

COX-2 inhibitors should not be first-line for low risk patients who will be using an NSAID short-term. COX-2 inhibitors are indicated in select patients who do not tolerate traditional NSAIDs. Serious upper GI adverse events can occur even in asymptomatic patients. Patients at high risk for GI bleeding include those who use alcohol, smoke, are older than 65, take corticosteroids or anti-coagulants, or have a longer duration of therapy. Celecoxib is contraindicated in sulfonamide allergic patients.

- ❖ Optimal Duration: 7 to 10 days.
- ❖ Maximum Duration: Chronic use is appropriate in individual cases. Use of these substances long-term (3 days per week or greater) is associated with rebound pain upon cessation.

- d. **Opioids**: should be primarily reserved for the treatment of severe upper extremity pain. There are circumstances where prolonged use of opioids is justified based upon specific diagnosis and in pre- and post-operative patients. In these and other cases, it should be documented and justified. In mild-to-moderate cases of upper extremity pain, opioid medication should be used cautiously on a case-by-case basis. Adverse effects include respiratory depression, the development of physical and psychological dependence, and impaired alertness.

Opioids medications should be prescribed with strict time, quantity, and duration guidelines, and with definitive cessation parameters. Pain is

subjective in nature and should be evaluated using a pain scale and assessment of function to rate effectiveness of the opioid prescribed. It is recommended that the provider access the Colorado Prescription Drug Monitoring Program (PDMP) before prescribing opioids. The PDMP allows the prescribing physician to see most of the controlled substances prescribed by other physicians for an individual patient. Any use beyond the maximum should be documented and justified based on the diagnosis and/or invasive procedures.

- ❖ Optimum Duration: Usually 3-5 days post-operatively
- ❖ Maximum Duration: 2 weeks. Use beyond 2 weeks is acceptable in appropriate cases when functional improvement is documented. Refer to the Division's Chronic Pain Disorder Medical Treatment Guidelines, which give a detailed discussion regarding medication use in chronic pain management. Use beyond 30 days after non-traumatic injuries, or 6 weeks post-operatively is **not recommended**. If longer treatment is justified, the physician should access the Colorado Prescription Drug Monitoring Program (PDMP) and follow recommendations in the Chronic Pain Guideline.

- e. **Psychotropic/Anti-anxiety/Hypnotic Agents:** may be useful for treatment of mild and chronic pain, dysesthesias, sleep disorders, and depression. Post-operative patients may receive medication to assure normal sleep cycles. Antidepressant medications, such as tricyclics and Selective Serotonin Reuptake Inhibitors (SSRIs), are useful for affective disorder and chronic pain management. Tricyclic anti-depressant agents, in low dose, are useful for chronic pain but have more frequent side effects.

Anti-anxiety medications are best used for short-term treatment (i.e., less than 6 months). Accompanying sleep disorders are best treated with sedating antidepressants prior to bedtime. Frequently, combinations of the above agents are useful. As a general rule, physicians should assess the patient's prior history of substance abuse or depression prior to prescribing any of these agents.

Due to the habit-forming potential of the benzodiazepines and other drugs found in this class, they are **not generally recommended**. Refer to the Chronic Pain Guidelines which give a detailed discussion regarding medication use in chronic pain management.

- ❖ Optimal Duration: 1 to 6 months.

❖ Maximum Duration: 6 to 12 months, with monitoring.

- f. **Smoking Cessation Medications and Treatment:** Tobacco dependence is chronic and may require repeated attempts to quit. All smoking cessation programs should be accompanied by behavioral support which may include practical counseling sessions, social support, and telephone follow up. A variety of medications have been used, including Bupropion SR, nicotine patches, gum, inhaler, lozenges or nasal spray, and varenicline. When nicotine supplements are used, cotinine testing will be positive. Urine anabasine or exhaled carbon monoxide 5 ppm or less may be used to check tobacco abstinence.

There is some evidence that among adults motivated to quit smoking, 12 weeks of open-label treatment including counseling and one of the following: nicotine patch, varenicline, or combination nicotine replacement therapy (nicotine patch and nicotine lozenge) are equally effective in assisting motivated smokers to quit smoking over a period of one year.

There is some evidence that among adults motivated to quit smoking, abrupt smoking cessation is more effective than gradual cessation for abstinence lasting over a period of 4 weeks to 6 months, even for smokers who initially prefer to quit by gradual reduction.

- g. **Topical Drug Delivery:** Creams and patches may be an alternative treatment of localized musculoskeletal disorders.

It is necessary that all topical agents be used with strict instructions for application as well as the maximum number of applications per day to obtain the desired benefit and avoid potential toxicity. As with all medications, patient selection must be rigorous to select those patients with the highest probability of compliance. Refer to Section H.14.c Iontophoresis in Therapy-Passive for information regarding topical iontophoretic agents.

- i. **Topical Salicylates and Nonsalicylates:** have been shown to be effective in relieving pain in acute and chronic musculoskeletal conditions. Topical salicylate and nonsalicylates achieve tissue levels that are potentially therapeutic, at least with regard to COX inhibition.
- ii. There is good evidence that diclofenac gel reduces pain and improves function in mild-to-moderate hand osteoarthritis. There is some evidence that topical ketoprofen patches are more effective than placebo in reducing pain of upper extremity tendonitis. However, the need for continuous skin application may limit overall use. Use of ketoprofen topical patch for the disorders described in these

guidelines has not been FDA approved at the time of this guideline writing.

- iii. Other than local skin reactions, the side effects of therapy exist but are minimal. The usual contraindications to use of these compounds need to be considered. Local skin reactions are rare and systemic effects are even less common. Their use in patients receiving warfarin therapy may result in alterations in bleeding time. Overall, the low level of systemic absorption can be advantageous, allowing topical use of these medications when systemic administration is relatively contraindicated. Examples include patients with hypertension, cardiac failure, or renal insufficiency. Hepatic changes have been documented with topical NSAID use and therefore monitoring of liver enzymes is recommended.

- ❖ Optimal Duration: 1 week.

- ❖ Maximal Duration: 2 weeks per episode.

- iv. Capsaicin: is another medication option for topical drug use in upper extremity injury. Capsaicin offers a safe and effective alternative to systemic NSAID therapy. Although it is quite safe, effective use of capsaicin is limited by the local stinging or burning sensation that typically dissipates with regular use, usually after the first 7 to 10 days of treatment. Patients should be advised to apply the cream on the affected area with a plastic glove or cotton applicator and to avoid inadvertent contact with eyes and mucous membranes.

- ❖ Optimal Duration: 1 week.

- ❖ Maximal Duration: 2 weeks per episode.

- v. Iontophoretic Agents: Refer to Section H.14.c Iontophoresis in Therapy-Passive.

- vi. Topical Glyceryl Trinitrate: There is some evidence from a small study that wearing a topical patch containing glyceryl trinitrate over an area of tendinopathy is more effective than a placebo patch in reducing pain and improving overall clinical recovery in subjects with lateral epicondylitis over a period of 6 months. Improvement in function was not clearly demonstrated. There is some evidence that topical glyceryl trinitrate is not effective for epicondylitis from a study demonstrating no benefit compared to placebo with varied doses. Side effects include headaches. The patch must be applied every day. Therefore it

is ***not generally recommended*** and may only be used if there is failure of other conservative care at 8-12 weeks.

❖ Time to effect: 3 weeks

vii. Topical Lidocaine: There is no evidence that lidocaine patches have a functional benefit over other well-accepted treatment for carpal tunnel. At the time of this writing, post-herpetic neuralgia is the only medical condition for which topical lidocaine patch is FDA approved (Food and Drug Administration). The patches are ***not generally recommended***, although may be used when the primary complaint of the patient is pain and the patient refuses a steroid injection.

h. Glucosamine and chondroitin: are sold in the United States as dietary supplements. Their dosage, manufacture, and purity are not regulated by the Food and Drug Administration. Pharmaceutical grade versions are not available in the United States and thus, these medications are ***not recommended***.

i. Vitamin B6: Randomized trials on non-surgical treatment for carpal tunnel syndrome have demonstrated conflicting results. Higher doses may result in development of a toxic peripheral neuropathy. In the absence of definitive literature showing a beneficial effect, use of Vitamin B6 cannot be recommended.

8. NON-INTERDISCIPLINARY OCCUPATIONAL REHABILITATION PROGRAMS

These generally-accepted programs are work-related, outcome focused, individualized treatment programs. Objectives of the programs include, but are not limited to, improvement of cardiopulmonary and neuromusculoskeletal functions (strength, endurance, movement, flexibility, stability, and motor control functions), patient education, and symptom relief. The goal is for patients to gain full- or optimal-function and return to work. The service may include the time limited use of passive modalities with progression to achieve treatment and/or simulated/real work.

a. Work conditioning: is usually initiated once re-conditioning has been completed but may be offered at any time throughout the recovery phase. It should be initiated when imminent return of a patient to modified or full-duty is not an option, but the prognosis for returning the patient to work at completion of the program is at least fair to good.

❖ Length of Visit: 1 to 2 hours per day.

❖ Frequency: 2 to 5 visits per week.

- ❖ Optimum Duration: 2 to 4 weeks.
- ❖ Maximum Duration: 6 weeks. Participation in a program beyond 6 weeks must be documented with respect to need and the ability to facilitate positive symptomatic or functional gains.

b. **Work simulation**: is a program where an individual completes specific work-related tasks for a particular job and return-to-work. Use of this program is appropriate when modified duty can only be partially accommodated in the workplace, when modified duty in the workplace is unavailable, or when the patient requires more structured supervision. The need for workplace simulation should be based upon the results of a Functional Capacity Evaluation (FCE) and/or job site Evaluation.

- ❖ Length of Visit: 2 to 6 hours per day.
- ❖ Frequency: 2 to 5 visits per week.
- ❖ Optimum Duration: 2 to 4 weeks.
- ❖ Maximum Duration: 6 weeks. Participation in a program beyond 6 weeks must be documented with respect to need and the ability to facilitate positive symptomatic or functional gains.

9. **PERSONALITY/PSYCHOSOCIAL/PSYCHOLOGICAL INTERVENTION**

Psychosocial treatment is a well-established therapeutic and diagnostic intervention with selected use in acute pain patients and more widespread use in sub-acute and chronic pain populations. Psychosocial treatment is recommended as an important component in the total management of a patient with chronic pain and should be implemented as soon as the problem is identified.

Several studies have noted lack of a direct connection between impairment and disability. It appears that the lack of connection is due to differences among individuals in level of depression, coping strategies, or other psychological distress.

If a diagnosis consistent with the standards of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM) has been determined, the patient should be evaluated for the potential need for psychiatric medications. The authorized treating physician or the consulting psychiatrist may order the use of any medication to treat a diagnosed condition. Visits for management of psychiatric medications are medical in nature and are not a component of psychosocial treatment. Therefore, separate visits for medication management may be necessary, depending on the patient and medications selected.

Psychosocial interventions include psychotherapeutic treatments for mental health conditions as well as behavioral medicine treatments. These interventions may similarly be beneficial for patients without psychiatric conditions but who may need to make major life changes to cope with pain or adjust to disability. Examples of these treatments include cognitive behavioral therapy (CBT), relaxation training, mindfulness training, and sleep hygiene training.

The screening or diagnostic workup should clarify and distinguish between pre-existing, aggravated, and/or purely causative psychological conditions. Therapeutic and diagnostic modalities include, but are not limited to, individual counseling and group therapy. Treatment can occur within an individualized model, a multi-disciplinary model, or a structured pain management program.

A psychologist with a PhD, PsyD, or EdD credentials or a psychiatric MD/DO may perform psychosocial treatments. The following professionals may also treat in consultation with a psychologist with a PhD, PsyD, or EdD or a psychiatric MD/DO: other licensed mental health providers; licensed health care providers with training in CBT; or licensed and certified CBT therapists who have experience in treating chronic pain disorders in injured workers.

CBT is a group of psychological therapies that are sometimes referred to by more specific names such as Rational Emotive Behavior Therapy, Rational Behavior Therapy, Rational Living Therapy, Cognitive Therapy, and Dialectic Behavior Therapy. Variations of CBT methods can be used to treat a variety of conditions, including chronic pain, depression, anxiety, phobias, and post-traumatic stress disorder (PTSD). For patients with multiple diagnoses, more than one type of CBT might be needed. The CBT used in research studies is often “manualized CBT,” meaning that the treatment follows a specific protocol in a manual. In clinical settings, CBT may involve the use of standardized materials, but it is also commonly adapted by a psychologist or psychiatrist to the patient’s unique circumstances. If the CBT is being performed by a non-mental health professional, a manual approach would be strongly recommended. CBT must be distinguished from neuropsychological therapies used to teach compensatory strategies to brain injured patients, which are also called “cognitive therapy.”

It should be noted that most clinical trials on CBT exclude subjects who have significant psychiatric diagnoses. Consequently, the selection of patients for CBT should include the following considerations. CBT is instructive and structured, using an educational model with homework to teach inductive rational thinking. Because of this educational model, a certain level of literacy is assumed for most CBT protocols. Patients who lack the cognitive and educational abilities required by a CBT protocol are unlikely to be successful. Further, given the highly structured nature of CBT, it is more effective when a patient’s circumstances are relatively stable. For example, if a patient is about to be evicted, is actively suicidal, or is coming to sessions intoxicated, these matters will generally preempt CBT treatment for pain, and require other types

of psychotherapeutic response. Conversely, literate patients whose circumstances are relatively stable, but who catastrophize or cope poorly with pain or disability are often good candidates for CBT for pain. Similarly, literate patients whose circumstances are relatively stable, but who exhibit unfounded medical phobias, are often good candidates for CBT for anxiety.

There is good evidence that cognitive intervention reduces low back disability in the short-term and in the long-term. In one of the studies, the therapy consisted of 6, 2-hour sessions given weekly to workers who had been sick-listed for 8-12 weeks. Comparison groups include those who received routine care. There is good evidence that psychological interventions, especially CBT, are superior to no psychological intervention for chronic low back pain. There is also good evidence that self-regulatory interventions, such as biofeedback and relaxation training, may be equally effective. There is good evidence that six group therapy sessions lasting one and a half hours each focused on CBT skills improved function and alleviated pain in uncomplicated sub-acute and chronic low back pain patients. There is some evidence that CBT provided in 7, 2-hour small group sessions can reduce the severity of insomnia in chronic pain patients. A Cochrane meta-analysis grouped very heterogeneous behavioral interventions and concluded that there was good evidence that CBT may reduce pain and disability, but the effect size was uncertain. In total, the evidence clearly supports CBT, and it should be offered to all chronic pain patients who do not have other serious issues, as discussed above.

CBT is often combined with active therapy in an interdisciplinary program, whether formal or informal. It must be coordinated with a psychologist or psychiatrist. CBT can be done in a small group or individually, and the usual number of treatments varies between 8 and 16 sessions.

Before CBT is done, the patient must have a full psychological evaluation. The CBT program must be done under the supervision of a psychologist with a PhD, PsyD, EdD, or psychiatric MD/DO.

Psychological Diagnostic and Statistical Manual of Mental Disorders (DSM) disorders are common in chronic pain. One study demonstrated that the majority of patients who had failed other therapy and participated in an active therapy program also suffered from major depression. However, in a program that included CBT and other psychological counseling, the success rate for return to work was similar for those with and without a DSM diagnosis. This study further strengthens the argument for having some psychological intervention included in all chronic pain treatment plans.

For all psychological/psychiatric interventions, an assessment and treatment plan with measurable behavioral goals, time frames, and specific interventions must be provided to the treating physician prior to initiating treatment. A status report must be provided to the authorized treating physician every two weeks during initial more frequent treatment and monthly thereafter. The report should provide documentation of

progress toward functional recovery and a discussion of the psychosocial issues affecting the patient's ability to participate in treatment. The report should also address pertinent issues such as pre-existing, aggravated, and/or causative issues, as well as realistic functional prognosis.

a. Cognitive Behavioral Therapy (CBT) or Similar Treatment:

- ❖ Time to Produce Effect: 6 to 8 1–2 hour sessions, group or individual (1-hour individual or 2-hour group).
- ❖ Maximum Duration: 16 sessions.

NOTE: Before CBT is done, the patient must have a full psychological evaluation. The CBT program must be done under the supervision of a psychologist with a PhD, PsyD, or EdD or a Psychiatric MD/DO.

b. Other Psychological/Psychiatric Interventions:

- ❖ Time to Produce Effect: 6 to 8 weeks.
- ❖ Frequency: 1 to 2 times weekly for the first 2 weeks (excluding hospitalization, if required), decreasing to 1 time per week for the second month. Thereafter, 2 to 4 times monthly with the exception of exacerbations, which may require increased frequency of visits. Not to include visits for medication management
- ❖ Optimum Duration: 2 to 6 months.
- ❖ Maximum Duration: 6 months. Not to include visits for medication management. For select patients, longer supervised psychological/psychiatric treatment may be required, especially if there are ongoing medical procedures or complications. If counseling beyond 6 months is indicated, the management of psychosocial risks or functional progress must be documented. Treatment plan/progress must show severity.

10. RESTRICTION OF ACTIVITIES

Continuation of normal daily activities is the recommendation for most patients, since immobility will negatively affect rehabilitation. Prolonged immobility results in a wide range of deleterious effects, such as a reduction in aerobic capacity and conditioning, loss of muscle strength and flexibility, increased segmental stiffness, promotion of bone demineralization, impaired disc nutrition, and the facilitation of the illness role.

Some level of immobility may occasionally be appropriate, including splinting/casting. While these interventions may be occasionally ordered in the acute phase, the provider should be aware of their impact on the patient's ability to adequately comply with and successfully complete rehabilitation. Activity should be increased based on the improvement of core strengthening.

