

Colorado Register



40 CR 11

Volume 40 , No. 11

June 10, 2017

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

2017-00216

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-10

Rule title

SEVERANCE TAX

Rulemaking Hearing**Date**

07/12/2017

Time

09:00 AM

Location

1375 Sherman Rm 127

Subjects and issues involved

The purpose of this rule is to provide, consistent with the Colorado Supreme Courts ruling in BP Am. v. Colo. Dept of Revenue, clarification regarding gross lease revenues and the costs deductible therefrom in the calculation of gross income subject to severance tax on oil and gas.

Statutory authority

The basis for this rule is §§ 39-21-112(1), 39-29-102(3)(a), and 39-29-102(7), C.R.S.

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DEFINITION OF “GROSS INCOME” FOR SEVERANCE TAX ON OIL AND GAS

RULE ~~REGULATION~~ 39-29-102(3)(A)

Basis and Purpose

The basis for this rule is §§ 39-21-112(1), 39-29-102(3)(a), and 39-29-102(7), C.R.S. The purpose of this rule is to provide, consistent with the Colorado Supreme Court’s ruling in BP Am. v. Colo. Dep’t of Revenue, clarification regarding gross lease revenues and the costs deductible therefrom in the calculation of gross income subject to severance tax on oil and gas.

~~Gross income for oil and gas is the fair market value at the wellhead. The fair market value is determined by the actual transaction price or the value computed for Colorado and Federal income tax depletion purposes. If different values are determined, the higher of the two shall apply.~~

~~Gross income for this purpose shall include, but not be limited to, income received in the form of royalties or other production payments received by persons having an “economic interest” for depletion purposes. See Sections 611, 612 and 613 and the regulations promulgated thereunder of the Internal Revenue Code of 1954 for a definition of gross income for depletion purposes.~~

- (1) **General rule.** For the purpose of severance tax imposed on oil and gas under article 29 of title 39, C.R.S., “Gross Income” is determined by deducting from Gross Lease Revenues any costs incurred by the Taxpayer for the Transportation, manufacturing, and Processing of Product between the Point of Taxable Valuation and the Point of Sale. Pursuant to § 39-29-114(1), C.R.S., persons who are members of the same controlled group of corporations shall be treated as one Taxpayer and the Gross Income therefor will be determined collectively. Use of the term “Taxpayer” in this rule refers collectively to all members of the same controlled group.
- (2) **Definitions.** As used in this rule, unless context otherwise requires:
 - (a) “Department” means the Department of Revenue
 - (b) “Entity” includes, but is not limited to, any corporation, limited liability company, partnership, estate, or trust.
 - (c) “Gross Lease Revenues” means all revenues from an oil and gas leasehold or freehold from the sale of any Product produced. “Gross Lease Revenues” includes the fair market value of any property acquired in exchange for Product. “Gross Lease Revenues” also includes the fair market value of any used Product includible in Gross Lease Revenues pursuant to paragraph (6)(a)(I) or (6)(b) of this rule.
 - (d) “Party” means any entity or individual.

- (e) "Point of Sale" means the sales point or other point where the fair market value is established.
- (f) "Point of Taxable Valuation" means the point at which the process to separate a bulk production stream into identifiable and measurable oil, gas, or free water begins or, in the case of gas that is not in need of initial separation, the point at which the gas is first identifiable and measurable. Oil, gas, or free water are identifiable and measurable if their respective volumes can be actually and separately identified and measured, whether or not the oil, gas, or free water, at such point, undergo actual identification and measurement. Oil, gas, and free water within a bulk production stream with respect to which separation has not yet begun are not identifiable and measurable, any estimation of their respective volumes notwithstanding.
- (g) "Processing" means subjecting to a particular method, system, or treatment designed to effect a particular result. "Processing" includes, but is not limited to, mechanical separation, heating and treating, cooling, compression, dehydration, absorption, adsorption, refrigeration, flashing, sweetening, contaminant removal, cryogenic processing, and fractionation. "Processing" includes the separation of water from Product in a bulk production stream and the disposal thereof.
- (h) "Product" means crude oil, condensate, coalbed methane, carbon dioxide, and natural gas, including hydrocarbon and nonhydrocarbon gases; except that Product does not include any oil, gas, or other commodity exempt from taxation under § 39-29-105(1)(b), C.R.S.
- (i) "Related Parties" include:
 - (I) individuals related to one another as a spouse, parent, child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, or cousin, regardless of whether the relationship is by blood, marriage, adoption, or other means;
 - (II) two Parties, one holding an ownership interest in the other, either directly or indirectly, or an ownership interest of at least five percent in each being held by a third Party;
 - (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.
- (j) "Transportation" has the same meaning as in § 39-29-102(7), C.R.S.
- (k) "Unrelated Party" is a Party that is not a Related Party.