Patients should be educated regarding the detrimental effects of immobility versus the efficacious use of limited rest periods. Adequate rest allows the patient to comply with active treatment and benefit from the rehabilitation program. In addition, complete work cessation should be avoided, if possible, since it often further aggravates the pain presentation and promotes disability. Modified return to work is almost always more efficacious and rarely contraindicated in the vast majority of injured workers.

11. RETURN-TO-WORK

Return to work and/or work-related activities, whenever possible, is one of the major components in treatment and rehabilitation. Return to work should be addressed by each workers' compensation provider at the first meeting with the injured employee and updated at each additional visit. A return-to-work format should be part of a company's health plan, knowing that return to work can decrease anxiety, reduce the possibility of depression, and reconnect the worker with society.

Because a prolonged period of time off work will decrease the likelihood of return to work, the first weeks of treatment are crucial in preventing and/or reversing chronicity and disability mindset. In complex cases, experienced nurse case managers may be required to assist in return to work. Other services, including psychological evaluation and/or treatment, job site analysis, and vocational assistance, may be employed.

Two counseling sessions with an occupational physician, and work site visit if necessary, may be helpful for workers who are concerned about returning to work.

At least one study suggests that health status is worse for those patients who do not return to work than those who do. Self-employment and injury severity predict return to work. Difficulty with pain control, ADLs, and anxiety and depression were common.

The following should be considered when attempting to return an injured worker with chronic pain to work.

- a. **Job History Interview:** The authorized treating physician should perform a job history interview at the time of the initial evaluation and before any plan of treatment is established. Documentation should include the worker's job demands, stressors, duties of current job, and duties of job at the time of the initial injury. In addition, cognitive and social issues should be identified, and treatment of these issues should be incorporated into the plan of care.
- b. **Coordination of Care:** Management of the case is a significant part of return to work and may be the responsibility of the authorized treating physician, occupational health nurse, risk manager, or others. Case management is a method of communication between the primary provider, referral providers, insurer, employer, and employee. Because case management may be coordinated by a variety of professionals, the case manager should be identified in the medical record.
- c. **Communication:** This is essential between the patient, authorized treating physician, employer, and insurer. Employers should be contacted to verify employment status, job duties and demands, and policies regarding injured workers. In addition, the availability and duration of temporary and permanent restrictions, as well as other placement options, should be discussed and documented. All communications in the absence of the patient are required to be documented and made available to the patient.
- d. **Establishment of Return-to-Work Status:** Return to work for persons with chronic pain should be considered therapeutic, assuming that work is not likely to aggravate the basic problem or increase the discomfort. In **some** cases of chronic pain, the worker may not be currently working or even employed. The goal of return to work would be to return the worker to any level of employment with the current employer or to return him/her to any type of new employment. Temporary restrictions may be needed while recommended ergonomic or adaptive equipment is obtained; employers should obtain recommended equipment in a timely manner.

- e. **Establishment of Activity Level Restrictions:** A formal job description for the injured worker is necessary to identify physical demands at work and assist in the creation of modified duty. A job site evaluation may be utilized to identify applicable tasks such as pushing, pulling, lifting, reaching, grasping, pinching, sitting, standing, posture, and ambulatory distance and terrain. If applicable, a job site evaluation may also be utilized to assess temperature, air flow, noise, and the number of hours worked per day in a specific environment. Also refer to Section H.6 Job Site Alterations. Because exacerbation of symptoms affecting function is unpredictable, an extended, occupationally focused functional capacity evaluation may be necessary to determine the patient's tolerance for job type tasks over a continued period of time. Job requirements should be reviewed for the entire 8 hours or more of the working day. Between one and three days after the evaluation, there should be a follow-up evaluation by the treating therapist and/or the authorized treating physician to assess the patient's status. When prescribing the functional capacity evaluation, the physician must assess the probability of return to work against the potential for exacerbation of the work related condition. Work restrictions assigned by the authorized treating physician may be temporary or permanent. The case manager should continue to seek out modified work until restrictions become less cumbersome or as the worker's condition improves or deteriorates.
- f. **Rehabilitation and Return to Work:** As part of rehabilitation, every attempt should be made to simulate work activities so that the authorized treating physician may promote adequate job performance. The use of ergonomic or adaptive equipment, therapeutic breaks, and interventional modalities at work may be necessary to maintain employment.
- g. **Vocational Assistance:** Formal vocational rehabilitation is a generally accepted intervention and can assist disabled persons to return to viable employment. Identification of vocational goals will facilitate medical recovery and aid in the achievement of maximum medical improvement by (1) increasing motivation towards treatment and (2) alleviating the patient's emotional distress. Physically limited patients will benefit most if vocational assistance is provided during the interdisciplinary rehabilitation phase of treatment. To assess the patient's vocational capacity, a vocational assessment may utilize the information from occupational and physical therapy assessments. This vocational assessment may identify rehabilitation program goals and optimize both patient motivation and utilization of rehabilitation resources. This may be extremely helpful in decreasing the patient's fear regarding an inability to earn a living, which can add to his/her anxiety and depression.

Recommendations to Employers and Employees of Small Businesses:
employees of small businesses who are diagnosed with chronic pain may not

be able to perform any jobs for which openings exist. Temporary employees may fill those slots while the employee functionally improves. Some small businesses hire other workers, and if the injured employee returns to the job, the supervisor/owner may have an extra employee. Case managers may assist with resolution of these problems and with finding modified job tasks or jobs with reduced hours, etc., depending on company philosophy and employee needs.

Recommendations to Employers and Employees of Mid-sized and Large Businesses: Employers are encouraged by the Division to identify modified work within the company that may be available to injured workers with chronic pain who are returning to work with temporary or permanent restrictions. To assist with temporary or permanent placement of the injured worker, it is suggested that a program be implemented that allows the case manager to access descriptions of all jobs within the organization.

12. SLEEP DISTURBANCES

Sleep disturbances are a common secondary symptom of cumulative trauma conditions. Although primary insomnia may accompany pain as an independent comorbid condition, it more commonly occurs secondary to the pain condition itself. Exacerbations of pain often are accompanied by exacerbations of insomnia; the reverse can also occur. Sleep laboratory studies have shown disturbances of sleep architecture in pain patients. Loss of deep slow-wave sleep and increase in light sleep occur and sleep efficiency, the proportion of time in bed spent asleep, is decreased. These changes are associated with patient reports of non-restorative sleep. Many affected patients develop behavioral habits that exacerbate and maintain sleep disturbances. Excessive time in bed, irregular sleep routine, napping, low activity, and worrying in bed are all maladaptive responses that can arise in the absence of any psychopathology. Behavioral modifications are accepted interventions, easily implemented, and can include:

- a. Maintaining a regular sleep schedule, retiring and rising at approximately the same time on weekdays and weekends.
- b. Avoiding daytime napping.
- c. Avoiding caffeinated beverages after lunchtime.
- d. Making the bedroom quiet and comfortable, eliminating disruptive lights, sounds, television sets, and keeping a bedroom temperature of about 65 degrees Fahrenheit.

- e. Avoiding alcohol or nicotine within 2 hours of bedtime.
- f. Avoiding large meals within 2 hours of bedtime.
- g. Exercising vigorously during the day, but not within 2 hours of bedtime, since this may raise core temperature and activate the nervous system.
- h. Associating the bed with sleep and sexual activity only, using other parts of the home for television, reading, and talking on the telephone.
- i. Leaving the bedroom when unable to sleep for more than 20 minutes, returning to the bedroom when ready to sleep again.

These modifications should be undertaken before sleeping medication is prescribed for long-term use.

13. THERAPY–ACTIVE

The following active therapies are widely used and accepted methods of care for a variety of work-related injuries. They are based on the philosophy that therapeutic exercise and/or activity are beneficial for restoring flexibility, strength, endurance, function, range of motion, and alleviating discomfort. Active therapy requires an internal effort by the individual to complete a specific exercise or task, and thus assists in developing skills promoting independence and self-care after discharge. This form of therapy requires supervision from a therapist or medical provider such as verbal, visual, and/or tactile instructions. At times a provider may help stabilize the patient or guide the movement pattern, but the energy required to complete the task is predominantly executed by the patient.

Patients should be instructed to continue active therapies at home as an extension of the treatment process in order to maintain improvement levels. Follow-up visits to reinforce and monitor progress and proper technique are recommended. Home exercise can include exercise with or without mechanical assistance or resistance and functional activities with assistive devices. Frequency times and duration of treatment apply only to diagnoses not previously covered in Sections F and G.

On occasion, specific diagnoses and post-surgical conditions may warrant durations of treatment beyond those listed as "maximum." Factors such as exacerbation of symptoms, re-injury, interrupted continuity of care, need for post-operative therapy, and co-morbidities may also extend durations of care. Specific goals with objectively measured functional improvement during treatment must be cited to justify extended durations of care. If no functional gain is observed after the number of treatments under "time to produce effect" has been completed, then the treatment should be discontinued and alternative treatment interventions, further diagnostic studies, or further consultations should be pursued.

- a. **Activities of Daily Living (ADLs)**: are well-established interventions which involve instruction, active-assisted training, and/or adaptation of activities or equipment to improve a person's capacity in normal daily activities such as self-care, work re-integration training, homemaking, and driving.
- ❖ Time to Produce Effect: 4 to 5 treatments.
 - ❖ Frequency: 3 to 5 times per week.
 - ❖ Optimum Duration: 4 to 6 weeks.
 - ❖ Maximum Duration: 6 weeks.
- b. **Functional Activities**: are generally well-accepted interventions which involve the use of therapeutic activity to enhance mobility, body mechanics, employability, coordination, and sensory motor integration.
- ❖ Time to Produce Effect: 4 to 5 treatments.
 - ❖ Frequency: 3 to 5 times per week.
 - ❖ Optimum Duration: 4 to 6 weeks.
 - ❖ Maximum Duration: 6 weeks.
- c. **Nerve Gliding**: exercises are generally accepted. These exercises consist of a series of flexion and extension movements of the hand, wrist, elbow, shoulder, and neck, producing tension and longitudinal movement along the length of the median and other nerves of the upper extremity. These exercises are based on the principle that the tissues of the peripheral nervous system are designed for movement. The second principle is that tension and glide (excursion) of nerves may have an effect on neurophysiology through alterations in vascular and axoplasmic flow. Biomechanical principles have been more thoroughly studied than clinical outcomes. There is some evidence that a trial of conservative treatment for cubital tunnel syndrome, with emphasis on education, is as effective as a treatment program involving nocturnal bracing and a program involving gliding exercises. This education covers nerve anatomy, causes of symptoms, and appropriate elbow movements. Due to lack of quality evidence, use of mobilization and exercise should be based on patient preference and provider expertise.
- ❖ Time to Produce Effect: 2 to 4 weeks.

- ❖ Frequency: Up to 5 times per day by patient (patient-initiated).
- ❖ Optimum Duration: 2 provider-directed sessions.
- ❖ Maximum Duration: 3 provider-directed sessions.

d. **Neuromuscular Re-education**: is an accepted treatment that involves the skilled application of exercise with manual, mechanical, or electrical facilitation. The goal is to enhance strength, movement patterns, neuromuscular response, proprioception, kinesthetic sense, coordination education of movement, balance, and posture. Indications include the need to promote neuromuscular responses through carefully timed proprioceptive stimuli, to elicit and improve motor activity in patterns similar to normal neurologically developed sequences, and improve neuromotor response with independent control.

- ❖ Time to Produce Effect: 2 to 6 treatments.
- ❖ Frequency: 3 times per week.
- ❖ Optimum Duration: 4 to 8 weeks.
- ❖ Maximum Duration: 8 weeks.

e. **Proper Work Techniques**: Please refer to Section E.6.c Job Site Evaluations and Alterations and Section H.6 Job Site Alterations.

f. **Therapeutic Exercise**: is generally well-accepted and widely used. It is done with or without mechanical assistance or resistance may include isoinertial, isotonic, isometric and isokinetic types of exercises. Indications include the need for cardiovascular fitness, reduced edema, improved muscle strength, improved connective tissue strength and integrity, increased bone density, promotion of circulation to enhance soft tissue healing, improvement of muscle recruitment, increased range of motion, and more normal movement patterns. The treatment can also include complementary/alternative exercise such as movement therapy (with oversight of a physician or other appropriate healthcare professional).

- ❖ Time to Produce Effect: 2 to 6 treatments.
- ❖ Frequency: 3 to 5 times per week.

- ❖ Optimum Duration: 4 to 8 weeks.
- ❖ Maximum Duration: 8 weeks.

14. **THERAPY-PASSIVE**

Most of the following passive therapies and modalities are generally well-accepted methods of care for a variety of work-related injuries. This includes those treatment modalities that do not require energy expenditure on the part of the patient. They are principally effective during the early phases of treatment and are directed at controlling symptoms such as pain, inflammation, swelling, and at improving the rate of healing soft tissue injuries. They should be used in adjunct with active therapies to help control swelling, pain and inflammation during the rehabilitation process. They may be used intermittently as a therapist deems appropriate or regularly if there are specific goals with objectively measured functional improvements during treatment.

On occasion, specific diagnoses and post-surgical conditions may warrant durations of treatment beyond those listed as "maximum." Factors such as exacerbation of symptoms, re-injury, interrupted continuity of care, need for post-operative therapy, and co-morbidities may also extend durations of care. Specific goals with objectively measured functional improvement during treatment must be cited to justify extended durations of care. If no functional gain is observed after the number of treatments under "time to produce effect" has been completed, then the treatment should be discontinued and alternative treatment interventions, further diagnostic studies, or further consultations should be pursued.

The following passive therapies and modalities are listed in alphabetical order.

- a. **Electrical Stimulation (Unattended)**: is an accepted treatment. Once applied, it requires minimal on-site supervision by the physician or non-physician provider. Indications include pain, inflammation, muscle spasm, atrophy, and decreased circulation.

Electrical stimulation is rarely used in cumulative trauma conditions. However, high voltage, galvanic, and/or interferential stimulators may assist in edema control to decrease pain and improve therapy compliance. It may be appropriate in rare situations when nerve damage or other work related issues have resulted in muscle atrophy and the patient is unable to engage in sufficient active therapy to increase muscle mass. TENS therapy or PENS are not indicated for diagnoses in these Guidelines. Refer to Exhibit 9 Chronic Pain Medical Treatment Guidelines for usage.

- ❖ Time to Produce Effect: 2 to 4 treatments.

- ❖ Frequency: Varies, depending upon indication, between 2 to 3 times/day to 1 time/week. Provide home unit if frequent use.
- ❖ Optimum Duration: 2 to 4 weeks.
- ❖ Maximum Duration: Home unit as needed.

- b. **Extracorporeal Shock Wave Therapy (ESWT)**: The natural history of epicondylitis supports an expectation of improvement within 3 months using patient education and modified activities.

There is some evidence that highly motivated tennis players may show up to a 35% additional improvement over no other treatment when administered low energy shock wave treatment without local anesthesia. Two other studies are not of sufficient quality to qualify for evidence. There is some evidence that three weekly sessions of radial ESWT and sham ESWT lead to statistically similar symptomatic and functional outcomes at three months, but a benefit of radial ESWT cannot be ruled out due to uncertainties in the data.

The preponderance of evidence does not support the efficacy of ESWT in the working population; therefore, it is ***not recommended***.

- c. **Iontophoresis**: is an accepted treatment. It is the transfer of medication, including, but not limited to, steroidal anti-inflammatories and anesthetics, through the use of electrical stimulation. Indications include pain (lidocaine), inflammation (hydrocortisone, salicylate), edema (mecholyt, hyaluronidase, and salicylate), ischemia (magnesium, mecholyt, and iodine), muscle spasm (magnesium, calcium), calcific deposits (acetate), and scars and keloids (chlorine, iodine, acetate). Refer to the specific diagnosis for use with cumulative trauma. Under current FDA regulations, the physician issues a prescription to the patient for the dexamethasone for this treatment and the patient transports the medication to the treatment location.

- ❖ Time to Produce Effect: 1 to 4 treatments.
- ❖ Frequency: 2 to 3 times per week with at least 48 hours between treatments.
- ❖ Optimum Duration: 6 to 9 treatments.
- ❖ Maximum Duration: 9 treatments.

- d. **Low Level Laser Therapy (LLLT)**: There is some evidence that low-level laser therapy adds no short term benefit for reducing symptoms and improving function compared to full-time splinting for 3 months. There is good evidence that laser therapy is ineffective regarding pain and function compared with placebo as an intervention to treat carpal tunnel syndrome in the short term. This is some evidence that LLLT is no more effective than placebo LLLT in reducing pain and symptoms and improving functionality in the conservative treatment of patients affected by carpal tunnel syndrome. There is some evidence that LLLT plus splinting is no more effective than splinting alone in reducing carpal tunnel symptoms and improving functionality in the conservative treatment of patients affected by carpal tunnel syndrome. There is good evidence that LLLT is not more effective than placebo for lateral epicondylitis. *There is good evidence from a number of adequate studies comparing low level laser to sham therapy and splinting that low level laser does not add benefit, and it is **not recommended**.*
- e. **Manipulation**: Is a generally accepted, well-established and widely used therapeutic intervention for upper extremity injuries. Manipulative treatment (not therapy) is defined as the therapeutic application of manually guided forces by an operator to improve physiologic function and/or support homeostasis that has been altered by the injury or occupational disease, and has associated clinical significance.