(3) **Determination of Gross Lease Revenues.**

- (a) In the case of Product sold to Unrelated Parties, the revenue from the sale is included in Gross Lease Revenues.
 - (b) In the case of Product used by the Taxpayer or sold to a Related Party, Gross Lease Revenues shall include either the revenue from the sale of the Product or the fair market value of the Product as determined by reference to comparable arm's-length sales of like kind, quality, and quantity in the same field or area, whichever is greater.
- (4) **Deductions for Transportation, Manufacturing, and Processing Costs.** In determining Gross Income, deduction from Gross Lease Revenues is allowed, as prescribed in this paragraph (4), for costs incurred by the Taxpayer for Transportation, manufacturing, and Processing of Product between the Point of Taxable Valuation and the Point of Sale.
- (a) **Direct Operating Costs.** Deduction is allowed, as prescribed in this paragraph (4)(a), for direct operating costs incurred by the Taxpayer for the Transportation, manufacturing, or Processing of Product.
 - (i) **Equipment, Machinery, and Real Property Improvements.** Deduction is allowed for the cost of equipment, machinery, and real property improvements used for Transportation, manufacturing, or Processing of Product. Deductible costs include, but are not limited to, the following costs to the extent that such costs are incurred for Transportation, manufacturing, or Processing:
 - (A) acquisition costs for equipment and machinery not eligible for the depreciation and cost of capital deductions allowed under paragraph (4)(b) of this rule;
 - (B) depreciation and cost of capital, determined under paragraph (4)(b) of this rule, for depreciable equipment, machinery, and real property improvements, including any capitalized maintenance and repair costs;
 - (C) non-capitalized costs of maintenance and repair for equipment, machinery, and real property improvements;
 - (D) rental payments for leased equipment, machinery, and real property improvements;
 - (E) insurance costs for equipment, machinery, and real property improvements;
 - (F) property taxes on equipment, machinery, and real property improvements; and

- (G) environmental compliance costs and the cost of any required environmental impact statement for the operation of equipment, machinery, and real property improvements.
 - (II) **Materials and Supplies Costs.** Deduction is allowed for the cost of materials and supplies used for Transportation, manufacturing, or Processing of Product. Deductible costs include, but are not limited to, the following costs to the extent that such costs are incurred for Transportation, manufacturing, or Processing:
 - (A) chemicals;
 - (B) lubricants for equipment and machinery;
 - (C) fuel and utilities used to operate equipment, machinery, and real property improvements, except that no deduction is allowed for the use of any Product which is not included in Gross Lease Revenues reporting pursuant to paragraph (6)(a)(I) of this rule.
 - (III) **Labor Costs.** Deduction is allowed for the cost of labor performed in the Transportation, manufacturing, or Processing of Product, including, but not limited to, salaries, wages, payroll taxes, worker's compensation insurance, and benefits. Labor costs eligible for deduction include operating, monitoring, servicing, or repairing facilities, equipment, and machinery used for the Transportation, manufacturing, or Processing of Product. If an employee's duties include both work in the Transportation, Manufacturing, or Processing of Product and in non-deductible activities such as those enumerated in paragraph (4)(e) of this rule, deduction is allowed only for that part of the employee's labor that is in the Transportation, manufacturing, or Processing of Product.
 - (IV) **General and Public Liability Insurance.** Deduction is allowed for the cost of general and public liability insurance for Transportation, manufacturing, or Processing of Product.
 - (V) If a Taxpayer incurs direct operating costs eligible for deduction under paragraph (4)(a) of this rule and also incurs direct operating costs to perform Transportation, manufacturing, or Processing for a Party not treated as one with the Taxpayer under § 39-29-114(1), C.R.S., deduction is allowed only for costs properly allocable to the Transportation, manufacturing, and Processing of the Taxpayer's Product.
- (b) **Depreciation and Cost of Capital.** Deduction is allowed, as prescribed in this paragraph (4)(b), for depreciation and cost of capital for any investment the Taxpayer makes in capital assets used for Transportation, manufacturing, or Processing of Product. The depreciation and cost of capital deductions shall be calculated in the same manner as prescribed for Return of Investment (RofI) and Return on Investment (ROI), respectively, by the Property Tax Administrator for

the valuation of lands and leaseholds producing oil and gas; except that no depreciation or cost of capital deduction is allowed for an investment in a capital asset not used in Transportation, manufacturing, or Processing as those terms are defined in this rule. The prescription by the Property Tax Administer referenced in this paragraph (4)(b) is made in Assessor's Reference Library, Volume 3, Chapter 6 or any successor publication.

- (I) If a Taxpayer makes capital investments eligible for deduction under paragraph (4)(b) of this rule and also uses such capital investments to perform Transportation, manufacturing, or Processing for a Party not treated as one with the Taxpayer under § 39-29-114(1), C.R.S., the deduction allowed under paragraph (4)(b) of this rule is proportional to that part of the total Product the Taxpayer transports, manufactures, or processes.
- (II) Assets partially depreciated as of the effective date of this rule shall be subject to the provisions of this rule and this paragraph (4)(b)(II).
 - (A) With respect to depreciation claimed for tax years prior to the effective date of this rule, no adjustment to such prior year claim shall be required as a result of this rule, except as prescribed by paragraph (4)(b)(III) of this rule.
 - (B) If a Taxpayer claims a deduction under paragraph (4)(b) of this rule for a partially depreciated capital asset, the amount of the deduction shall be calculated by dividing the remaining undepreciated investment balance for the asset by the remaining years of the asset life, determined pursuant to Property Tax Administrator guidance published in Assessor's Reference Library, Volume 5, Chapter 4 or any successor publication and with respect to the year the asset was originally placed into service.
- (III) If a Taxpayer sells, transfers, or otherwise disposes of any asset for which the Taxpayer claimed a depreciation deduction in any prior tax year, the Taxpayer must make a depreciation adjustment as prescribed in this paragraph (4)(b)(III).
 - (A) If the remaining undepreciated balance of the asset exceeds the amount realized from the sale or transfer or, in the case of any other disposition, the fair market value of the asset, the difference shall be additional depreciation allocated to the year of the sale, transfer, or disposition for which the Taxpayer may claim a deduction, subject to the limitation in paragraph (5) of this rule.
 - (B) If the amount realized from the sale or transfer or, in the case of any other disposition, the fair market value of the asset, exceeds the remaining undepreciated balance, the difference shall be a