High velocity, low amplitude (HVLA) technique, chiropractic manipulation, osteopathic manipulation, muscle energy techniques, counter strain, and non-force techniques are all types of manipulative treatment. This may be applied by osteopathic physicians (D.O.), chiropractors (D.C.), properly trained physical therapists (P.T.), properly trained occupational therapists (O.T.), or properly trained physicians. Under these different types of manipulation exist many subsets of different techniques that can be described as a) "direct," or a forceful engagement of a restrictive/pathologic barrier; b) "indirect," or a gentle/non-forceful disengagement of a restrictive/pathologic barrier; c) the patient actively assisting in the treatment; and d) the patient relaxing, allowing the practitioner to move the body tissues. When the proper diagnosis is made and coupled with the appropriate technique, manipulation has no contraindications and can be applied to all tissues of the body. Pre-treatment assessment should be performed as part of each manipulative treatment visit to ensure that the correct diagnosis and correct treatment is employed. Refer to the specific diagnosis for use with cumulative trauma conditions.

There is good evidence that manual and manipulative therapy combined with exercise and/or multimodal therapy shows small, clinically important reductions in pain and improved physical function in the short-term care (≤ 3 -6 months) of patients with lateral epicondylitis and carpal tunnel syndrome.

There is some evidence that both Cyriax physiotherapy (deep transverse friction massage combined with mills manipulation) and phonophoresis with supervised exercise and static stretching are effective over 4 weeks. Both treatments decrease pain, increase pain-free grip strength, and improve functional status in people with lateral epicondylalgia. However, Cyriax physiotherapy provides a superior benefit compared to phonophoresis with supervised exercise and static stretching.

- ❖ Time to Produce Effect (for all types of manipulative treatment): 1 to 6 treatments.
- ❖ Frequency: Up to 3 times per week for the first 3 weeks as indicated by the severity of involvement and the desired effect.
- ❖ Optimum Duration: 10 treatments.
- ❖ Maximum Duration: 12 treatments. Additional visits may be necessary in cases of re-injury, interrupted continuity of care, exacerbation of symptoms, and in those patients with co-morbidities. Functional gains including increased range of motion must be demonstrated to justify continuing treatment.

- f. **Manual Therapy Techniques:** are passive interventions in which the provider uses his/her hands to administer skilled movements. The movements are designed to modulate pain; increase joint range of motion; reduce/eliminate soft tissue swelling, inflammation or restriction; induce relaxation; and improve contractile and non-contractile tissue extensibility. These generally accepted techniques are applied only after a thorough examination is performed to identify those for whom manual therapy would be contraindicated or for whom manual therapy must be applied with caution.

There is some evidence that the muscle energy technique is superior to corticosteroid injection in improving grip strength in lateral epicondylitis. The muscle energy technique is a manual therapy technique in which the patient performs voluntary contraction against a counter force from the provider to stretch muscles and improve range of motion. However, it is not clear that the technique is better than no treatment.

There is good evidence that manual and manipulative therapy combined with exercise and/or multimodal therapy shows small, clinically important reductions in pain and improved physical function in the short-term care (≤ 3 -6 months) of patients with lateral epicondylitis and carpal tunnel syndrome.

There is some evidence that both Cyriax physiotherapy (deep transverse friction massage combined with mills manipulation) and phonophoresis with supervised exercise and static stretching are effective over 4 weeks. Both treatments decrease pain, increase pain-free grip strength, and improve functional status in people with lateral epicondylalgia. However, Cyriax physiotherapy provides a superior benefit compared to phonophoresis with supervised exercise and static stretching.

- i. Mobilization (Joint)/Manipulation: Mobilization is passive movement involving oscillatory motions to the involved joints. The passive mobility is performed in a graded manner (I, II, III, IV, or V), which depicts the speed of the maneuver. It may include skilled manual joint tissue stretching. Indications include the need to improve joint play, improve intracapsular arthrokinematics, or reduce pain associated with tissue impingement. Contraindications include joint instability, fractures, severe osteoporosis, infection, metastatic cancer, active inflammatory arthritis, and signs of progressive neurologic deficits.

- ❖ Time to Produce Effect: 4 to 6 treatments.
- ❖ Frequency: 2 to 3 times per week.
- ❖ Optimum Duration: 4 to 6 weeks.
- ❖ Maximum Duration: 6 weeks.

- ii. Mobilization (Soft Tissue): Mobilization of soft tissue is the skilled application of manual techniques designed to normalize movement patterns through the reduction of soft tissue pain and restrictions. Indications include muscle spasm around a joint, trigger points, adhesions, and neural compression.

- ❖ Time to Produce Effect: 4 to 6 treatments.
- ❖ Frequency: 2 to 3 times per week.
- ❖ Optimum Duration: 4 to 6 weeks.
- ❖ Maximum Duration: 6 weeks.

- g. **Massage, Manual or Mechanical:** Massage is manipulation of soft tissue with broad ranging relaxation and circulatory benefits. It is an accepted treatment. This may include stimulation of acupuncture points and acupuncture channels (acupressure), application of suction cups, and techniques that include pressing, lifting, rubbing, pinching of soft tissues by or with the practitioners' hands. Indications include edema, muscle spasm, adhesions, the need to improve peripheral circulation and range of motion, or to increase muscle relaxation and flexibility prior to exercise.

- ❖ Time to Produce Effect: Immediate.
- ❖ Frequency: 1 to 2 times per week.
- ❖ Optimum Duration: 6 weeks.
- ❖ Maximum Duration: 2 months.

- h. **Orthotics/Immobilization with Splinting and Bracing:** is a generally accepted, well-established and widely used therapeutic procedure. Depending on the specifics of the condition, the treatment plan, and the daily activities, splints may be effective when worn at night or during portions of the day. Splints should be loose and soft enough to maintain comfort while supporting the involved joint in a relatively neutral position.

Splint comfort is critical and may affect compliance. Although off-the-shelf splints are usually sufficient, custom thermoplastic splints may provide better fit for certain patients. Splint use is rarely mandatory. Providers should be aware that over usage is counterproductive, and counsel patients to minimize daytime splint use in order avoid detrimental effects, such as, stiffness and dependency over time.

- ❖ Time to Produce Effect: 1 to 4 weeks.
- ❖ Frequency: Daytime intermittent or night use, depending on symptoms and activities.
- ❖ Optimum Duration: 4 to 8 weeks.
- ❖ Maximum Duration: 2 to 4 months. If symptoms persist, consideration should be given to further diagnostic studies or to other treatment options.

- i. **Paraffin Bath:** is a superficial heating modality that uses melted paraffin (candle wax and mineral oil) to treat irregular surfaces such as the hand. Accepted indications include the need to enhance collagen extensibility before stretching, reduce muscle guarding, or reduce inflammatory response.

- ❖ Time to Produce Effect: 1 to 4 treatments.
- ❖ Frequency: 1 to 3 times per week.
- ❖ Optimum Duration: 4 weeks.
- ❖ Maximum Duration: 1 month. If beneficial, provide with home unit or purchase if effective.

- j. **Superficial Heat and Cold Therapy:** is an accepted intervention. Thermal agents are applied in various manners that lower or raise the body tissue temperature for the reduction of pain, inflammation, and/or effusion resulting from injury or induced by exercise. It includes application of heat just above the surface of the skin at acupuncture points. Indications include acute pain, edema, and hemorrhage and the need to increase pain threshold, reduce muscle spasm, and promote stretching/flexibility. Cold and heat packs can be used at home as an extension of therapy in the clinic setting.

- ❖ Time to Produce Effect: Immediate.
- ❖ Frequency: 2 to 5 times per week (clinic). Home treatment as needed.
- ❖ Optimum Duration: 3 weeks as primary or intermittently as an adjunct to other therapeutic procedures up to 2 months.
- ❖ Maximum Duration: 2 months. If symptoms persist, provider should consider further diagnostic studies or other treatment options.

k. **Ultrasound (Including Phonophoresis)**: is an accepted treatment. It uses sonic generators to deliver acoustic energy for therapeutic thermal and/or non-thermal soft tissue effects. Refer to Sections F and G on specific diagnoses for use. Indications include scar tissue, adhesions, collagen fiber, muscle spasm, and to improve muscle tissue extensibility and soft tissue healing. Ultrasound with electrical stimulation is concurrent delivery of electrical energy that involves dispersive electrode placement. Indications include: muscle spasm, scar tissue, pain modulation, and muscle facilitation. Phonophoresis is the transfer of medication to the target tissue to control inflammation and pain through the use of sonic generators. These topical medications include, but are not limited to, steroidal anti-inflammatory and anesthetics. Under current FDA regulations, the physician issues a prescription to the patient for the dexamethasone for this treatment and the patient usually transports the medication to the treatment location.

- ❖ Time to Produce Effect: 4 to 8 treatments.
- ❖ Frequency: 2 to 3 times per week.
- ❖ Optimum Duration: 4 to 6 weeks.
- ❖ Maximum Duration: 2 months.

15. **VOCATIONAL REHABILITATION**

VOCATIONAL REHABILITATION: is a generally accepted intervention. However, Senate Bill 87-79 limits the use of vocational rehabilitation in Colorado. This treatment requires adequate evaluation of patients for quantification of highest functional level, motivation, and achievement of maximum medical improvement (MMI). Vocational rehabilitation may be as simple as returning to the original job or as complicated as being retrained for a new occupation. The effectiveness of vocational rehabilitation may be enhanced when performed in combination with work hardening and work conditioning.

It may also be beneficial for full vocational rehabilitation to be started before MMI if it is evident that the injured worker will be unable to return to his/her previous occupation. A positive goal and direction may aid the patient in decreasing stress and depression, and promote optimum rehabilitation.

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Office of the Attorney General

Tracking number: 2016-00589

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Workers' Compensation

on 12/29/2016

7 CCR 1101-3 R17 Ex 05

Rule 17: Exhibit 5 - CUMULATIVE TRAUMA CONDITIONS MEDICAL TREATMENT GUIDELINES

The above-referenced rules were submitted to this office on 12/29/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 17, 2017 15:07:01

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Board of Equalization

Agency

General Rules of Procedure and Abstract of Assessment Hearings

CCR number

8 CCR 1506-1

Rule title

8 CCR 1506-1 GENERAL RULES OF PROCEDURE AND ABSTRACT OF
ASSESSMENT HEARINGS 1 - eff 03/02/2017

Effective date

03/02/2017

BOARD OF EQUALIZATION

General Rules of Procedure and Abstract of Assessment Hearings

GENERAL RULES OF PROCEDURE AND ABSTRACT OF ASSESSMENT HEARINGS

8 CCR 1506-1

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

GENERAL RULES OF PROCEDURE

LEGAL AUTHORITY

Article X, Section 15 creates the State Board of Equalization and gives it the power to review the valuations determined for assessment of taxes upon the various classes of real and personal property located in the several counties of the state and shall, upon a majority vote, raise, lower, and adjust the same to the end that all valuations for assessment of taxes shall be just and equalized. The State Board shall also perform other duties as may be prescribed by law.

Under the authority of Section 39-9-103(8), C.R.S. the State Board of Equalization adopts these rules and the following statement of basis and purpose.

Statement of Basis and Purpose

The State Board of Equalization adopts these rules to insure all hearings conducted by the Board are fair, just and efficient. Hearings of the Board are conducted to carry out its duties which include:

Review of recommendations for orders of reappraisal that arise as a result of the valuation for assessment study, (§39-9-103(1), C.R.S.),

Review of recommendations for orders of reappraisal made by the Property Tax Administrator, (§39-9-103(2), C.R.S.),

Review of decisions by the Board of Assessment Appeals that affect the valuation of a class or subclass of property, (§39-9-103(5), C.R.S.),

The conduct of hearings regarding complaints of dereliction of duty on the part of an assessor, (§39-9-103(6), C.R.S.),

Review of the annual abstracts of assessment, (§39-9-103(7), C.R.S.),

Review of decisions made by the advisory committee to the Property Tax Administrator, (§39-9-103(10), C.R.S.) and

Review of matters regarding exemptions under the authority of the Property Tax Administrator, (§39-9-109, C.R.S.).

RULE 1 Definitions

The definitions of terms as set forth in C.R.S. 39-1-102, as amended, are adopted in these rules by reference, except that "Board" shall mean the State Board of Equalization.

RULE 2 Conduct of Hearings

All hearings shall be conducted by at least a majority of the Board, and all final decisions shall be in writing and must be agreed to by a majority of the Board. Any Board member who dissents may state the reason for the dissent. Notice of the decision of the Board shall be mailed to all parties to the proceeding.

RULE 3 Service of Documents

Any documents filed by a party in an action before the Board, subsequent to the original notice of hearing, shall be served by such party on every other party to the action. Mailing a copy to the party at the last known address or to the attorney at such person's last known address, shall constitute such service.

RULE 4 Testimony Under Oath - Repealed

RULE 5 Rules of Evidence

All parties to the proceeding shall have the right to present their case or defense by oral and documentary evidence.

RULE 6 Continuances and Recesses

Hearings shall ordinarily be conducted between the hours of 9:00 A.M. and 5:00 P.M. Whenever, because of illness, emergency, or for other good reason, the Board considers that it would be in the best interest of justice to order a recess or continuance, the hearing shall be recessed or continued to a specified date, time and place.

RULE 7 Use of Copies as Evidence

Carbon copies, photocopies, photographic copies, or copies made by other similar procedures may be admitted in evidence or substituted in place of the original documents.

RULE 8 Board Decisions - Repealed

RULE 9 Representation Before Board

Any party may appear in person or may be represented by an attorney admitted to practice before the Colorado Supreme Court. Qualified experts in appropriate fields of knowledge may appear before the Board in their capacities as experts and present factual data and qualified opinion testimony.

RULE 10 Record of Proceedings

The record of hearings shall be by electronic recorder or court reporter at the discretion of the Chairperson. Transcriptions shall be made as provided by C.R.S. 24-4-105(13). Parties may employ, at their own expense, a court reporter.

RULE 11 Admission of Third Parties

Opportunity shall be afforded any person to appear before the Board to present facts and information for its consideration.

RULE 12 Size of Exhibits and Retention

When oversized exhibits are introduced, the Board may require that the size thereof be reduced to a satisfactory size for the record.

RULE 13 Subpoenas

Upon request by any party to a proceeding before the Board and upon an affirmative vote by a majority of the members of the Board, the Chairperson of the Board, or in the absence of the Chairperson, the Vice-Chairperson, may issue subpoenas, including subpoenas for production of records.

Whenever a subpoena is issued by the Board, such subpoena shall: State the name of the issuing body, the authority under which the subpoena is issued, and the subject of the inquiry and command each person to whom it is issued to attend and give testimony at a time and place specified in such subpoena. A subpoena may also command the person to whom it is directed to produce such books, records, documents, or other tangible evidence as the Board may require.

Service of a subpoena may be made by a sheriff, a deputy sheriff, or any other person who is at least eighteen years of age and not interested in the proceeding. Service shall be made by delivering a copy of the subpoena to the person named not later than forty-eight hours before the time specified for appearance in such subpoena unless, for good cause shown, a majority of the Board authorizes service within such forty-eight-hour period. The amount of fees for attendance and mileage shall be the same as that allowed by law for witness in civil cases and shall be paid after the witness is discharged from further attendance.

If any person issued a subpoena pursuant to this rule believes such subpoena to be unreasonable or oppressive, relief therefrom shall be requested in writing from the issuing body, accompanied by a statement of the reasons for such belief.

Any witnesses subpoenaed to give testimony or produce evidence may have legal counsel present to advise them.

The Board has the authority to issue subpoenas upon its own initiative. Witness fees and mileage for subpoenas issued under this paragraph shall be paid from the State Board line item contained in the Division of Property Taxation's budget.

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Office of the Attorney General

Tracking number: 2016-00612

Opinion of the Attorney General rendered in connection with the rules adopted by the

General Rules of Procedure and Abstract of Assessment Hearings

on 12/30/2016

8 CCR 1506-1

GENERAL RULES OF PROCEDURE AND ABSTRACT OF ASSESSMENT HEARINGS

The above-referenced rules were submitted to this office on 01/03/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 17, 2017 15:06:15

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Income Maintenance (Volume 3)

CCR number

9 CCR 2503-5

Rule title

9 CCR 2503-5 ADULT FINANCIAL PROGRAMS 1 - eff 03/02/2017

Effective date

03/02/2017

9 CCR 2503-5

3.530 OLD AGE PENSION (OAP) PROGRAM

The Old Age Pension (OAP) program provides financial assistance and may provide health care benefits for low-income Colorado residents who are sixty (60) years of age or older who meet basic eligibility requirements.

A. The total monthly OAP grant standard, as set by the State Board of Human Services, is \$773.00, effective January 1, 2017.

B. Effective January 1, 2017, the maximum monthly In-Kind Support and Maintenance (ISM) deduction amount for shelter, including utilities, is \$265.00.

9 CCR 2503-5

3.540 AID TO THE NEEDY DISABLED (AND) PROGRAM

The Aid to the Needy Disabled State Only (AND-SO) program provides interim assistance to clients age eighteen (18) through fifty-nine (59) years of age (unless diagnosed with blindness, then age zero (0) through 59 years of age); who are disabled or blind but have not been approved for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI). The AND-Colorado Supplement (AND-CS) program provides a supplemental payment for client's age zero (0) to 59 who are receiving SSI due to a disability or blindness, but are not receiving the full SSI grant standard.

A. The total AND-SO grant standard is \$189.00, effective August 6, 2014.

B. The total AND-CS grant standard is \$735.00, effective January 1, 2017.

C. The grant standards for AND-SO and AND-CS shall be adjusted as needed to remain within available appropriations. Appeals shall not be allowed for grant standard adjustments necessary to stay within available appropriations.

D. In addition to the regular monthly AND-CS grant payments, supplemental payments necessary to comply with the federal Maintenance of Effort (MOE) requirements may be provided. These payments are supplements to regular grant payments, are not entitlements, and do not affect grant standards. Appeals shall not be allowed for MOE payment adjustments.

E. Effective January 1, 2017, the maximum ISM amount for shelter, including utilities, is \$265.00.

9 CCR 2503-5

3.580 ADULT FOSTER CARE (AFC)

3.581 PURPOSE OF PROGRAM

A. The AFC program provides twenty-four (24) hour care and supervision for frail elderly or physically or emotionally disabled adults, age eighteen (18) or older, who do not require twenty-four (24) hour medical care but who cannot return to their home and need twenty-four (24) hour non-medical supervision.

B. Effective January 1, 2017, the maximum AFC grant standard is \$1367.00, determined as follows:

1. Deduct the client's income, from the AFC grant standard; and,
2. Deduct the client's OAP or AND-CS grant and any Supplemental Security Income (SSI) benefits; and,
3. The remainder is the AFC benefit.

C. The AFC maximum grant standard shall be adjusted to stay within available appropriations. Appeals shall not be granted for these adjustments.

D. The AFC grant is not taxable income to the client.

E. In addition to the regular monthly AFC grant payments, supplemental payments necessary to comply with the federal Maintenance of Effort (MOE) requirements may be provided. These payments are supplements to regular grant payments, are not entitlements, and do not affect grant standards. Appeals shall not be allowed for MOE payment adjustments.

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
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FREDERICK R. YARGER
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Tracking number: 2016-00581

Opinion of the Attorney General rendered in connection with the rules adopted by the

Income Maintenance (Volume 3)

on 01/06/2017

9 CCR 2503-5

ADULT FINANCIAL PROGRAMS

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 24, 2017 16:45:42

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Income Maintenance (Volume 3)

CCR number

9 CCR 2503-6

Rule title

9 CCR 2503-6 COLORADO WORKS PROGRAM 1 - eff 04/01/2017

Effective date

04/01/2017

==

9 CCR 2503-6

3.600 COLORADO WORKS PROGRAM [Rev. eff. 9/15/12]

3.602 APPLICATIONS FOR COLORADO WORKS

3.602.1 Applications [Rev. eff. 1/1/16]

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E. Receiving Applications for Colorado Works Benefits

1. When receiving applications for benefits, county workers shall:
 - a. Receive applications;
 - b. Review applications for completeness and determine eligibility for assistance;
 - c. Make a home visit when required by county policy to determine a county approved setting for a minor applicant; and,
 - d. Refer the applicant or participant to other services when appropriate.
2. The application process shall consist of all activity from the date the application is received from the applicant until a determination concerning eligibility is made. Language translation via interpreter shall be provided by the county department of residence as needed. The major steps in the application process shall include:

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- i. The agency shall inform all applicants in writing at the time of application that the agency will use all Social Security Numbers (SSN) of required household members to obtain information available through state identified sources. One interface includes, but is not limited to, the Income and Eligibility Verification System (IEVS) used to obtain information of income, eligibility, and the correct amount of assistance payments. Information gathered through State identified sources may be shared with other assistance programs, other states, the Social Security Administration, the Department of Labor and Employment, and the Child Support Services Program; and,

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3.604 ELIGIBILITY CRITERIA FOR COLORADO WORKS PAYMENTS AND SERVICES [Rev. eff. 9/15/12]

3.604.1 Program Verifications [Rev. eff. 7/1/15]

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C. Secondary Verifications

When applicable, secondary verifications for eligibility and program participation, may include, but are not limited to:

1. Verification of relationship of a dependent child to other household members;
2. Verification of good cause, to include good cause for a delay in providing verifications for assistance, good cause for not cooperating with Child Support Services, and good cause for not participating in work activities as specified in Section 3.604.2 , L;

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G. Prudent Person Principle

The rules contained herein are intended to be sufficiently flexible to allow the eligibility worker to exercise reasonable judgment in executing his/her responsibilities to determine a specified caretaker other than a parent, guardian, legal custodian, or a relative within the fifth (5th) degree.

In this regard, the concept of a prudent person can be helpful. The term refers to reasonable judgments made by an individual in a given case. In making a certification decision, the eligibility worker should ask whether his/her judgment is reasonable, based on experience and knowledge of the program. The eligibility worker is also responsible for exercising reasonable judgment in determining if a given number of individuals applying for Colorado Works fit the Colorado Works requirements of a household/assistance unit specifically the specified caretaker other than a parent, guardian, legal custodian, or relative within the fifth (5th) degree and/or when determining good cause for non-cooperation with work program activities or Child Support Services.

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N. General Requirements for Citizenship and Lawful Presence

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5. Verification of Lawful Presence in the United States

Section 24-76.5-103, C.R.S., requires verification of lawful presence in the United States, by the county departments, for applicants of state or local benefits, and federal benefits provided by the Colorado Department of Human Services or by the county departments of human/social services under the supervision of the State Department. All persons eighteen years of age or older must establish lawful presence in the United States prior to receiving public benefits with the exception of those exempt in the list provided in this section. The requirements of this section do not apply to applicants under the age of eighteen (18).

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- d. The requirements of this section do not apply to the following applicants, programs and services:

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18) Child Support Services; and,

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O. Colorado Works and Child Support Services

1. Cooperation with Child Support Services as an Eligibility Requirement

As a condition of continued eligibility, applicants for Colorado Works are statutorily required to assign all rights to child support on their own behalf or on behalf of any other member of the assistance unit for whom the application is made. An applicant's failure to sign and date the application form to avoid assignment of support rights precludes eligibility for the assistance unit. Failure to cooperate with Child Support Services at application and/or while receiving basic cash assistance, without good cause, will result in the termination or discontinuation of the Colorado Works basic cash assistance grant.

This assignment is effective for child support due and owing during the period of time the person is receiving public assistance. The assignment takes effect upon a determination of eligibility for Colorado Works cash assistance. The assignment remains in effect with respect to the amount of any unpaid support obligation accrued and owed prior to the termination of Colorado Works cash assistance to the participant. The application form shall contain acknowledgement of these provisions and shall be signed and dated by the applicant or participant.

- a. Applicants and participants may request that their case not be referred to Child Support Services based upon good cause. Claims found to be valid are:
 - 1) Potential physical or emotional harm to a child(ren).
 - 2) Potential physical or emotional harm to a parent or caretaker relative.
 - 3) Pregnancy or birth of a child related to incest or forcible rape.
 - 4) Legal adoption before court or a parent receiving pre-adoption services.
 - 5) Other reasons documented by the county department.
 - 6) Reasons considered to be in the best interest of the child.
 - 7) Other court order.
- b. Every applicant and participant shall be given notice and the opportunity to claim that his or her case should not be referred to Child Support Services based upon good cause.
- c. Determination of such good cause must be in writing and documented in the case file by the county director or designee of the county director.
- d. Each case not referred based upon good cause shall be reviewed by the county director or designee yearly.

2. Unreimbursed Public Assistance

Basic Cash Assistance shall be considered part of the Unreimbursed Public Assistance (UPA) as defined in the Child Support Services rule manual at Section 6.002 (9 CCR 2504-1).

- 3. If a family is ineligible for Colorado Works Basic Cash Assistance due to child support income and the income received from child support is either not received or is less than

the family need standard, the family may request to be reinstated for assistance in that month. The income from the current month will be used to determine eligibility and payment prospectively.

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V. Family Violence Option (FVO) Waiver

The federal government allows state Temporary Assistance for Needy Family (TANF) programs to electively participate in the option to waive certain program requirements for individuals who have been identified as victims of family (domestic) violence.

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2. Waiver Provisions

- a. The FVO waiver allows a county to exempt program participants from the following standard program elements if it is determined that participation in these elements would unfairly endanger or penalize an individual or their child(ren) as a result of their experience of family violence:
 - 1) Work Activities
 - 2) TANF Time Clock
 - 3) Child Support Services
- b. The county department shall involve the participant when choosing to invoke a waiver. The individual at their discretion may accept or refuse any waiver offered.

3. Requirements for Counties that Grant FVO Waivers:

When a county department and applicant/participant invoke the Family Violence Option the following are required:

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- c. Follow certain processes with regard to all TANF applicants and participants including:
 - 1) Screen Colorado Works applicants and participants by identifying those who are or have been victims of domestic violence by using the Domestic Violence Screening form.
 - 2) Assess Colorado Works applicants and participants who are identified as a victim of domestic violence by:
 - a) The nature and extent to which the individual may engage in work activities;
 - b) The resources and services needed to assist the individual in obtaining safety and self-sufficiency; and,
 - c) A plan to increase the individual's safety and self-sufficiency.

- 3) Victims of domestic violence exemptions (or waivers) of certain TANF requirements may be granted good cause based on circumstances that warrant non-participation in program work requirements of this section. non-cooperation with Child Support Services as defined in Section 3.604.2, L, or a program extension. Good cause may also be determined through the use of the prudent person principle standard as specified in Section 3.604.1, G.
 - a) Good cause for granting an FVO waiver of work activities and/or the 60-month time limit is defined as anything that would potentially endanger or unfairly penalize a participant or the participant's family if he/she participated in the county's standard program/work activity requirements.
 - b) Good cause for granting a waiver of the child support services cooperation requirement is defined as anything that is not in the best interest of the child, e.g., potentially endanger or unfairly penalize the individual or child if the individual cooperated with child support services.
- d. Provide certain resources to all TANF applicants and victims of domestic violence. Counties are to make immediate referrals to appropriate services, including: domestic violence services, legal services, health care, emergency shelter, child protection, and law enforcement. Such referrals are to be documented in the individual's case file.

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3.605 INCOME [Rev. eff. 9/15/12]

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3.605.3 Unearned Income [Rev. eff. 7/1/13]

For the purpose of determining eligibility for Colorado Works, the following shall be exempt from consideration as income:

A. Countable Unearned Income

Consideration of Unearned Income Against Program Income Standards

Unless otherwise specified, any unearned income is countable and together with all other countable income of the applicant, recipient, or assistance unit it must be considered against the applicable assistance program need and/or grant standards specified in the regulations covering the different programs.

1. Countable Unearned Income

Countable unearned income includes, but is not limited to the following, as well as other payments from any source, which can be construed to be a gain or benefit to the applicant or recipient and which are not earned income:

- a. Veteran's Compensation and pension.

- b. Income from rental property is considered as unearned income where the applicant or recipient is not actively managing the property on an average of at least twenty (20) hours a week. Rental income is countable to the extent it exceeds allowable expenses. Allowable expenses are maintenance, taxes, management fees, interest on mortgage, and utilities paid. This shall not include the purchase of the rental property and payments on the principal of loans for rental property.
- c. Current spousal maintenance (also referred to as alimony).

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2. Periodic Payments

The following types of periodic payments are countable unearned income:

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- i. Supplemental Security Income (SSI) - public assistance payments made by the Social Security Administration to an applicant or recipient age sixty-five (65) or older, or who is blind or disabled.
- ## 3. Supplementary Medical Insurance Benefits (SMIB)- Social Security "Medicare"
- supplementary medical insurance benefit is a voluntary program, therefore the full Social Security award amount is counted as income to determine eligibility and to determine the amount of financial assistance to the applicant or recipient. The lump sum SMIB refund received by the "buy-in" recipient is exempt income as the applicant or recipient has previously been charged with that income.

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E. Child Support Income

- 1. At initial application, current child support payments received by the assistance unit shall be considered income and counted against the need standard to determine eligibility.
- 2. Once found eligible, child support income is excluded in the basic cash assistance grant calculation.
- 3. For purposes of redetermination (RRR):
 - a. Inconsistent child support payments are not countable. Child support payments are considered consistent when received in all six (6) of the six (6) previous months.
 - b. Once consistency of payments has been established, current child support is averaged over the previous six (6) months. If that averaged amount is \$500 or less for the household, the child support income is disregarded for both eligibility and grant calculation. If that amount is over \$500 for the household, it is counted, in combination with other income, against the need standard to determine continued eligibility.
 - c. If found eligible, the child support income is disregarded for basic cash assistance grant calculation.

4. Child support arrears are exempt income and are not used for eligibility or grant calculation.

3.606 COLORADO WORKS ELIGIBILITY DETERMINATION FOR PAYMENTS [Eff. 9/15/12]

3.606.1 Eligibility Requirements[Rev. eff. 7/1/13]

A. Countable Gross Income

All countable gross income of the assistance unit received and expected to be received in the month prior to (if available) and in the month of application shall be used to determine eligibility.

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3.606.2 Basic Cash Assistance [Rev. eff. 7/1/13]

A. Payment of Basic Cash Assistance (BCA) Grants

Counties or groups of county departments shall not reduce the BCA grant, restrict eligibility, or impose sanctions that are inconsistent with state and federal laws or the rules of this Section 3.606.2.

B. Unreimbursed Public Assistance

The BCA grant shall be considered part of the unreimbursed public assistance (UPA) as defined in the Child Support Services rule manual at Section 6.002 (9 CCR 2504-1).

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3.606.4 REPORTING CHANGES AND REDETERMINATION OF ELIGIBILITY [Rev. eff. 8/7/13]

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B. Filing a Redetermination (RRR) to Continue Benefits

Colorado Works participants shall file their RRR with the county by the filing deadline. A recipient's failure to file a RRR timely may delay the determination of benefits and income disregards will not be applied unless good cause is established. Complete forms received timely must be acted upon by the county department by the last day of the month. Complete forms received after the filing deadline must be acted upon by the tenth (10th) calendar day in the month following the month the RRR was due. Participants must have a minimum of five (5) working days from the date they receive the RRR packet to return the packet to the county.

A RRR of eligibility shall mean a case review/determination of necessary information and verifications to determine eligibility at least once every twelve months. An interview for Colorado Works basic cash assistance cases shall take place annually with necessary verifications to determine whether the participant continues to be eligible for Colorado Works. To redetermine eligibility a case review must be conducted and necessary verification must be received to determine ongoing eligibility.

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3. Redetermination Process

During the redetermination process, the county worker shall:

- a. Conduct an interview;
- b. Explain the purpose of the interview and the use of the information supplied by the recipient on the RRR form and any additional required forms;
- c. Inform all recipients in writing at the eligibility redetermination that Social Security Numbers for all recipients will be used to request and exchange information with other agencies as part of the eligibility process, including the Department of Labor and Employment (state wage and unemployment data), Social Security Administration, and Internal Revenue Service (unearned income). IEVS information may also be exchanged with other state or federal agencies administering public assistance programs, including the Department of Labor and Employment, Child Support Services and the Social Security Administration;
- d. Have the recipient complete the forms or complete the form on behalf of the recipient;
- e. Explain the appeal rights to the recipient;
- f. Witness the signature of the recipient and sign as a person who helped complete the forms, when applicable;
- g. Review documents, verifications, and any other information supplied by the recipient with the recipient in order to obtain clarification if needed. Information requested shall include:
 - 1) Income;

- 2) Other eligibility factors shall be verified unless satisfactory documentation is in the case record;
- 3) If reopened, Child Support Services and other appropriate units shall be advised.

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L. Reopening and Reinstatements

Cases may be reopened prior to the effective date of closure with good cause and may be reinstated if closed within thirty (30) calendar days or less. If a case closure occurred due to failure to file an RRR, income disregards shall not be applied unless good cause exists.

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2. Reopening in Lieu of an Application- When a recipient requests assistance prior to the effective date of the recipient's discontinuation from assistance, the following procedures shall be followed:
 - a. A RRR form or current application form shall be in the case file or completed and signed by the recipient;
 - b. Income shall be verified;
 - c. Other eligibility factors shall be verified unless satisfactory documentation is in the case record;
 - d. Medical documentation shall be obtained unless the certified period of disability covers the current date; and,
 - e. Eligibility determination shall be completed and appropriate actions shall be taken;
 - f. If reopened, Child Support Services and other appropriate units shall be so advised.

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3.606.8 Diversion, Supportive Services, Other Assistance, and Family Needs Payments [Rev. eff. 7/1/15]

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D. Other Assistance and Family Needs Payments

A county may provide other assistance or a family needs payment including, but not limited to, supportive services and other cash assistance in addition to the basic cash assistance grant. This assistance shall be based on the assessed need of the assistance unit. Any other assistance with a monetary value to the participant shall be included as unreimbursed public assistance (UPA) as defined in the Child Support Services rule manual at Section 6.002 (9 CCR 2504-1) with the exception of those payments that are considered non-assistance such as transportation and/ or child care paid to employed individuals.

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3.609 COLORADO WORKS OVERPAYMENT, CLAIMS, INTENTIONAL PROGRAM VIOLATIONS, AND FRAUD PREVENTION AND DETECTION

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3.609.4 Criteria for Establishing and Recovering AFDC or Colorado Works/ TANF Overpayments [Rev. eff. 9/15/12]

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F. Computation of the Colorado Works Overpayment

Computation of recoveries for Colorado Works is based on the amount received that a recipient was originally deemed eligible for. All earned and unearned income received by the assistance unit and any child support payments received by the county Child Support Services office are taken into consideration in the computation.

In the instances where the overpayment is the direct result of actions tied to the determination of IPV and/or fraud, which resulted in receipt of benefits in error, or benefits received that the recipient was not eligible to receive, the overpayment shall be recovered.

G. Procedure for Computing Monthly Over/Under Payments

The calculation of overpayment shall begin in the month that the overpayment occurred. Claims as a result of the overpayment shall be established within ten (10) calendar days following adverse action notification unless otherwise specified and documented by the county department in the case file.