reduction of the previously claimed depreciation; except that the reduction in depreciation is limited to the aggregate depreciation deduction previously claimed for the asset. The reduction shall be allocated first to the tax year immediately preceding the year of the sale, transfer, or disposition and, if the amount of the reduction exceeds the amount of depreciation claimed for the asset for that immediately preceding year, the excess will be allocated to the next immediately preceding tax year and, in the same manner, to each additional preceding tax year until the reduction has been fully exhausted. The Taxpayer must file an amended return for each year to which a reduction in depreciation has been allocated pursuant to this paragraph (4)(b)(III)(B); except that no amended return is required for any tax year for which the period permitted for assessment under § 39-29-107(1), C.R.S. has expired.

- (C) In lieu of filing amended returns pursuant to paragraph (4)(b)(III)(B) of this rule, a Taxpayer may elect to report the entire reduction in depreciation as an addition to Gross Income for the year of the sale, transfer, or disposition.

- (c) **Fees and Charges – Unrelated Parties.** Deduction is allowed for any fee, charge, or other amount the Taxpayer pays to Unrelated Parties for the Transportation, manufacturing, or Processing of Product.
- (d) **Fees and Charge – Related parties.** Deduction is allowed, as prescribed in this paragraph (4)(d), for any fee, charge, or other amount the Taxpayer pays to Related Parties for the Transportation, manufacturing, or Processing of Product.
 - (I) If the Taxpayer pays any fee, charge, or other amount to a Related Party that is not treated as one with the Taxpayer under § 39-29-114(1), C.R.S., for Transportation, manufacturing, or Processing, the deduction allowed to the Taxpayer is either the amount of the fee, charge, or other amount or the fair market value of the Transportation, manufacturing, or Processing performed as determined by reference to comparable, arm's length transactions, whichever is less. In determining the fair market value of the Transportation, manufacturing, or Processing performed, the quantity and quality of the Product, the field or area in which the service was performed, and the terms and conditions of the contractual agreement must be considered in determining the comparability of transactions.
 - (II) If a Party pays any fee, charge, or other amount to a Related Party and the two Parties are treated as one Taxpayer pursuant to § 39-29-114(1), C.R.S., the fee, charge, or other amount shall be considered an intra-company transfer and, as a result, no deduction shall be allowed therefor. The Taxpayer may instead claim any deductions allowable under paragraphs (4)(a) and (4)(b) of this rule for costs incurred in the

Transportation, manufacturing, and Processing of the Taxpayer's Product.

- (e) **Non-deductible Costs.** No deduction is allowed for costs that are not for the Transportation, manufacturing, or Processing of Product. No deduction is allowed for any cost incurred in relation to any oil, gas, or other commodity exempt from taxation under § 39-29-105(1)(b), C.R.S. Non-deductible costs include, but are not limited to:

- (I) down-hole production and operating costs incurred to extract or move Product from the reservoir to the Point of Taxable Valuation, including:
 - (A) the cost of repairs and maintenance of the pumping unit, tubing, casing, liners, or down-hole equipment, parts or supplies; and
 - (B) the cost of injection of gas, water and/or CO2 for secondary recovery;
- (II) costs for any activities performed in relation to a bulk production stream prior to the Point of Taxable Valuation;
- (III) legal costs, title opinions, and any other pre-drilling or pre-production costs;
- (IV) work over, well-pulling, or well re-completion costs;
- (V) theoretical or actual line losses or "shrinkage";
- (VI) property taxes on oil and gas leaseholds and lands;
- (VII) oil and gas depletion allowances;
- (VIII) general and administrative overhead costs that are not directly and unambiguously attributable to Transportation, manufacturing, or Processing of Product, such as headquarters personnel, telephone service, vehicle expenses, and office supplies;
- (IX) marketing costs and costs incurred to sell Product;
- (X) environmental compliance costs, including the cost of any environmental impact statement, related to oil and gas production prior to the Point of Taxable Valuation; and
- (XI) any costs for Transportation, manufacturing, or Processing Product not included in Gross Lease Revenues.

- (5) **Limitation on deductions.**

- (a) Transportation, manufacturing, and Processing costs must be determined and deducted on a well-by-well basis. If Product from multiple wells is collectively transported, manufactured, and processed, the costs of Transportation, manufacturing, and Processing must be allocated based upon pro rata production from each well.
 - (I) If a Taxpayer performs Transportation, manufacturing, or Processing for another Party no deduction is allowed for any cost allocable to the Transportation, manufacturing, or Processing of the other Party's Product.
- (b) Deductions for Transportation, manufacturing, and Processing costs allocated and attributed to a well cannot exceed the Gross Lease Revenues derived from the well. No deduction is allowed for any cost incurred in relation to any oil, gas, or other commodity exempt from taxation under § 39-29-105(1)(b), C.R.S.
- (c) Deduction is only allowed for costs substantiated by appropriate documentation. A Taxpayer must maintain records, made at the time any deductible cost was incurred, to demonstrate that the cost was for Transportation, manufacturing, or Processing of Product.