1. Determine the "as paid" Colorado Works amount by:
 - a. Starting with the amount of the payment;
 - b. Add any withholding amounts;
 - c. Subtract child support payments retained by Child Support Services to reimburse the payment;
 - d. The result is the "as paid" amount, also known as the "monthly non-reimbursed public assistance" (UPA).
2. Determine the "correct" payment by:
 - a. Determining the need standard for the correct assistance unit for the month;
 - b. Subtract all earned income (without employment disregards when the income is not reported timely); and,
 - c. Subtract the result from the amount of the payment plus any withholdings; and,
 - d. Calculate partial month payments utilizing the table found in Section, 3.606.2, H.

3. UPA and/or arrears shall not be used to offset and/or pay client error, fraud, or IPV overpayments.
4. Compare the total "monthly UPA" to this "correct" payment amount and collect as an overpayment the lesser of the two. The arithmetic result may indicate an underpayment.

The overpayment amount is reported to the Automated Child Support Enforcement System (ACSES) and reduces the total case UPA once the claim is paid. In the event the overpayment amount is less than the total case UPA, the recovery amount is the lesser of the two.

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3.609.94 Protections to the Individual [Rev. eff. 9/15/12]

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D. Disclosure of Confidential Information

1. No one outside the county department shall have access to records of the department except for individuals executing Income and Eligibility Verification System (IEVS); Child Support Services officials; federal and state auditors and private auditors for the county; and the applicant/recipient of public assistance. These individuals shall have access only for purposes necessary for the administration of the program. The following individuals shall have access to the records of the department if one of the following conditions is met:
 - a. The applicant or recipient is notified and his or her prior permission for release of information is obtained unless the information is to be used to verify income, eligibility or the amount of medical assistance payment under administration of the Income and Eligibility Verification System (IEVS). If, because of an emergency situation in which the applicant/recipient is physically or mentally incapacitated to the extent that he or she cannot sign the release form, and time does not permit obtaining an applicant's or recipient's consent prior to release of information, the county department must notify the applicant or recipient within 10+1 calendar days after supplying the information.

The notification shall include the name and address of the agency which requested the information, the reason the information was requested and a summary of the information released. If the applicant or recipient does not have a telephone or cannot be contacted within 10+1 calendar days, the county department must send written notification containing the required information within three (3) working days from the date the information was released.
 - b. A District Attorney requests information for the purpose of either prosecution for fraud or tracing a parent who has deserted a child.
 - c. Verified information obtained from the Internal Revenue Service through the Income and Eligibility Verification System may be provided only to persons or agencies directly connected with the administration of the Child Support Services program (if administered by an agency outside of the county department), Department of Labor and Employment, the Social Security Administration and

other agencies in the state when necessary for the administration of the AFDC, Medicaid, Food Assistance or other state or federally funded means tested assistance programs, or the unemployment insurance program. County departments shall not release information regarding applicants or recipients to law enforcement agencies unless a search warrant is received by the county department.

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Office of the Attorney General

Tracking number: 2016-00569

Opinion of the Attorney General rendered in connection with the rules adopted by the

Income Maintenance (Volume 3)

on 01/06/2017

9 CCR 2503-6

COLORADO WORKS PROGRAM

The above-referenced rules were submitted to this office on 01/12/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 24, 2017 16:45:32

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Child Support Enforcement (Volume 6)

CCR number

9 CCR 2504-1

Rule title

9 CCR 2504-1 RULE MANUAL VOLUME 6, CHILD SUPPORT ENFORCEMENT
RULES 1 - eff 04/01/2017

Effective date

04/01/2017

(9 CCR 2504-1)

6.002 DEFINITIONS

...

“Pass Through Amount” – means an assigned child support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse for assistance provided to the family. In current-assistance cases, the federal share will be waived for up to \$100 per month for TANF families with one child and up to \$200 per month for families with two or more children, as long as both the federal and state share of the Pass Through are paid to the family and are disregarded in determining the TANF Basic Cash amount of assistance provided to the family.

“Excess Pass Through Amount” – means an assigned child support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse for assistance provided to the family over the Pass Through Amount.

6.803 DISTRIBUTION OF SUPPORT COLLECTIONS

6.803.1 Distribution from a Title IV-A Allocation

The Pass Through of current child support collections is dependent upon legislative funding availability. When Pass Through is funded, the Deficit Reduction Act (DRA) distribution rules shall apply. When Pass Through is not funded, standard distribution rules shall apply.

DRA Distribution of collections from a Title IV-A allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO) shall be applied in the following order:

1. First towards any unfunded disbursement balance according to the agreement with the obligee, up to 10% of the payment received or \$10.00, whichever is greater, from current support; to the family if there is no unfunded disbursement balance.

B. Amounts applied to a IV-A arrears balance shall first apply towards any obligee unfunded disbursement balance and then toward any unreimbursed public assistance and/or unreimbursed specific medical dollar order amounts.

1. Unreimbursed public assistance will be satisfied first in the enforcing county for all periods of public assistance, then Last In First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.

2. In the event no other county has such monetary interest in the case, excess over unreimbursed public assistance will be paid to the obligee.

STANDARD Distribution of collections from a Title IV-A allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO):

1. Shall apply towards any obligee unfunded disbursement balance.

2. Shall be used to reimburse the total unreimbursed public assistance (UPA) provided to the family.

3. Shall be sent to the family as excess over unreimbursed public assistance if there is no unreimbursed public assistance (UPA) balance.

B. Amounts applied to a IV-A arrears balance shall first apply towards any obligee unfunded disbursement balance, and are then used to reimburse unreimbursed public assistance and/or unreimbursed specific medical dollar order amounts.

1. Unreimbursed public assistance will be satisfied first in the enforcing county for all periods of public assistance, and then Last in First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.

2. In the event no other county has such monetary interest in the case, excess over unreimbursed public assistance will be paid to the obligee.

6.804 DISBURSEMENT OF SUPPORT COLLECTIONS

6.804.1 Disbursement from a Title IV-A Allocation

Disbursement of collections from a title IV-A allocation shall be as follows:

A. Disbursements of Pass Through or Excess Pass Through amounts shall be paid to the family within two (2) business days from the Colorado date of receipt if sufficient information identifying the payee is provided.

B. Disbursements to excess over UPA shall be paid to the family within two (2) business days of the end of the month in which the collection was received if sufficient information identifying the payee is provided.

C. If the collection was received from a federal income tax return, the excess over unreimbursed public assistance payment must be sent to the family within thirty (30) calendar days of the Colorado date of receipt unless based on a joint tax return (see Section 6.804.6).

CYNTHIA H. COFFMAN
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Office of the Attorney General

Tracking number: 2016-00568

Opinion of the Attorney General rendered in connection with the rules adopted by the

Child Support Enforcement (Volume 6)

on 01/06/2017

9 CCR 2504-1

RULE MANUAL VOLUME 6, CHILD SUPPORT ENFORCEMENT RULES

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 24, 2017 16:45:22

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

CCR number

10 CCR 2505-3

Rule title

10 CCR 2505-3 FINANCIAL MANAGEMENT OF THE CHILDREN'S BASIC HEALTH
PLAN 1 - eff 03/02/2017

Effective date

03/02/2017

Title of Rule: Revision to the Child Health Plan Plus Eligibility Rules Concerning, Section 10 CCR 2505-3 “entire CHP+ section”

Rule Number: MSB 16-10-24-B

Division / Contact / Phone: Eligibility Division / Ana Bordallo / 303-866-3558

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 16-10-24-B, Revision to the Child Health Plan Plus Eligibility Rules Concerning, Section 10 CCR 2505-3 “entire CHP+ section”
3. This action is an adoption an amendment of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) 50 through 600 , Colorado Department of Health Care Policy and Financing, Child Health Plan *Plus* (10 CCR 2505-3).
5. Does this action involve any temporary or emergency rule(s)? No
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of hearing). No

PUBLICATION INSTRUCTIONS*

Replace the current text at section 50 with the proposed text starting at 50.1 through the end of 610. This rule will become effective 3/1/2017.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Child Health Plan Plus Eligibility Rules Concerning, Section 10 CCR 2505-3 “entire CHP+ section”

Rule Number: MSB 16-10-24-B

Division / Contact / Phone: Eligibility Division / Ana Bordallo / 303-866-3558

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The proposed rule change is to incorporate revisions mandated by Executive Order D 2012-002 (EO 2), as codified at Section 24-4-103.3 CRS (2016). In 2014, the governor issued an Executive order which requires that state agencies review, on a continuing basis, all existing rules to ensure they use the best, most innovative and least burdensome tools for achieving their goals. A regulatory review is solely for the purpose of identifying those rules which are duplicative, overlapping, outdated and inconsistent. The Colorado Benefits Management System (CBMS) does not need to be updated for sections 50 through 600 since all rules are in alignment with federal regulations.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or
☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

Executive Order D 2012-002 (EO 2)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
as codified at Section 24-4-103.3 CRS (2016)

Initial Review
Proposed Effective Date

12/09/16
3/1/17

Final Adoption
Emergency Adoption

01/13/17

DOCUMENT #02

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Title of Rule: Revision to the Child Health Plan Plus Eligibility Rules Concerning, Section 10 CCR 2505-3 “entire CHP+ section”

Rule Number: MSB 16-10-24-B

Division / Contact / Phone: Eligibility Division / Ana Bordallo / 303-866-3558

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The proposed rule will impact children and pregnant women eligible for the CHP+ program. The benefit to the proposed language updates is to eliminate duplicative, overlapping, outdated and inconsistent rules.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

To achieve regulatory review goals, sections 50 through 600 have been revised and updated to ensure state rules are current and are in alignment with federal regulations. This will have a positive impact for the CHP+ program by eliminating any confusion on duplicative, overlapping, outdated and inconsistent rules.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There are no expected costs to the Department. The changes to the rules are primarily grammatical in nature and also include updates to remove duplicate and inconsistent language.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The components of the rule changes do not drive a fiscal impact.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

No alternative methodology is available.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

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There are no alternative methods for the proposed rule the Department considered.

50 DEFINITIONS

- 50.1 "Applicant" shall mean a person applying or re-applying for benefits on behalf of a child and/or themselves.
- 50.2 "CBMS" shall mean Colorado Benefits Management System is the computer system that determines an applicant's eligibility for public assistance in the state of Colorado.
- 50.3 "Child" means a person who is less than nineteen years of age.
- 50.4 "Cost sharing" shall mean payments, such as copayments or enrollment fees that are due on behalf of the enrollee.
- 50.5 "Department" shall mean the Colorado Department of Health Care Policy and Financing which is responsible for administering the Colorado Medical Assistance Program and Children's Basic Health Plan as well as other State-funded health care programs.
- 50.6 "Dependent child" shall mean a child who lives with a parent, legal guardian, caretaker relative or foster parent and is under the age of 18, or, is age 18 and a full-time student, and expected to graduate by age 19
- 50.7 "Effective Date" shall mean the first day of eligibility which is the date the application is received and date-stamped by the Eligibility site or the date the application was received and date-stamped by an Application Assistance site or Presumptive Eligibility site. In the absence of a date-stamp, the application date is the date that the application was signed by the client.
- 50.8 "Eligibility Site" shall mean a location outside of the Department that has been deemed by the Department as eligible to accept applications and determine eligibility for applicants.
- 50.9 "Enrollee" shall mean an eligible person who is enrolled in the Children's Basic Health Plan.
- 50.10 "Essential Community Provider" means a healthcare provider that:
- A. Has historically served medically needy or medically indigent patients and demonstrates a commitment to serve low-income and medically indigent populations who make up a significant portion of its patient population, or in the case of a sole community provider, serves medically indigent patients within its medical capability; and
 - B. Waives charges or charges for services on a sliding scale based on income and does not restrict access or services because of a client's financial limitations.
- 50.11 "Evidence of Coverage" or "EOC" shall mean any certificate, agreement, or contract issued to an enrollee from time-to-time by a Managed Care Organization (MCO) setting out the coverage to which the enrollee is or was entitled under the Children's Basic Health Plan.
- 50.12 "Grievance Committee" shall mean a conference with the Department or its Designee in which a contested decision regarding an applicant or enrollee is reexamined.
- 50.13 "Household" shall be determined by relationships to the tax filer as declared on the Single Streamlined Application and as required in 10 CCR 2505-10-8.100.4.E.

- 50.14 "Income" shall be any compensation from participation in a business, including wages, salary, tips, commissions and bonuses. The Modified Adjusted Gross Income is a methodology used to determine eligibility as required in 10 CCR 2505-10-8.100.4.C.
- 50.15 "Managed Care Organization" or "MCO" shall mean:
- A. A carrier which meets the definition in §10-16-102 (8), C.R.S. with which the Department contracts to provide health care or dental services covered by the Children's Basic Health Plan; or,
 - B. Essential community providers and other health care and dental service providers with whom the Department contracted to provide health care services under the Children's Basic Health Plan using a managed care model.
- 50.16 "Presumptive Eligibility" shall mean children and pregnant women who have applied and appear to be eligible for the Children's Basic Health Plan shall be presumed eligible and may receive immediate temporary medical coverage.
- 50.17 "Unearned Income" shall be the gross amount received in cash or kind that is not earned from employment or self-employment.
- 50.18 "Woman" shall mean a female who is 19 years in age or older.

100 ELIGIBILITY

110 INDIVIDUALS ASSISTED UNDER THE PROGRAM

- 110.1 To be eligible for the Children's Basic Health Plan, an eligible person shall:
- A.
 - 1. Be less than 19 years of age; or
 - 2. Be a pregnant woman
 - B. Fall into one of the following categories:
 - 1. Be a citizen or national of the United States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, or Swain's Island; or
 - 2. Be a lawfully admitted non-citizen who entered the United States prior to August 22, 1996, or
 - 3. Be a non-citizen who entered the United States on or after August 22, 1996 and is applying for Medical Assistance who falls into one of the following categories :
 - a. Lawfully admitted for permanent residence under the U.S. Immigration and Nationality Act (hereafter referred to as the "INA"); or
 - b. Paroled into the United States for at least one year under 8 U.S.C § 1182(d)(5); or

- c. Granted conditional entry under Section 203(a)(7) of the INA, as in effect prior to April 1, 1980; or
 - d. determined by the Eligibility site, in accordance with guidelines issued by the U.S. Attorney General, to be a spouse, child, parent of a child, or child of a parent who, in circumstances specifically described in 8 U.S.C. §1641(c), has been battered or subjected to extreme cruelty which necessitates the provision of Medical Assistance (Children's Basic Health Plan); or
 - e. lawfully admitted for permanent residence under the INA with 40 qualifying quarters as defined under Title II of the Social Security Act. The 40 quarters are counted based on a combination of the quarters worked by the individual, the individual's spouse as long as they remain married or spouse is deceased, and/or the individual's parent while the individual is under age 18; or
4. Be a non-citizen who arrived in the United States on any date, who falls into one of the following categories:
- a. Lawfully residing in Colorado and is an honorably discharged military veteran; or
 - 1. A spouse of such military veteran; or
 - 2. An unremarried surviving spouse of such military veteran; or
 - 3. An unmarried dependent child of such military veteran.⁷
 - b. Lawfully residing in Colorado and is on active duty in the United States Armed Forces, excluding military training; or
 - 1. A spouse of such individual; or
 - 2. An unremarried surviving spouse of such individual; or
 - 3. An unmarried dependent child of such individual.
 - c. Granted asylum under Section 208 of the INA; or
 - d. Refugee under Section 207 of the INA; or
 - e. An individual with deportation withheld:
 - 1. Under Section 243(h) of the INA, as in effect prior to September 30, 1996; or
 - 2. Under Section 241(b)(3), as amended by P.L. 104-208 of the INA.
 - f. A Cuban or Haitian entrant, as defined under Section 501(e) of the U.S. Refugee Education Assistance Act of 1980; or
 - g. An individual who:

1. Was born in Canada and possesses at least 50 percent American Indian blood; or
 2. Is a member of an Indian tribe, as defined in 25 U.S.C. Section 450(b)e.
 - h. Admitted into the United States as an Amerasian immigrant under Section 584 of the U.S. Foreign Operations, Export Financing, and Related Programs Appropriation Act of 1988, as amended by P.L. 100-461; or
 - i. A lawfully admitted, permanent resident, who is a Hmong or Highland Lao veteran of the Vietnam conflict; or
 - j. An alien who was admitted in the United States on or after December 26, 2007 who is an Iraqi Special Immigrant under section 101(a)(27) of the INA; or
 - k. An alien who was admitted in the United States on or after December 26, 2007 who is an Afghan Special Immigrant under section 101(a)(27) of the INA; and
5. Be a lawfully admitted non-citizen in the United States who falls into one of the categories:
- a. granted temporary resident status in accordance with section 8 U.S.C. 1160 or 1255a; or
 - b. granted Temporary Protected Status (TPS) in accordance with section 8 U.S.C 1254a and pending applicants for TPS granted employment authorization;
 - c. granted employment authorization under section 8 CFR 274a.12(c); or
 - d. Family Unity beneficiary in accordance with section 301 of Pub. L. 101-649, as amended.
 - e. Deferred Enforced Departure (DED), pursuant to a decision made by the President
 - f. Granted Deferred Action status (excluding Deferred Action for Childhood Arrivals (DACA)) as described in the Secretary of Homeland Security's June 15, 2012 memorandum;
 - g. Granted an administrative stay of removal under section 8 CFR 241; or
 - h. Beneficiary of approved visa petition who has a pending application for adjustment of status.
 - i. Pending an application for asylum under section 8 U.S.C. 1158, or for withholding of removal under section 8 U.S.C. 1231, or under the Convention Against Torture who-
 1. as been granted employment authorization; or

- 2. Is under the age of 14 and has had an application pending for at least 180 days.
 - j. Granted withholding of removal under the Convention Against Torture;
 - k. Citizens of Micronesia, the Marshall Islands, and Palau; or
 - l. Is lawfully present American Samoa under the immigration laws of American Samoa.
 - m. A non-citizen in a valid nonimmigrant status, as defined in section 8 U.S.C. 1101(a)(15) or under section 8 U.S.C. 1101(a)(17); or
 - n. A non-citizen who has been paroled into the United States for less than one year under section U.S.C. 1182(d)(5), except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings.
- C. For determinations of eligibility for the Children's Basic Health Plan, legal immigration status must be verified. This requirement applies to a non-citizen individual who meets the criteria of any category defined at 10.1.B and has declared that he or she has a legal immigration status.
- 1. The Verify Lawful Presence (VLP) interface will be used to verify immigration status as required in 10 CCR 2505-10-8.100.3.G.2
 - 2. If the state cannot verify immigration status the individual will receive a Reasonable Opportunity Period as required in 10 CCR 2505-10-8.100.3.G.3
- D. Be a resident of Colorado; and
- E. Have a household income greater than 133% but not exceeding 250% of the Federal Poverty Level (MAGI-equivalent), adjusted for household size for children under the age of 19; or
- F. Have a household income greater than 185% but not exceeding 250% of the Federal Poverty Level (MAGI-equivalent), adjusted for household size for pregnant women.
- G. Failure to complete an application or to provide required documentation in Section 130 will result in the denial of the incomplete application or individual applicant (s).

120 INSUFFICIENT ACCESS TO OTHER HEALTH COVERAGE

- 120.1 To be eligible for the Children's Basic Health Plan, an eligible person shall not:
- A. Be covered under a group health plan or under health insurance coverage excluding Consolidated Omnibus Budget Reconciliation Act (COBRA); or
 - B. Be eligible to receive assistance under Title XIX of the Social Security Act; or
 - C. Be an inmate of a public institution or a patient in an institution for mental diseases.
- 120.2 The Department shall not require that applicants be uninsured for any period of time prior to becoming eligible for the Children's Basic Health Plan.

130 VERIFICATION REQUIREMENTS

- 130.1 To be eligible for the Children's Basic Health Plan, an applicant shall provide minimal verification as required in 10 CCR 2505-10-8.100.4.B.

140 REDETERMINATION

- 140.1 A redetermination of eligibility shall mean a case review and necessary verification to determine whether the client continues to be eligible to receive Medical Assistance. Eligibility shall be redetermined twelve (12) months since the last eligibility determination. An Eligibility site may redetermine eligibility through telephone, mail, or electronic means. The use of telephone or electronic redeterminations should be noted in the case record and in CBMS case comments.

- A. A redetermination form is not required to be sent to the client if all current eligibility requirements can be verified by reviewing information from another assistance program or if this information can be verified through an electronic data source . When applicable, the eligibility site shall redetermine eligibility based solely on information already available. If verification or information is available for any of the three months prior to redetermination month, no request shall be made of the client and a notice of the outcome will go to the client. If not all verification or information is available, the eligibility site shall only request the additional minimum verification from the client. This procedure is referenced as Ex Parte Review.
- B. A redetermination form, approved by the Department, shall be mailed to the client at least 30 days prior to the first of the month in which completion of eligibility redetermination is due. The redetermination form shall be used to inform the client of the redetermination and verification needed. The client shall not be required to return the form to the eligibility site. The only verification that may be required at redetermination is the minimum verification needed to complete a redetermination of eligibility.

The redetermination form shall direct clients to review current information and to take no action if there are no changes to report in the household. Eligibility sites and CBMS shall view the absence of reported changes from the client at this redetermination period as confirmation that there have been no changes in the household. This procedure is referenced as automatic reenrollment.

150 CALCULATION OF HOUSEHOLD INCOME

- 150.1 Calculation of income for the Children's Basic Health Plan shall be determined as required in 10 CCR 2505-10-8.100.4.C
- 150.2 Income disregards for the Children's Basic Health Plan shall be determined as required in 10 CCR 2505-10-8.100.4.D

160 PREMIUM ASSISTANCE Repealed 12/30/2012

170 PRESUMPTIVE ELIGIBILITY

- 170.1 A pregnant applicant or a child under the age of 19 may apply for presumptive eligibility for immediate temporary medical services through designated presumptive eligibility sites.
- A. To qualify for presumptive eligibility, a child under the age of 19 shall have a declared household income that shall be greater than 133% but not exceed 250% of Federal Poverty Level (MAGI-equivalent); or

- B. To qualify for presumptive eligibility, a pregnant women shall have an attested pregnancy, declare that her household's income shall be greater than 185% but not exceed 250% of the Federal Poverty Level (MAGI-equivalent); and
 - C. He/she shall be a United States citizen or a documented immigrant as defined in Section 110.
- 170.2 Presumptive eligibility sites shall be certified by the Department of Health Care Policy and Financing to make presumptive eligibility determinations. Sites shall be re-certified by the Department of Health Care Policy and Financing every 2 years to remain approved presumptive eligibility sites.
- A. The presumptive eligibility site shall forward the application to the county within five business days of the received date.
- 170.3 The presumptive eligibility period begins on the date the applicant is determined eligible and ends with the earlier of:
- A. The day an eligibility determination for Medical Assistance is made for the applicant(s); or
 - B. The last day of the month following the month in which a determination for presumptive eligibility was made.
- 170.4 The county or Medical Assistance site shall make an eligibility determination within 45 days from the date of application.
- A. Presumptively eligible clients may appeal the county or Medical Assistance site's failure to act on an application within 45 days from date of application or the denial of an application. Appeal procedures are outlined in Section 600.
 - B. A presumptively eligible client may not appeal the end of a presumptive eligibility period.

180 Express Lane Eligibility

Express Lane Eligibility shall allow for automatic initiation of Medical Assistance enrollment by using available data and findings from other programs as listed below.

180.1 Free/Reduced Lunch Program

- A. Recipients of the Free/Reduced Lunch Program who have submitted a Free/Reduced Lunch application at a participating school district
 - 1. Families will be given the option to opt into Medical Assistance coverage for their potentially eligible child.
 - 2. Children who meet all necessary eligibility requirements as outlined in this volume will be automatically enrolled.
 - 3. Children who meet all necessary eligibility requirements except verification of U.S. citizenship and identity will receive 90 days of eligibility while awaiting this verification.
 - 4. Any additionally required verification will be requested from the client through CBMS prior to being automatically enrolled.

5. Eligibility is based on income declared on the Free/Reduced Lunch application as well as eligibility requirements outlined in section 150.
 6. If it would be found that a child does not satisfy an eligibility requirement for Medical Assistance, the child's eligibility will be evaluated using the application for Medical Assistance.
- B. Recipients of the Free/Reduced Lunch Program who were not required to submit a Free/Reduced Lunch application at a participating school district
1. Families who are automatically enrolled Free/Reduced Lunch recipient children will not be forwarded to the Department for Express Lane Eligibility in compliance USDA confidentiality guidelines.
 2. These families must apply for Medical Assistance in order to give consent for request of benefits.

180.2 Direct Certification

- A. When an application for Food Stamps or Colorado Works has been submitted, families will be given the option to opt into Medical Assistance coverage for their potentially eligible children.
1. Children who meet all necessary eligibility requirements as outlined throughout sections 100 through 180 will be automatically enrolled,
 2. Children who are only missing verification of U.S. citizenship and identity will receive 90 days of coverage while waiting for this verification.
 3. Any additionally required verification will be requested from the client through CBMS prior to being automatically enrolled.
 4. Eligibility is determined based on income declared on the Food Stamp or Colorado Works application as well as eligibility requirements outlined throughout this volume.
 5. If it would be found that a child does not satisfy an eligibility requirement for Medical Assistance, the child's eligibility will be evaluated using the Single Streamlined application for Medical Assistance.
 6. Individuals whose eligibility is not determined through Express Lane Eligibility may also submit a separate Single Streamlined Application for Medical Assistance to determine eligibility.

200 BENEFITS PACKAGE

210 The following are covered benefits including any applicable limitations:

- A. Emergency Care and Urgent/After Hours Care;
- B. Emergency Transport/Ambulance Services;
- C. Hospital/Other Facility Services Including:

1. Inpatient;
 2. Physician;
 3. Outpatient/Ambulatory;
- D. Medical Office Visits Including:
1. Physician;
 2. Mid-Level Practitioner;
 3. Specialist;
- E. Diagnostic Services;
- F. Preventative, Routine and Family Planning Services Including:
1. Immunizations;
 2. Well-child visits;
 3. Health maintenance visits;
- G. Maternity Care Including:
1. Prenatal;
 2. Delivery and inpatient well-baby care;
 3. Postpartum care
- H. Mental Illness Treatments such as:
1. Neurobiologically-based mental illness including:
 - a. Schizophrenia;
 - b. Schizoaffective disorder;
 - c. Bipolar affective disorder;
 - d. Major depressive disorder;
 - e. Specific obsessive compulsive disorder;
 - f. Panic disorder;
 2. Mental disorders including:
 - a. Post traumatic stress disorder
 - b. Drug and alcohol disorders

- c. Dysthymia
 - d. Cyclothymia
 - e. Social phobia
 - f. Agoraphobia with panic disorder
 - g. General anxiety
 - h. Anorexia Nervosa exclusive of residential treatment
 - i. Bulimia exclusive of residential treatment
- 3. All other mental illness;
 - a. Inpatient coverage;
 - b. Outpatient coverage;
- I. Physical Therapy, Speech Therapy and Occupational Therapy shall be limited to 30 visits per diagnosis per year. Effective November 1, 2007, Physical, Speech and Occupational Therapy services shall be unlimited for children from birth up to the child's third birthday.
- J. Durable Medical Equipment shall be limited to the lesser of the purchase price or rental price for medically necessary durable medical equipment that shall not exceed two thousand dollars per year.
- K. Transplants must be medically necessary and are limited to:
 - 1. Liver;
 - 2. Heart;
 - 3. Heart/lung;
 - 4. Cornea;
 - 5. Kidney;
 - 6. Bone marrow which shall be limited to the following conditions:
 - a. Aplastic anemia;
 - b. Leukemia;
 - c. Immunodeficiency disease;
 - d. Neuroblastoma;
 - e. Lymphoma;
 - f. High risk stage ii and iii breast cancer;

- g. Wiskott aldrich syndrome;
 - 7. Peripheral stem cell support which shall be limited to the following conditions:
 - a. Aplastic anemia;
 - b. Leukemia;
 - c. Immunodeficiency disease;
 - d. Neuroblastoma;
 - e. Lymphoma;
 - f. High risk stage II and III breast cancer;
 - g. Wiskott aldrich syndrome;
- L. Home health care;
- M. Hospice care;
- N. Prescription medication;
- O. Kidney dialysis shall be excluded only if the member is also eligible for Medicare;
- P. Skilled nursing facility care must be provided only when there is a reasonable expectation of measurable improvement in the members' health status.
- Q. Vision services shall be limited to:
 - 1. Vision screenings for age appropriate preventative care;
 - 2. Referral required for refraction services;
 - 3. Minimum fifty dollar benefit for eyeglasses;
- R. Audiology services shall be limited to:
 - 1. Hearing screenings for age appropriate preventative care;
 - 2. Hearing aids without financial limitation for enrollees age 18 and under no more than once every five years unless medically necessary including:
 - a. A new hearing aid when alterations to the existing hearing aid cannot adequately meet the needs of the child
 - b. Services and supplies including, but not limited to, the initial assessment, fitting, adjustments, and auditory training that is provided according to accepted professional standards.
- S. Intractable pain;
- T. Autism;

- U. Case management is covered only when medically necessary;
- V. Dietary counseling/nutritional services shall be limited to:
 - 1. Formula for metabolic disorders;
 - 2. Total parenteral nutrition;
 - 3. Enterals and nutrition products;
 - 4. Formulas for gastrostomy tubes;
- W. Dental services are limited to:
 - 1. Those dental services described in the Children's Basic Health Plan dental Evidence of Coverage booklet provided to enrollees, who are less than nineteen years of age. Children's Basic Health Plan dental services are provided by the dental MCO (or its designee) with which the Department has contracted for the applicable plan year to provide the following dental services;
 - a. Diagnostic
 - b. Preventive
 - c. Restorative
 - d. Endodontic
 - e. Periodontic
 - f. Prosthodontic
 - g. Oral and Maxillofacial Surgery
 - h. Limited Orthodontic
 - i. Adjunctive General Services
 - 2. Orthodontic and prosthodontic treatment for cleft lip or cleft palate in newborns (covered as a medical service in accordance with section 10-16-104, C.R.S.); and
 - 3. Treatment of teeth or periodontium required due to accidental injury to naturally sound teeth (covered as a medical service in accordance with section 10-16-104, C.R.S.). A physician or legally licensed dentist must perform treatment within 72 hours of the accident.
- X. Therapies covered shall include:
 - 1. Chemotherapy;
 - 2. Radiation;

Y. The following are not covered benefits:

1. Acupuncture;
2. Artificial conception;
3. Biofeedback;
4. Storage Costs for umbilical blood;
5. Chiropractic care;
6. Convalescent care or rest cures;
7. Cosmetic surgery;
8. Custodial care;
9. Domiciliary care;
10. Duplicate coverage;
11. Government institution or facility services;
12. Hair loss treatments;
13. Hypnosis;
14. Infertility services;
15. Maintenance therapy;
16. Nutritional therapy unless specified otherwise;
17. Elective termination of pregnancy, unless the elective termination is to save the life of the mother or if the pregnancy is the result of an act of rape or incest;
18. Personal comfort items;
19. Physical exams for employment or insurance;
20. Private duty nursing services;
21. Routine foot care;
22. Sex change operations;
23. Sexual disorder treatments;
24. Taxes;
25. Temporomandibular joint (TMJ) treatment, unless it has a medical basis;
26. Other therapies and treatments which are not medically necessary;

- 27. Vision services unless specified otherwise;
- 28. Vision therapy;
- 29. War-related conditions;
- 30. Weight-loss programs;
- 31. Work-related conditions;

300 ENROLLMENT FEES AND COPAYMENTS

310 ANNUAL ENROLLMENT FEES AND DUE DATE

- 310.1 For eligible children, the following annual enrollment fees shall be due prior to enrollment in the Children's Basic Health Plan:
- A. For families with income, at the time of eligibility determination, less than 151% of the Federal Poverty Level, the annual enrollment fee shall be waived.
 - B. For families with income, at the time of eligibility determination, between 151% and 205% of the Federal Poverty Level (MAGI-equivalent), the annual enrollment fee shall be:
 - 1. \$25.00 for a single eligible child; and
 - 2. \$35.00 for two or more eligible children.
 - 3. Waived for families who include an eligible pregnant woman.
 - C. For families with income, at the time of eligibility determination, greater than 205% and up to 250% of the Federal Poverty Level, the annual enrollment fee shall be:
 - 1. \$75.00 for a single eligible child; and
 - 2. \$105.00 for two or more eligible children.
 - 3. Waived for families who include an eligible pregnant woman
- 310.2 If the required enrollment fee is not received with the application for the Children's Basic Health Plan, the Department or its designee shall notify the applicant:
- A. That applicable enrollment fees are a requirement for enrollment;
 - B. That fees shall be due within thirty (30) days of the date of notification;
 - C. Of effective date of enrollment if payment is received; and
 - D. That the application shall be denied if payment is not received by the due date indicated.
- 310.3 The application shall be denied if payment is not received by the due date indicated on the notification.
- 310.5 Once enrollment has occurred, the annual enrollment fee is non-refundable.

320 COPAYMENTS

320.1 The following copayments shall be due for enrollees at the time of service:

- A. For families with income, at the time of eligibility determination, less than 101% of the Federal Poverty Level (MAGI-equivalent), all copayments shall be waived, except for emergency and care, which shall be \$3.00 per use and urgent/after hours care, which shall be \$1.00 per use.
- B. For families with income, at the time of eligibility determination, between 101% and 150% of the Federal Poverty Level (MAGI-equivalent), the copayment shall be:
 - 1. Effective until June 30, 2012:
 - a. \$2.00 per office visit;
 - b. \$2.00 per outpatient mental health or substance abuse visit;
 - c. \$1.00 per generic or brand name prescription;
 - d. \$2.00 per physical therapy, occupational therapy or speech therapy visit;
 - e. \$2.00 per vision visit;
 - f. \$3.00 per use of emergency care and urgent/after hours care;
 - 2. Effective July 1, 2012:
 - a. \$2.00 per office visit;
 - b. \$2.00 per outpatient mental health or substance abuse visit;
 - c. \$1.00 per generic or brand name prescription;
 - d. \$2.00 per physical therapy, occupational therapy or speech therapy visit;
 - e. \$2.00 per vision visit;
 - f. \$3.00 per use of emergency care (co-payment is waived if client is admitted to the hospital);
 - g. \$1.00 per use of urgent/after hours care;
 - h. \$2.00 per trip for emergency transport/ambulance services;
 - i. \$2.00 per inpatient hospital visit;
 - j. \$2.00 per inpatient hospital visit for physician services in the hospital;
 - k. \$2.00 per outpatient hospital or ambulatory surgery center visit.
- C. For families with income, at the time of eligibility determination, between 151% and 200% of Federal Poverty Level (MAGI-equivalent), the copayment shall be:

1. Effective until June 30, 2012:
 - a. \$5.00 per office visit;
 - b. \$5.00 per outpatient mental health or substance abuse visit;
 - c. \$3.00 per generic prescription;
 - d. \$5.00 per brand name prescription;
 - e. \$5.00 per physical therapy, occupational therapy or speech therapy visit;
 - f. \$5.00 per vision visit;
 - g. \$15.00 per use of emergency care and urgent/after hours care². Effective July 1, 2012:
 - a. \$5.00 per office visit;
 - b. \$5.00 per outpatient mental health or substance abuse visit;
 - c. \$3.00 per generic prescription;
 - d. \$10.00 per brand name prescription;
 - e. \$5.00 per physical therapy, occupational therapy or speech therapy visit;
 - f. \$5.00 per vision visit;
 - g. \$30.00 per use of emergency care ((co-payment is waived if client is admitted to the hospital)
 - h. \$20.00 per use of urgent/after hours care;
 - i. \$5.00 per date of service for laboratory and radiology/imaging services
 - j. \$15.00 per trip for emergency transport/ambulance services;
 - k. \$20.00 per inpatient hospital visit;
 - l. \$5.00 per inpatient hospital visit for physician services;
 - m. \$5.00 per outpatient hospital or ambulatory surgery center visit.
- D. For families with income, at the time of eligibility determination, between 201% and 250% of Federal Poverty Level (MAGI-equivalent), the copayment shall be:
1. Effective until June 30, 2012:
 - a. \$10.00 per office visit;
 - b. \$10.00 per outpatient mental health or substance abuse visit;
 - c. \$5.00 per generic prescription;

- d. \$10.00 per brand name prescription;
 - e. \$10.00 per physical therapy, occupational therapy or speech therapy visit;
 - f. \$10.00 per vision visit;
 - g. \$20.00 per use of emergency care and urgent/after hours care.
2. Effective July 1, 2012:
- a. \$10.00 per office visit;
 - b. \$10.00 per outpatient mental health or substance abuse visit;
 - c. \$5.00 per generic prescription;
 - d. \$15.00 per brand name prescription;
 - e. \$10.00 per physical therapy, occupational therapy or speech therapy visit;
 - f. \$10.00 per vision visit;
 - g. \$50.00 per use of emergency care (co-payment is waived if client is admitted to the hospital);
 - h. \$30.00 per use of urgent/after hours care;
 - i. \$10.00 per date of service for laboratory and radiology/imaging services
 - j. \$25.00 per trip for emergency transport/ambulance services;
 - k. \$50.00 per inpatient hospital visit;
 - l. \$10.00 per inpatient hospital visit for physician services;
 - m. \$10.00 per outpatient hospital or ambulatory surgery center visit.