(6) **Used Product.**

- (a) If a Taxpayer uses Product it produces for Transportation, manufacturing, or Processing, the Taxpayer may elect to either:
 - (I) include in Gross Lease Revenues the fair market value of such Product, as determined under paragraph (3)(b) of this rule, and claim deduction for such Product under paragraph (4) of this rule; or
 - (II) exclude from Gross Lease Revenues the fair market value of such Product, as determined under paragraph (3)(b) of this rule, and claim no deduction for such Product under paragraph (4) of this rule.
- (b) If a Taxpayer uses Product it produces for any purpose other than reinjection, Transportation, manufacturing, or Processing the Taxpayer shall include in Gross Lease Revenues the fair market value of such Product, as determined under paragraph (3)(b) of this rule, and claim no deduction for such Product.

COLORADO DEPARTMENT OF REVENUE

STATEMENT OF BASIS AND PURPOSE

DEFINITION OF ^a GROSS INCOME^o FOR SEVERANCE TAX ON OIL AND GAS

39-29-102(3)(A)

1 CCR 201-10

Basis

The basis for this rule is §§ 39-21-112(1), 39-29-102(3)(a), and 39-29-102(7), C.R.S.

Purpose

The purpose of this rule is to provide, consistent with the Colorado Supreme Court's ruling in *BP Am. v. Colo. Dep't of Revenue*, clarification regarding gross lease revenues and the costs deductible therefrom in the calculation of gross income subject to severance tax on oil and gas.

The rule:

- clarifies that, pursuant to § 39-29-114, C.R.S., members of the same controlled group of corporations are treated as one taxpayer and the gross income for that taxpayer will be determined collectively;
- clarifies that natural gas subject to severance tax includes both hydrocarbon and nonhydrocarbon gases;
- includes in gross lease revenues the fair market value of any extracted taxable gas or liquid the taxpayer uses for a non-deductible purpose;
- defines the point of sale and the point of taxable valuation for the purpose of clarifying costs for which deduction is allowed;
- defines related parties and clarifies when fair market value, rather than sales price, is used to determine either gross lease revenues or deductible costs;
- enumerates several deductible and nondeductible costs;
- prescribes the calculation of depreciation and cost of capital deductions in the same manner as prescribed by the Property Tax Administrator for the calculation of Return of Investment (RofI) and Return on Investment (ROI), respectively; and
- prescribes the calculation of additional depreciation or a reduction in depreciation in the event that a taxpayer sells, transfers, or disposes an asset for which a depreciation deduction was previously claimed.

Notice of Proposed Rulemaking

Tracking number

2017-00215

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-18

Rule title

RETAIL MARIJUANA TAX

Rulemaking Hearing

Date

07/12/2017

Time

09:00 AM

Location

1375 Sherman Rm 127

Subjects and issues involved

The purpose of the amendment to this rule is to remove references to the requirement to pay Colorado sales tax on purchases of retail marijuana. Senate Bill 17-267 exempted sales of retail marijuana from Colorado sales tax. As such, the rule no longer needs to contemplate filing both a retail marijuana sales tax return and a retail sales tax return.

Statutory authority

The statutory basis for this rule is § 39-21-112(1), § 39-28.8-101, § 39-28.8-205 and § 39-28.8-308, C.R.S.

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RETAIL MARIJUANA SALES TAX PROCEDURES

39-28.8-201

- (1) The Department's procedures governing Retail Sales Tax described in the rules promulgated under Articles 21 and 26 of Title 39, C.R.S. shall, to the extent not inconsistent with the provisions of Article 28.8 of Title 39, C.R.S. and the rules promulgated pursuant thereto, likewise govern the procedures with respect to the collection, reporting, and remittance of Retail Marijuana Sales Tax.
- (2) Any vendor making sales of Retail Marijuana at a Retail Marijuana Store shall file a ~~separate~~ Retail Marijuana Sales Tax Return for Retail Marijuana Sales Tax collected ~~in addition to the Retail Sales Tax Return for Retail Sales Tax collected.~~
 - (a) The Retail Marijuana Sales Tax Return shall be filed electronically by all such vendors. The remittance of the Retail Marijuana Sales Tax shall be made in accordance with procedures prescribed on the Department's website or on forms published by the Department.
 - (b) If any vendor making sales of Retail Marijuana is unable to file Retail Marijuana Sales Tax Returns electronically, such vendor may apply to the Department for a waiver of electronic filing requirements. The Department may grant such a waiver upon a showing of good cause.

COLORADO DEPARTMENT OF REVENUE

STATEMENT OF BASIS AND PURPOSE

1 CCR 201-18

RETAIL MARIJUANA SALES TAX PROCEDURES

39-28.8-201

Basis

The statutory basis for this rule is § 39-21-112(1), § 39-28.8-101, § 39-28.8-205 and § 39-28.8-308, C.R.S.

Purpose

The purpose of the amendment to this rule is to remove references to the requirement to pay Colorado sales tax on purchases of retail marijuana. Senate Bill 17-267 exempted sales of retail marijuana from Colorado sales tax. As such, the rule no longer needs to contemplate filing both a retail marijuana sales tax return and a retail sales tax return.