330 COST SHARING LIMITATIONS

- 330.1 American Indians and Alaskan Natives shall be exempt from cost sharing requirements. American Indian shall mean a member of a federally recognized Indian tribe, band, or group, or a descendant in the first or second degree of any such member. Alaskan Native shall mean an Eskimo or Aleut or other Alaska Native enrolled by the Secretary of the Interior.
- 330.2 The maximum yearly cost sharing requirements for families of enrollees shall be 5% of income.
- 330.3 No copayments shall apply to preventive services. For the purpose of this section, preventive services shall mean:
- A. All healthy newborn and newborn inpatient visits, including routine screening whether provided on an inpatient or outpatient basis;

- B. Routine examinations;
- C. Immunizations and related office visits; and
- D. Routine preventive and diagnostic dental services.

330.4 Prenatal Care Program clients shall be exempt from cost sharing requirements.

400 ENROLLMENT

400.1 An applicant found eligible for Children's Basic Health Plan can elect to be enrolled the Children's Basic Health Plan.

410 SELECTION OF A MANAGED CARE ORGANIZATION

410.1

- A. Once eligibility has been determined, an eligible person shall have the opportunity to select a participating MCO in the county of the eligible person's residence. If there is only one participating MCO available in the county of the eligible person's residence, the eligible person shall be enrolled in that MCO.
- B. In the event the Department contracts with an MCO to provide dental services to Children's Basic Health Plan enrollees, an enrollee automatically will be enrolled with such MCO. No separate MCO election will be required.

410.2 MCO SELECTION

- A. Upon determination of eligibility for the Children's Basic Health Plan program, if the eligible person has notified the Department or its designee of his/her chosen MCO prior to the last business day of the month in which eligibility was determined, the Department or its designee shall enroll the eligible person in that MCO.
- B. Upon determination of eligibility for the Children's Basic Health Plan program, if the eligible person has not chosen an MCO, the Department or its designee shall enroll the eligible person in an MCO selected by the Department or its designee. In areas of the state where there is only one participating MCO available, the Department or its designee shall select that MCO and enroll the eligible person.
- C. The Department or its designee shall notify the enrollee of the MCO selected. If the enrollee wants to change MCOs, the enrollee shall contact the Department or its designee within 90 days from the effective date of the MCO enrollment. An enrollee may also change a pending MCO enrollment before the effective date.
- D. For renewal applications, the Department or its designee shall reassign the eligible person to the participating MCO the applicant approved for the previous enrollment period. If the eligible person wishes to change MCO enrollment, he/she shall notify the Department or its designee within his/her re-enrollment period.

410.3 In counties in which a participating MCO as defined in section 50.14.A is not available, the eligible person shall be enrolled in an MCO as defined in section 50.14.B.

410.4 Once an enrollee has selected an MCO or upon expiration of the timeframe to change, the enrollee shall remain enrolled in that MCO for the remainder of his/her eligibility period, unless the eligible person meets any of the disenrollment criteria set forth in section 440.

410.5 An eligible person shall have an opportunity to change to a different MCO serving the eligible person's geographic region, if one is available, during the applicant's annual redetermination period.

420 ENROLLMENT OF ALL ELIGIBLE PERSONS IN A FAMILY

420.1 If one eligible child from a family is enrolled in the Children's Basic Health Plan, all eligible children in that family must be enrolled in the Children's Basic Health Plan.

420.2 All eligible children in a family must be enrolled in the same MCO.

430 ENROLLMENT DATE

430.1 Eligibility for the Children's Basic Health Plan shall be effective on the latter of:

- A. The first day of the month of application for Medical Assistance; or
- B. The first day of the month the person becomes eligible for the Children's Basic Health Plan program .

430.2 Upon being enrolled in the Children's Basic Health Plan, continuous eligibility applies to children under the age of 19, who through an eligibility determination, reassessment or redetermination are found eligible for the Children's Basic Health Plan program. The continuous eligibility period may last for up to 12 months and will begin on the month of application or from the authorization date.

- a. The continuous eligibility period applies without regard to changes in income or other factors that would otherwise cause the child to be ineligible.
 - i) A 14-day no fault period shall begin on the date the child is determined eligible for Medical Assistance. During the 14-day period, updates or corrections may be made to the child's case. Any changes to the child's case made during the 14-day no fault period may impact his or her eligibility for Medical Assistance.
- b. A child's continuous eligibility period will end effective the earliest possible month, if any of the following occur:
 - i) Child is deceased
 - ii) Becomes an inmate of a public institution
 - iii) The child states that she/he has moved out of the household permanently
 - iv) Is no longer a Colorado resident
 - v) Three notices have been returned as undeliverable and there is no forwarding address for the child
 - vi) Requests to be withdrawn from continuous eligibility

- vii) Fails to provide documentation during a reasonable opportunity period as specified in section 8.100.3.H.9
 - viii) Fails to comply in resolving an income discrepancy as outlined in section 8.100.4.C.2
 - ix) An eligible person shall not be enrolled in other health insurance coverage
- 430.3. If determined eligible, the enrollment date of a pregnant woman shall be effective as of the first of the month of the date of application or the first day of the month the pregnant woman becomes eligible. The enrollment span shall end at the end of the month following 60 days after the birth of the child or termination of the pregnancy. Once eligibility has been approved, coverage must be provided regardless of changes in the woman's financial circumstances.
- 430.4 An eligible person's enrollment date in the selected MCO shall be no later than:
 - A. The first of the month following eligibility determination and MCO selection if eligibility is determined on or before the 21st of the month.
 - B. The first of the second month following eligibility determination and MCO selection if eligibility is determined after the 21st of the month.
- 430.5 A child born to a mother who is enrolled in the Children's Basic Health Plan at the time of the child's birth is guaranteed coverage for one year.
 - A. To receive Medical Assistance under the Children's Basic Health Plan, the birth must be reported verbally or in writing to the County Department of Human Services or Eligibility site. Information provided shall include the baby's name, date of birth, and mother's name or Medical Assistance number. A newborn can be reported at any time by any person. Once reported, a newborn meeting the above criteria shall be added to the mother's Medical Assistance case, or his or her own case if the newborn does not reside with the mother, according to timelines defined by the Department. If adopted, the newborn's agent does not need to file an application or provide a Social Security Number or proof of application for a Social Security Number for the newborn.

440 DISENROLLMENT

- 440.1 An enrollee shall be disenrolled from an MCO for the following reasons:
 - A. Administrative error on the part of the Department, the Department's designee, or the MCO, including but not limited to enrollment of a person who does not reside in the MCO's service area; or,
 - B. A change in the enrollee's residence to an area not in the MCO's service area; or,
 - C. When an enrollee's coverage is terminated as described in section 440.1A.
- 440.2 If an enrollee is disenrolled from an MCO for any of the reasons stated in section 440.1 and there is another participating MCO available in the enrollee's county of residence, the enrollee shall be allowed to select a new MCO.
- 440.3 If the enrollee is enrolled in a MCO as defined in section 50.15B and a MCO as defined in section 50.15A becomes available in the child's county of residence, the enrollee will be disenrolled from the MCO as defined in section 50.15 B and enrolled in the MCO as defined in section 50.15A.

- 440.4 An enrollee may be disenrolled from both an MCO and/or the Children's Basic Health Plan for the following reasons:
- A. Fraud or intentional misconduct, including but not limited to knowing misuse of covered services, knowing misrepresentation of membership status; or,
 - B. An enrollee's receipt of other health care coverage; or,
 - C. The admission of an enrollee into any federal, state, or county institution for the treatment of mental illness, narcoticism, or alcoholism, or into any correctional facility; or,
 - D. Ineligibility for the program, based on the guidelines set forth in the Children's Basic Health Plan eligibility rules; or,
 - E. Failure to comply with cost sharing requirements (annual enrollment fees and copayments) set forth in the Children's Basic Health Plan cost sharing rules; or,
 - F. There is not another participating MCO as defined in section 50.14 available in the enrollee's county of residence.
- 440.5 If an eligible person or an eligible person's family displays an ongoing pattern of behavior that is abusive to provider(s), staff or other patients; or, disruptive to the extent that the provider's ability to furnish services to the child or other patients is impaired, the eligible person may be disenrolled from his/her managed care organization. If there is another participating MCO available in the eligible person's county of residence, the Department may allow the eligible person to select a new MCO. If there is not another MCO available in the eligible person's county, the eligible person may be disenrolled from the Children's Basic Health Plan.

500 FINANCIAL MANAGEMENT

The Children's Basic Health Plan, being a non-entitlement program, must manage to its legislative appropriation. The Department shall track expenditures, caseload, and other financial information to make informed decisions on spending its appropriation. Expenditures may exceed State appropriations with approval of the Governor, but any General Fund over expenditure shall be limited to \$250,000.

- 510** The Department shall make quarterly assessments of projected expenditures. If it appears the program may overspend its appropriation due to changes in enrollment, health care costs, funding, legislation, or other factors, the Department shall consider if adjustments to the program are necessary. The program may use, but is not limited to, any of the following financial management tools: waiting lists, adjustments of eligibility criteria and/or levels, instituting open enrollment periods, or temporary closure of the program.

600 APPEALS PROCESS

- 600.1 Applicants shall be notified of any action regarding the eligibility and enrollment status and cost sharing requirements for the enrollees' participation in the Children's Basic Health Plan and appeal rights regarding those actions by the Department or its designee.
- 600.2 The Department or its designee shall notify the applicant within ten (10) business days of a decision regarding eligibility, enrollment and cost sharing. The notice shall:
- A. Be in writing;
 - B. Be in his/her primary language, to the extent practicable;

- C. Describe to the applicant the reasons for the decision;
 - D. Document the authority for the decision (e.g. rule citation); and
 - E. Inform the applicant of his/her rights and responsibilities regarding the decision.
- 600.3 An applicant who disagrees with a denial regarding eligibility, enrollment, or cost sharing requirements may appeal in writing to the Children's Basic Health Plan Eligibility Vendor within thirty (30) calendar days of the date of the notification of denial of eligibility, enrollment, or cost sharing. The appeal shall be reviewed and processed within thirty (30) calendar days of receipt and the results of the appeal shall be communicated to the applicant within ten (10) business days of the review. The following guidelines shall apply to the appeal process:
- A. The Children's Basic Health Plan Eligibility Vendor will coordinate the appeals process with the county or Eligibility site that determined the initial eligibility, enrollment, or cost sharing decision within ten (10) business days after receipt of the appeal.
 - B. The county or Eligibility site that determined the initial eligibility, enrollment, or cost sharing decision shall:
 - 1. Review the data entry of the application in the Department's eligibility system for accuracy and completeness within ten (10) business days after receipt of the appeal from the Children's Basic Health Plan Eligibility Vendor;
 - 2. Correct or complete information in the Department's eligibility system if it is found to be incomplete or incorrect and re-run eligibility;
 - 3. Maintain the original denial, if the information in the Department's eligibility system is complete and correct; and
 - 4. Notify the applicant and the Children's Basic Health Plan Eligibility Vendor in writing once the review is complete with the results of the data entry review and the option of forwarding the appeal to the Grievance Committee.
- 600.4 If the applicant disagrees with the results of the appeal, the applicant may have their appeal reviewed by the Grievance Committee. The Grievance Committee's decision shall be final.
- A. The Grievance Committee shall be conducted by an independent panel appointed by the Executive Director of the Department. The panel shall include at least three people from the Department or its designee not previously involved with the grievance. A person previously involved with the grievance may be present at the conference and appear before the panel to present information and answer questions, but shall not have a vote. The Department shall ensure that those appointed to the panel have sufficient experience to make an informed decision regarding the grievance under review.
 - B. The applicant may attend the Grievance Committee in person or by telephone.
 - C. The applicant may be represented by the person of the applicant's choice (i.e. legal counsel, friend, family member, etc.) during the Grievance Committee.
 - D. The applicant may have access to documents that were used by the Department or its designee in making the decision under appeal.

600.5 An enrollee who disagrees with a denial of benefits shall submit an appeal to the MCO he/she is enrolled in and shall follow the MCO's appeal process.

610 PREMIUM ASSISTANCE Repealed 12/30/2012

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
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Office of the Attorney General

Tracking number: 2016-00597

Opinion of the Attorney General rendered in connection with the rules adopted by the

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

on 01/13/2017

10 CCR 2505-3

FINANCIAL MANAGEMENT OF THE CHILDREN'S BASIC HEALTH PLAN

The above-referenced rules were submitted to this office on 01/13/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 30, 2017 10:24:35

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Revenue

Agency

Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-2

Rule title

1 CCR 201-2 INCOME TAX 1 - eff 02/09/2017

Effective date

02/09/2017

REGULATION 39-22-604.6

- (1) **Annual Reconciliation Reports.** On or before the last day of January following the close of the calendar year or within 30 days of cessation of the employer's business, the employer must file an annual reconciliation report, which is a summary of the withholding payments made to the Colorado Department of Revenue, and the reconciliation of such payments to the tax withheld as shown by the individual wage and tax statements submitted. *Exception* — The employer need not file an annual reconciliation report if the employer files the state copies of wage and tax statements via magnetic media or modem-to-modem transfer.
- (2) **Wage and Tax Statements.**
 - (a) *Generally* — The employer must complete a wage and tax statement for each employee. That statement must show: total wages paid and state and federal tax withheld during the calendar year or portion thereof; the name, address, and social security number of the employee; and the name, address, and federal employer identification number ("EIN" or "FEIN") of the employer. Employers that are not required to file the federal copies of their W-2s on magnetic media may file the state copies of the wage and tax statements on the prescribed paper form. Any employer that is required to file the federal copies of their W-2s on magnetic media must file the state copies of the wage and tax statements on magnetic media or must submit such statements electronically via the Department's modem-to-modem program.
 - (c) *Due dates for employee copies* — One copy of the wage and tax statement must be given to the employee for his or her records and another copy must be given to the employee to file with his or her state income tax return. These copies must be given to the employee within thirty-one days of the close of the calendar year or within thirty-one days of the date of termination of employment.
 - (d) *Due dates for state copy* — The copy to be sent to the state must be filed by the date prescribed in I.R.C. § 6071 for filing similar federal statements, and if required, must include the annual reconciliation report.
- (3) **Rules for Substitute Wage and Tax Statements.**
 - (a) *Form* — The State of Colorado has adopted the National Association of Tax Administrators' recommended form for use in printing of combined federal-state wage and tax statement forms. The state of Colorado no longer requires the calendar year to be pre-printed in the upper right hand corner of the form. The employer may pre-print or crash print the required year, the state identification number, the name of the state and the form number in a manner approved by the Department of Revenue, but the employer may not crash print any of the lines or headings of the form. The employer also may include the audit block shown on the federal six part Optional Wage and Tax Statement.
 - (b) *Combination Form — Modifications* — A combination form which incorporates copy number one and copy number two of said recommended forms (containing a combined federal state wage and tax statement) and consisting of six or more copies, having the same format except for federal instructions, and also providing a file copy for both employer and employee, may be approved for one year upon submission. If any Colorado employer responsible for filing a wage and tax statement form for his or her

employees wishes to modify any approved form in any way, approval of such modification will be required in advance of printing and use.



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Colorado Department of Revenue
Statement of Emergency Justification and Adoption
Emergency Amendment to Regulation 39-22-604.6

Pursuant to sections 24-4-103(6) and 39-22-604(6), C.R.S., I, Barbara J. Brohl, Executive Director of the Department of Revenue, hereby adopt emergency amendments to tax Regulation 39-22-604.6.

Section 24-4-103(6), C.R.S., authorizes the Executive Director to adopt a temporary or emergency rule if the Executive Director finds that the immediate adoption of the rule is imperatively necessary to comply with a state and federal law and that compliance with the requirements of section 24-4-103, C.R.S. regarding promulgation of a permanent regulation would be contrary to the public interest.

I find that the immediate adoption of amendments to this rule is necessary to respond to recent legislation passed by the United States Congress that amends the due dates for employers to file wage and tax statements with the Internal Revenue Service and their employees. Colorado's due dates for filing wage and tax statements with the Department and their employees is the same dates established in I.R.C. § 6071. The United States Congress passed H.R.2029 - Consolidated Appropriations Act of 2016, which amends the due dates in I.R.C. § 6071. As such, the due dates for Colorado's wage and tax statements have been amended and the rule needs to conform to these changes. I, therefore, find that the emergency adoption of this amended rule is necessary to comply with federal and state law. Finally, I find that compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest under the circumstances.

Statutory Authority

The statutory authority for this amendment to the existing rule for section 39-22-604(6), C.R.S., is cited above.

Purpose

To amend the due dates for employers to file wage and tax statements with the Department and their employees to comply with I.R.C. § 6071.

Adoption

For the reasons set forth above, I hereby adopt emergency rule 39-22-604.6, which is attached to this Statement and which shall be effective on the date of its adoption and shall apply prospectively. This emergency rule shall be in force and effect for a period of one hundred and twenty days from the date of this notice, unless sooner terminated or replaced by permanent rules adopted in accordance with section 24-4-103, C.R.S.

Adopted this _____ day of _____, 2017.

Barbara J. Brohl
Executive Director
Colorado Department of Revenue

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
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Office of the Attorney General

Tracking number: 2017-00023

Opinion of the Attorney General rendered in connection with the rules adopted by the

Taxpayer Service Division - Tax Group

on 01/09/2017

1 CCR 201-2

INCOME TAX

The above-referenced rules were submitted to this office on 01/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 18, 2017 13:18:48

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Revenue

Agency

Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-10

Rule title

1 CCR 201-10 SEVERANCE TAX 1 - eff 01/23/2017

Effective date

01/23/2017

GROSS INCOME FROM OIL AND GAS

RULE 39-29-102(3)(A)

- (1) For the purpose of severance tax imposed on oil and gas under article 29 of title 39, C.R.S., “gross income” is calculated by deducting from gross lease revenues any costs borne by the taxpayer for transporting, manufacturing, and processing identifiable, measurable oil or gas. For the purpose of this rule, “identifiable and measurable oil or gas” means oil or gas that has been separated from a bulk production stream and has thereafter been separately measured.
 - (a) In calculating “gross income” for severance tax purposes, no deduction shall be allowed for the cost of transporting, manufacturing, or processing an unseparated bulk production stream in which oil and gas has not yet been separated and measured.
- (2) Except as otherwise required by this rule, costs shall be deductible in a manner consistent with guidelines established by the Property Tax Administrator for the calculation of “net taxable revenues” pursuant to § 39-7-101(1)(d), C.R.S. for property tax purposes.
- (3) For the purposes of this rule and § 39-29-102(3)(a), C.R.S., and in determining whether a sale is an arms-length transaction, the term
 - (a) “Entity” includes, but is not limited to, corporations, limited liability companies, partnerships, estates, and trusts.
 - (b) “Party” includes entities and individuals.
 - (c) “Related Parties” include:
 - (i) individuals related to one another as a spouse, parent, child, sibling, grandparent, or grandchild, regardless of whether the relationship is by blood, marriage, adoption, or other means;
 - (ii) an Entity who controls, is controlled by, or is under common control with another Party. For the purpose of this rule, ownership, directly or indirectly, of more than 50 percent of the voting securities, or instruments of ownership or other forms of ownership, of another Party constitutes control;
 - (iii) in the case of a trust, the trust, its trustee, and its beneficiaries;
 - (iv) in the case of an estate, the estate, its personal representative (or equivalent), its beneficiary/heir, and its executor/administrator.



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Colorado Department of Revenue
Statement of Emergency Justification and Adoption
Emergency Amendment to Rule 39-29-102(3)(a)

Pursuant to sections 24-4-103(6) and 39-29-102(3)(a), C.R.S., I, Barbara J. Brohl, Executive Director of the Department of Revenue, hereby adopt emergency amendments to tax Rule 39-29-102(3)(a).

Section 24-4-103(6), C.R.S., authorizes the Executive Director to adopt a temporary or emergency rule if the Executive Director finds that the immediate adoption of the rule is imperatively necessary to comply with a state law and that compliance with the requirements of section 24-4-103, C.R.S. regarding promulgation of a permanent regulation would be contrary to the public interest.

I find that the immediate adoption of amendments to this rule is necessary to provide guidance consistent with a recent Colorado Supreme Court decision in which the Court allowed a deduction for the cost of capital that resulted from the investment in transportation of processing facilities. In addition, the Colorado Supreme Court stated that the statute unambiguously allows a deduction for all transportation, manufacturing, and processing costs. As a result of this case, an emergency rule is necessary to prescribe the method for calculating the cost of capital deduction and to provide clarity to both the Department and taxpayers regarding deductions allowable under the severance tax statutes. I, therefore, find that the emergency adoption of this amended rule is necessary to comply with state law. Finally, I find that compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest under the circumstances.

Statutory Authority

The statutory authority for this amendment to the existing rule for section 39-29-102(3)(a), C.R.S., is cited above.

Purpose

To prescribe the calculation of the cost of capital deduction and to clarify which costs are deductible under the severance tax statute.

Adoption

For the reasons set forth above, I hereby adopt emergency rule 39-29-102(3)(a), which is attached to this Statement and shall be effective on the date of its adoption and shall apply prospectively. This emergency rule shall be in force and effect for a period of one hundred and twenty days from the date of this notice, unless sooner terminated or replaced by permanent rules adopted in accordance with section 24-4-103, C.R.S.

Adopted this _____ day of _____, 2017.

Barbara J. Brohl
Executive Director
Colorado Department of Revenue

CYNTHIA H. COFFMAN
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Office of the Attorney General

Tracking number: 2017-00043

Opinion of the Attorney General rendered in connection with the rules adopted by the

Taxpayer Service Division - Tax Group

on 01/23/2017

1 CCR 201-10

SEVERANCE TAX

The above-referenced rules were submitted to this office on 01/23/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 31, 2017 11:24:23

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Unemployment Insurance

CCR number

7 CCR 1101-2

Rule title

7 CCR 1101-2 REGULATIONS CONCERNING EMPLOYMENT SECURITY 1 - eff
01/09/2017

Effective date

01/09/2017

DRAFT Rules

PART XVII WORKER CLASSIFICATION

17.1 CLASSIFICATION GUIDANCE AND CLARIFICATION

17.1.1 Statutory Reference: 8-70-115, C.R.S.

17.1.2 Factors to Consider. In determining whether a worker is an employee or independent contractor, the Deputy, Hearing Officer, or Panel considers the nine factors enumerated under § 8-70-115, C.R.S., as well as any other relevant factors, including but not limited to:

- .1 The relationship between the company for whom services are performed and the worker.
- .2 The totality of the circumstances of the relationship between the company for whom services are performed and the worker.

17.1.3 Customarily Engaged in an Independent Trade, Occupation, Profession or Business. Whether a worker is customarily engaged in an independent trade, occupation, profession or business is dependent upon whether the worker engages in a business that is separate and distinct from the company for whom services are performed. Whether a worker could or does perform services for multiple businesses may be considered in the Division's determination regarding the worker as an employee or an independent contractor, but it is not solely dispositive in that determination.

In reaching its determination, the Division treats every working relationship as unique. The Division does not rely on any single factor, but rather the totality of the circumstances and all relevant factors in accordance with applicable statutes and cases. While these factors may represent consideration as to the status of the working relationship, the circumstances differ from case to case and additional factors not listed may be considered. No single set of factors is exclusive, but the following factors are considered when determining whether an employment relationship exists under the Colorado Employment Security Act:

- .1 The date the worker's business started and whether the company required the worker to start the business in order to perform services for the company.
- .2 If the worker markets his or her own business, and the means used for marketing.
- .3 If the worker's business is viable beyond the scope of the agreement between the worker and the company for whom the services are currently being performed, including whether:
 - .1 The worker's business is economically independent from or is wholly dependent upon continued work with the company for whom services are performed.
 - .2 There is a permanent or continuous working relationship between the worker and the company, and any industry-specific conditions relevant to the permanency.

- .4 If the worker has a business investment such that there is a risk of suffering a loss on the project.
- .5 If the worker uses his or her own equipment while on the project.
- .6 If the rate and method of payment is negotiated by the parties, is established by the worker, or is established by the company for whom services are performed.
- .7 If the worker may employ others or does employ others to complete the work.
- .8 If the worker carries his or her own liability insurance.
- .9 The number of weekly hours the worker performs services for the company.
- .10 If the worker seeks other work for the worker's own business in the same field as he or she performs for the company.
- .11 If the worker has the ability to accept or reject work being offered.
- .12 If the service provided by the worker is an integral part of the company's business.

17.1.4 Worker-Business Relationship.

- .1 The evidence and circumstances must demonstrate that the worker in question is an independent contractor.
- .2 A worker could still be determined to be in covered employment, even if the worker signs a contract or an agreement, if the facts of the relationship establish that an employment relationship exists.
- .3 The existence of an agreement between the worker and the company for the workers' compensation coverage is not determinative of the worker-business relationship for unemployment insurance purposes.

17.1.5 Burden of Proof. The company for whom services are performed has the burden of establishing, by a preponderance of the evidence, that a worker is, in fact, free from control and direction in the performance of the work and is customarily engaged in an independent trade, occupation, or profession related to that work. A written document may establish a rebuttable presumption of independent contractor status only if it includes the applicable factors set forth in § 8-70-115 (1)(c), C.R.S., and the disclosure set forth in § 8-70-115 (2), C.R.S. While an agreement that meets the requirements of § 8-70-115 (1) (c) may shift the burden of proof to the worker or Division, such an agreement is not, in itself, conclusive of whether the worker is, in fact, an employee or an independent contractor.

17.1.6 Compliance Assistance. A business may request that the Division provide educational information as it relates to proper worker classification. A business has further opportunity to request a nonbinding advisory opinion in accordance with Regulation 17.2.

17.3 WORKER CLASSIFICATION INVESTIGATIONS AND FINES

17.3.1 Statutory Reference: 8-72-114 (3), C.R.S.

17.3.2 Written Order. Upon conclusion of a requested investigation of misclassification, the division shall issue a written order in conjunction with an audit report including any determination of the existence of an employment relationship.

17.3.3 Appeal From Determination. Any employer who wishes to appeal a determination made under the provisions of this part XVII of the regulations shall file a notice of appeal with the division. A hearing may be obtained in accordance with 8-76-113, C.R.S., and regulation 11.2.

17.3.4 The Division, prior to committing department resources to a full audit under the provision of this article, shall take into consideration whether the purported acts of misclassification are inconsistent with section 8-70-115 (1) (b), C.R.S.

17.3.5 Fine. As described in 8-72-114 (3)(e)(III), C.R.S., a fine may be imposed on an employer who misclassified an employee with willful disregard for the law. Such fine shall be imposed in the following manner:

.1 For the first instance of such misclassification, an employer shall be fined a minimum of one hundred dollars or one hundred dollars for each day that an employee was misclassified, whichever is greater, but the fine shall not exceed five thousand dollars per misclassified employee.

.2 For the second and any subsequent instance of such misclassification, an employer shall be fined a minimum of one thousand dollars or five hundred dollars for each day that an employee was misclassified, whichever is greater, but the fine shall not exceed twenty-five thousand dollars per misclassified employee.

January 9, 2017

Emergency Rule Concerning Worker Classification

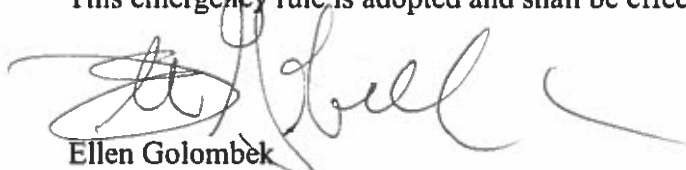
Justification

In accordance with §§ 8-72-102 and 24-4-103, Colorado Revised Statutes (C.R.S.), an emergency rule is adopted.

The Division of Unemployment Insurance is responsible for administering Part 17, 7 CCR 1101-2, Regulations Concerning Employment Security, which provides guidance to businesses on the proper classification of workers. In accordance with Senate Bill 16-179, the Division of Unemployment Insurance developed additional rules as guidance on the factors used to determine a worker's classification to enhance employers' knowledge.

The immediate adoption of this rule is necessary to allow the Division of Unemployment Insurance to provide the guidance to businesses and administer Senate Bill 16-179.

This emergency rule is adopted and shall be effective January 9, 2017.



Ellen Golombek
Executive Director

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

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Office of the Attorney General

Tracking number: 2017-00017

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Unemployment Insurance

on 01/09/2017

7 CCR 1101-2

REGULATIONS CONCERNING EMPLOYMENT SECURITY

The above-referenced rules were submitted to this office on 01/09/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

January 24, 2017 10:37:38

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 02/09/2017

Department

Department of State

Agency

Secretary of State



Notice of Mandatory Rule Review Written Comment Period

Rules Concerning Lobbyist Regulation

[8 CCR 1505-8]

February 9, 2017

What is this about?

Secretary Williams is reviewing the Rules Concerning Lobbyist Regulation in accordance with section 24-4-103.3, C.R.S. We invite you to participate in this effort by submitting written comments. The most helpful comments will reference issues within the scope of the rule review criteria outlined below, cite specific sections of the rules, and explain the reason for a recommended change.

For the rule review, the Secretary of State will consider:

1. Whether the rule is necessary;
2. Whether the rule overlaps or duplicates other rules of the agency or with other federal, state, or local government rules;
3. Whether the rule is written in plain language and is easy to understand;
4. Whether the rule has achieved the desired intent and whether more or less regulation is necessary;
5. Whether the rule can be amended to give more flexibility, reduce regulatory burdens, or reduce unnecessary paperwork or steps while maintaining its benefits;
6. Whether the rule is implemented in an efficient and effective manner, including the requirements for the issuance of permits and licenses;
7. Whether a cost-benefit analysis was performed by the applicable rule-making agency or official in the principal department pursuant to section 24-4-103 (2.5), C.R.S.; and
8. Whether the rule is adequate for the protection of the safety, health, and welfare of the state or its residents

A current copy of the rules is available online at:

www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6246&fileName=8%20CCR%201505-8.

How do I submit my comments and what is the deadline?

You may email your comments to SOS.Rulemaking@sos.state.co.us. To ensure consideration of your comments, please submit your comments by 5:00 p.m. on March 10, 2017.

Will my comments appear online?

Yes. To promote transparency and help generate discussion, our office will post a copy of your comments on the Secretary of State's website. We will also incorporate your comments into a report of our review findings that will appear in the Secretary of State's annual departmental regulatory agenda.

To view the comments that we receive, please visit:

http://www.sos.state.co.us/pubs/rule_making/ruleReviews.html.

Calendar of Hearings

Hearing Date/Time	Agency	Location
03/08/2017 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman St., Room 127, Denver, CO 80261
03/08/2017 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman St., Room 127, Denver, CO 80261
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03/08/2017 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman St., Room 127, Denver, CO 80261
03/02/2017 11:00 AM	Division of Motor Vehicles	1881 Pierce Street, Lakewood, CO 80214. Rm 110 (Board/Commission)
03/16/2017 09:30 AM	Division of Gaming - Rules promulgated by Gaming Commission	17301 W. Colfax Ave., Suite 135, Golden, CO 80401
03/08/2017 01:00 PM	Colorado State Board of Education	Colorado Department of Education, State Board Room 101
03/08/2017 01:30 PM	Colorado State Board of Education	Colorado Department of Education, State Board Room 101
03/08/2017 02:00 PM	Colorado State Board of Education	Colorado Department of Education, State Board Room 101
03/08/2017 02:30 PM	Colorado State Board of Education	Colorado Department of Education, State Board Room 101
03/02/2017 08:30 AM	Colorado Parks and Wildlife (405 Series, Parks)	Hunter Education Building, 6060 Broadway, Denver, CO 80216
03/02/2017 08:30 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Hunter Education Building, 6060 Broadway, Denver, CO 80216
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03/27/2017 09:00 AM	Division of Professions and Occupations - State Electrical Board	1560 Broadway, Suite 1250-C, Denver, CO
03/24/2017 10:00 AM	Peace Officer Standards and Training Board	1300 Broadway, 1st Floor, Denver CO 80203
03/15/2017 10:00 AM	Disease Control and Environmental Epidemiology Division	Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246
04/19/2017 10:00 AM	Center for Health and Environmental Data (1006, 1009 Series)	Colorado Dept. of Public Health and Environment, Bldg. A; 4300 Cherry Creek Drive South, First Floor, Sabin-Cleere Conference Room; Denver, CO 80246
03/15/2017 10:00 AM	Disease Control and Environmental Epidemiology Division	Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246
03/15/2017 10:00 AM	Disease Control and Environmental Epidemiology Division	Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246
03/15/2017 10:00 AM	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246
03/07/2017 11:00 AM	Division of Unemployment Insurance	633 17th Street, 12th Floor, Conference Room 12A, Denver, CO 80202
03/02/2017 10:00 AM	Division of Oil and Public Safety	633 17th Street, Suite 500; Denver, CO 80202
03/02/2017 09:00 AM	Division of Oil and Public Safety	633 17th Street, Suite 500; Denver, CO 80202
03/10/2017 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	303 East 17th Avenue, 11th Floor, Denver, CO 80203