Notice of Proposed Rulemaking

Tracking number

2017-00214

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-18

Rule title

RETAIL MARIJUANA TAX

Rulemaking Hearing**Date**

07/12/2017

Time

09:00 AM

Location

1375 Sherman Rm 127

Subjects and issues involved

The purpose of the amendment to this rule is to remove the definition of Retail Sales Tax Return. Senate Bill 17-267 exempted sales of retail marijuana from Colorado sales tax. As such, this amendment removes references to the requirement to pay Colorado sales tax on sales of retail marijuana.

Statutory authority

The statutory basis for this rule is § 39-21-112(1), § 39-28.8-101, § 39-28.8-205 and § 39-28.8-308, C.R.S.

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DEFINITIONS

39-28.8-101

With respect to rules promulgated under Article 28.8 of Title 39, the following terms have the following meanings:

- (1) Unless the context clearly requires otherwise, terms defined by section 12-43.4-103, C.R.S. or in Rule R 103 of 1 CCR 212-2, the Marijuana Enforcement Division's rules related to the Colorado Retail Marijuana Code, shall have the same meanings in these rules as therein defined.
- (2) "Average Market Rate" shall have the same meaning as defined in subsection 39-28.8-101(1), C.R.S., and shall be calculated pursuant to Department Rule 39-28.8.302.1(2) in the following categories:
 - (a) Bud
 - (b) Trim
 - (c) Immature Plant
 - (d) Wet Whole Plant
 - (e) Seed
- (3) "Bud" shall have the same meaning as the product of the "Flower" or "Flowering" stage as set forth by Rule R 103 of 1 CCR 212-2 including the actual flower.
- (4) "Immature Plant" shall have the same meaning as set forth by Rule R 103 of 1 CCR 212-2.
- (5) "Inventory Tracking System" shall have the same meaning as set forth by Rule R 103 of 1 CCR 212-2.
- (6) "Marijuana" means Medical Marijuana or Retail Marijuana.
- (7) "Retail Marijuana" shall have the same meaning as set forth by Rule R 103 of 1 CCR 212-2.
- (8) "Retail Marijuana Concentrate" shall have the same meaning as "Retail Marijuana Concentrate" as set forth by Rule R 103 of 1 CCR 212-2.
- (9) "Retail Marijuana Cultivation Facility" shall have the same meaning as set forth by Rule R 103 of 1 CCR 212-2.
- (10) "Retail Marijuana Excise Tax" means excise tax due under Article 28.8 of Title 39, C.R.S.
- (11) "Retail Marijuana Excise Tax Return" means the excise tax return upon which all sales or Transfers of retail marijuana subject to the excise tax and the amount of Retail Marijuana Excise Tax is reported.
- (12) "Retail Marijuana Plant" means a mature plant of the genus cannabis, whether growing or harvested, that is cultivated by a licensed Retail Marijuana Cultivation Facility.

- (13) "Retail Marijuana Sales Tax" means sales tax collected and due under Article 28.8 of Title 39, C.R.S.
- (14) "Retail Marijuana Sales Tax Return" means the sales tax return upon which all sales of Retail Marijuana Products and the amount of state and local Retail Marijuana Sales Tax is reported.
- (15) "Retail Sales Tax" means the sales tax collected and due under part 1 of Article 26 of Title 39, C.R.S.
- ~~(16) "Retail Sales Tax Return" means the sales tax return upon which the amount of state sales and state-administered local jurisdictions sales tax imposed, collected, and due under part 1 of Article 26 of Title 39, C.R.S. is reported.~~
- (17) "Test period" means the period of time used to calculate the Average Market Rate. The Test Period shall be each November 1st to the subsequent April 30th, and each May 1st to the subsequent October 31st.
- (18) "Transfer" means to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration, any Retail Marijuana or Retail Marijuana Product from one licensee to another or to a consumer. A Transfer includes the movement of Retail Marijuana or Retail Marijuana Product from one licensed premises to another, even if both premises are contiguous, and even if both premises are owned by a single entity or individual or group of individuals and also includes a virtual transfer that is reflected on the Inventory Tracking System, even if no physical movement of the Retail Marijuana occurs.
- (19) "Trim" means any part of a Retail Marijuana Plant other than the Bud or Wet Whole Plant that is sold or Transferred to a Retail Marijuana Store, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Cultivation Facility. Trim includes "sweet leaf" or "sugar leaf".
- (20) "Unprocessed Retail Marijuana" means all Retail Marijuana that is first sold or Transferred by a Retail Marijuana Cultivation Facility to a Retail Marijuana Store or Retail Marijuana Products Manufacturing Facility, even though it may have gone through some processing, and even though it may be subject to further processing by another licensee.
- (21) "Wet Whole Plant" means a Retail Marijuana Plant that is cut off just above the roots and is not trimmed, dried, or cured. The weight of the Wet Whole Plant includes all bud, leaves, stems, and stalk. The Wet Whole Plant must be weighed within 2 hours of the plant being harvested. The plant must not undergo any further processing prior to being weighed, and tax must be paid on the weight of the entire unprocessed plant.

COLORADO DEPARTMENT OF REVENUE

STATEMENT OF BASIS AND PURPOSE

1 CCR 201-18

DEFINITIONS

39-28.8-101

Basis

The statutory basis for this rule is § 39-21-112(1), § 39-28.8-101, § 39-28.8-205 and § 39-28.8-308, C.R.S.

Purpose

The purpose of the amendment to this rule is to remove the definition of Retail Sales Tax Return. Senate Bill 17-267 exempted sales of retail marijuana from Colorado sales tax. As such, this amendment removes references to the requirement to pay Colorado sales tax on sales of retail marijuana.

Notice of Proposed Rulemaking

Tracking number

2017-00218

Department

700 - Department of Regulatory Agencies

Agency

702 - Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

LIFE, ACCIDENT AND HEALTH, Series 4-2

Rulemaking Hearing**Date**

07/05/2017

Time

02:00 PM

Location

1560 Broadway, Ste 110 D, Denver CO 80202

Subjects and issues involved

4-2-10 REPORTING REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS (MEWAS).
This regulation is intended to: (1) clarify the information to be filed under the provisions of § 10-3-903.5(7)(c), C.R.S., by Multiple Employer Welfare Arrangements (MEWAs) claiming exempt status from formal licensing requirements; and (2) to clarify the responsibilities of licensed producers,.

Statutory authority

10-1-109, C.R.S.

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DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Proposed Amended Regulation 4-2-10

REPORTING REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS (MEWAS)

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Filing Requirements of MEWAs
Section 6	Authorized Insurance Arrangements
Section 7	Producer Responsibilities
Section 8	Continuing Compliance
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Section 12	History

Section 1 Authority

This regulation is promulgated **and adopted by the Commissioner of Insurance** under the authority of § 10-1-109, C.R.S.

Section 2 Scope and Purpose

This regulation is intended to **(1)** clarify the information to be filed under the provisions of § 10-3-903.5(7)(c), C.R.S., by Multiple Employer Welfare Arrangements (MEWAs) claiming exempt status from formal licensing requirements; and **(2)** to clarify the responsibilities of licensed producers.

Section 3 Applicability

This regulation applies to all multiple employer welfare arrangements subject to § 10-3-903.5, C.R.S.

Section 4 Definitions

- A. "Fully insured" means **for the purposes of this regulation**, an arrangement where a licensed entity is liable to pay all health care benefits, less any contractual deductibles, coinsurance or copayments to be made by the **enrollee covered person**. The liability of the licensed entity for payment of the covered services or benefits is directly to the individual employee, member or dependent(s) receiving the health care services or benefits. The contract issuance, claims payment, **and** administration, and all other insurance related functions remain the ultimate responsibility of the licensed entity.
- B. "Health plan" **means, for the purposes of this regulation, is** an arrangement such as a fund, trust, plan, program or other funding mechanism that provides health care benefits.

- C. "Licensed entity" means for the purposes of this regulation, a licensed insurance company; health maintenance organization; or nonprofit hospital, medical-surgical, and health service corporation having a certificate of authority to transact business in this state.
- D. "Producer" means for the purposes of this regulation, a licensed person as defined by Article 2 of Title 10.
- E. "Substantial compliance" means for the purposes of this regulation, that each benefit provided to an individual covered by a MEWA complies with the essential requirements of each mandated benefit.

Section 5 Filing Requirements of MEWAs

- A. A filing under this regulation by a MEWA is solely for the purpose of providing the information required ~~to by~~ the Commissioner in order to demonstrate if ~~athe~~ MEWA ~~s~~ complies with the requirements of § 10-3-903.5(7)(c) ~~(7)~~, C.R.S. Determination of compliance or noncompliance will be provided in writing to the MEWA.
- B. The following information is required to be filed in order to meet the filing requirements of § 10-3-903.5(7)(c), C.R.S., and for the Division of Insurance Commissioner to make a determination regarding the qualification of a MEWA seeking exemption from licensure requirements ~~;~~:
 - A1. Evidence that the MEWA has existed continuously since January 1, 1983. ~~;~~
 - B2. A copy of the sponsor association's organizational documents, membership criteria, ownership information and a summary of the activities and benefits, other than health plan coverage, provided to its membership.
 - C3. A copy of the most recent financial report, which includes at a minimum, a balance sheet, income statement, cash flow report and a detailed listing of assets, as of the MEWA's most recent fiscal year end. The financial report must ~~disclose and~~ support the required ~~five percent (5%)~~ unallocated reserve level of not less than five percent (5%) of the first two (2) million dollars for annual contributions made to each arrangement in the preceding fiscal year.
 - D4. The method of marketing and enrolling eligible participants.
 - E5. ~~The Aa~~ actuarial information required by § 10-3-903.5(7)(c)(III), C.R.S., that must be prepared and signed by a qualified actuary as indicated by §10-7-114(1)(e), C.R.S. ~~ThisThe actuarial~~ information must include:
 - 1a. An opinion that:
 - a-(1) ~~is~~ prepared in a format consistent with that required ~~, and from time to time amended,~~ by the National Association of Insurance Commissioners for commercial health insurers ~~;~~ and
 - b-(2) ~~oQ~~ pines on the adequacy of the health plan reserves and liabilities reflected in the financial report.
 - 2b. A copy of the underlying actuarial report supporting such opinion, in accordance with the requirements of § 10-7-114, C.R.S., including all methods and assumptions employed. In addition, the report must evaluate the adequacy of the contribution and funding levels of the health plan for the current and immediately subsequent fiscal year.

- F6.** A copy of the products offered along with a summary of benefits and a comparison of how each benefit is in substantial compliance with the ~~state's~~Colorado's mandated benefit provisions.
 - G7.** Such other relevant information as the Commissioner may request in order to evaluate the ~~financial, actuarial and benefits of the health plan qualification status of the MEWA.~~
 - H8.** A copy of an audited annual financial report within 150 days of the MEWA's fiscal year end.
- C.** ~~Items A and B above~~ Subsections B.1. and B.2. are only required to be filed once, unless materially altered. ~~Items C through G will be required to~~ Subsections B.3. through B.7. must be filed annually within sixty (60) days following the fiscal year end of the MEWA. ~~Item H shall~~Subsection B.8. must be filed annually ~~as indicated.~~

Section 6 Authorized Insurance Arrangements

~~Qualifying health plans~~ Insurance arrangements that are not subject to licensure as an insurer under Colorado law, are ~~health~~ plans that are:

- A. Fully insured;
- B. Established and maintained by a single employer;
- C. Established and subject to a collectively bargained agreement pursuant to § 10-3-903.5(7)(b)(II), C.R.S.;
- D. Established by a government entity, pursuant to § 10-3-903.5(7)(b)(I), C.R.S.; or
- E. Determined to be in compliance with § 10-3-90~~53.35~~(7)(c), C.R.S. and Section 5 of this regulation.

~~Pursuant to Colorado law, health plans sold to residents of Colorado are subject to Colorado law even if the master policy is issued and delivered outside of Colorado.~~

Section 7 Producer Responsibilities

No producer may solicit, advertise, market, accept an application, or place coverage for a person who resides in this state with a MEWA unless the producer first verifies that the MEWA complies with the requirements of this regulation and the provisions of § 10-3-903.5(7), C.R.S. This is accomplished by the producer acquiring a copy of the Division's correspondence determining that the MEWA is in compliance with this regulation and the provisions of § 10-3-903.5(7)(c), C.R.S.

Lack of knowledge regarding the compliance of any organization or health plan is not a defense to a violation of this regulation. Any producer involved in the solicitation or sale of health plans through unauthorized insurers or MEWAs which are found not to be in compliance with the provisions of § 10-3-903.5(7), C.R.S. and this regulation are subject to discipline or action including fines, suspension or revocation of ~~their~~ his or her license.

Section 8 Continuing Compliance

In the event that a MEWA ceases to qualify under Section 6 of this regulation, it will be transacting the business of insurance in the State of Colorado without a license and subject to the procedures of Parts 9 and 10 of Article 3 of Title 10, C.R.S. and the provisions of the State Administrative Procedure Act, Part 4

of Title 24, C.R.S., as applicable. ~~Any insurer that may have issued a contract to a health plan is not exempt from the liability under its contract solely due to the unauthorized status of a health plan.~~

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 sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance or cease and desist orders, and/or suspensions or revocations of license, subject to the requirements of due process.

Section 11 Effective Date

This amended regulation shall be effective ~~August~~ ~~September~~ 1, 201~~2~~⁷.

Section 12 History

Regulation 4-2-10, effective July 1, 1994

Amended regulation effective October 2, 2006

Amended regulation effective August 1, 2012

~~Amended regulation effective September 1, 2017~~

Notice of Proposed Rulemaking

Tracking number

2017-00219

Department

700 - Department of Regulatory Agencies

Agency

702 - Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

LIFE, ACCIDENT AND HEALTH, Series 4-2

Rulemaking Hearing

Date

07/05/2017

Time

02:00 PM

Location

1560 Broadway, Ste 110 D, Denver CO 80202

Subjects and issues involved

4-2-29 CONCERNING THE RULES FOR STANDARDIZED CARDS ISSUED TO PERSONS COVERED BY HEALTH BENEFIT PLANS. The purpose of this regulation is to provide health carriers the guidance necessary to comply with the statutory requirements regarding the issuance and use of a health benefit plan identification cards, pursuant to § 10-16-135, C.R.S.

Statutory authority

10-1-109, and 10-16-135, C.R.S.

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DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Proposed Amended Regulation 4-2-29

CONCERNING THE RULES FOR STANDARDIZED CARDS ISSUED TO PERSONS COVERED BY HEALTH BENEFIT PLANS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Rules
Section 6	Severability
Section 7	Enforcement
Section 8	Effective Date
Section 9	History

Section 1 Authority

This regulation is being promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, and 10-16-135, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to provide **health** carriers the guidance necessary to comply with the statutory requirements regarding the issuance and use of a health benefit plan identification cards, pursuant to § 10-16-135, C.R.S.

Section 3 Applicability

This regulation applies to all individual and group health benefit plans issued or renewed **on or after July 1, 2009** by entities subject to Part 2, Part 3 and Part 4 of Article 16 of Title 10 of the Colorado Revised Statutes, **and to any person enrolling in an existing plan on or after July 1, 2009**.

Section 4 Definitions

- A. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- B. "Clear and conspicuous" means, for the purpose of this regulation, the placement of the required information will be set apart from other information listed to allow it to be easily located on the card.
- C. "Health benefit plan" shall have the same meaning as found at § 10-16-102(32), C.R.S.
- D. "Limited benefit health **insurance coverage**" means, for the purpose of this regulation, **a health policy, contract or certificate offered or marketed on an individual or group basis as supplemental health insurance that pays specified amounts according to a schedule of benefits to defray the costs of care, services, deductibles, copayments or coinsurance amounts not covered by a health benefit plan. "Limited benefit health insurance" does not include short term**

limited duration health insurance policies, contracts or certificates; high deductible plans; or catastrophic health policies, contracts or certificates. Such non-supplemental plans are included under the term "health benefit plan" any type of health coverage that is not provided by a health benefit plan, as defined in § 10-16-102(32)(a), C.R.S.

E. "Managed care plan" shall have the same meaning as found at § 10-16-102(43), C.R.S.

EF. "Short-term limited duration health insurance policy" shall have the same meaning as found at § 10-16-102(60), C.R.S.

Section 5 Rules

- A. The requirements of this regulation shall apply to identification cards issued to persons covered under health benefit plans. These requirements do not apply to identification cards issued to persons covered by limited benefit health insurance coverage.
- B. The card size shall must be approximately 2.125 inches by 3.370 inches, which is consistent with standard-sized credit cards, and shall must be either be made of plastic or be laminated. Cards issued in connection with coverage provided by short-term limited duration health insurance policies do not have to be made of plastic or be laminated.
- C. The colors used for the card and font shall must be legible and conducive to black and white photocopying.
- D. The following information shall must appear on the front side of the identification card, in no less than 8 point font:
1. The legal name of the carrier underwriting the policy, but a "dba" may also be included;
 2. The covered person's first name, middle initial (if applicable), and last name;
 3. Any applicable policy, certificate, or group number s, and the subscriber's or covered person's identifying number, as applicable, which is sufficient to identify the covered person with the policy;
 4. The specific plan number or name;
 5. The plan type, (such as HMO (Health Maintenance Organization), POS (Point-of-Service), PPO (Preferred Provider Organization), EPO (Exclusive Provider Organization), or Indemnity (non-managed care plan));
 6. Coverage levels for the following services. If all services are subject to the plan policy's deductible and applicable coinsurance, a non-specific amount notation of "Deductible and coinsurance" is sufficient; otherwise, the required copayments shall must be specified. If both a deductible and copayment apply, a non-specific amount notation of "Deductible" is sufficient, followed by the specified copayment amount.
 - a. Primary care;
 - b. Specialty care;
 - c. After hours/urgent care;
 - d. Emergency room; and
 - e. Inpatient hospital.

7. The designation "CO-DOI" for any and all **health benefit** plans regulated in whole or in part by the State of Colorado's Division of Insurance. This designation **shallmust** be placed on the card in a clear and conspicuous manner.
- E. The following information **shallmust** appear on either the front or reverse side of the identification card at the carrier's discretion, in no less than 8 point font:
1. Contact information for the carrier or plan administrator which includes:
 - a. Name and address for claim submissions;
 - b. Telephone number(s) for member/customer service;
 - c. Website address;
 - d. If applicable, a statement that preauthorization or notification for hospitalization or other services may be required and the telephone number to obtain such preauthorization or to make such notification **; and**
 - e. If the carrier does not use its own managed care provider network, the logo, name of the network, website, or toll-free number where provider network information can be readily obtained.
 2. "Card issued" date **; however, this date, which shallmust** be displayed in a clear and conspicuous manner.
- F. The card may include other information at the carrier's discretion.
- G. Carriers may utilize commonly-known abbreviations or acronyms for the purposes of displaying the information required by **paragraph 6. of sub** section **5.D.6**, such as:
1. "PCP" to describe or refer to primary care **physicianprovider** benefits;
 2. "SCP" to describe or refer to specialty care **physicianprovider** benefits;
 3. "Urgent" to describe or refer to after hours/urgent care benefits;
 4. "ER" to describe or refer to "emergency room" benefits;
 5. "Hospital" to describe or refer to inpatient hospital benefits;
 6. "Ded" or "deduct" to describe the application of the policy's deductible; or **;**
 7. "Co-ins" to describe the application of the policy's coinsurance requirements.
- H. Carriers choosing to utilize commonly known abbreviations or acronyms in accordance with **sub** section **5.G. shallmust** provide an explanation of the abbreviations and/or acronyms displayed on the card in the information provided when the card is sent to the covered person.

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 shall become effective on ~~December 15~~September 1, 201~~37~~.

Section 9 History

New regulation effective October 1, 2008.

Amended regulation, effective July 1, 2009.

Amended regulation, effective December 15, 2013.

~~Amended regulation effective September 1, 2017.~~

Notice of Proposed Rulemaking

Tracking number

2017-00220

Department

700 - Department of Regulatory Agencies

Agency

702 - Division of Insurance

CCR number

3 CCR 702-4 Series 4-6

Rule title

LIFE, ACCIDENT AND HEALTH, Series 4-6

Rulemaking Hearing**Date**

07/05/2017

Time

02:00 PM

Location

1560 Broadway, Ste 110 D, Denver CO 80202

Subjects and issues involved

4-6-12 MANDATORY COVERAGE OF MENTAL ILLNESSES FOR SMALL GROUP GRANDFATHERED HEALTH BENEFIT PLANS. The purpose of this regulation is to clarify the coordination of subsections (5) and (5.5) of § 10-16-104, C.R.S. (2012), concerning mental illness and biologically based mental illness (BBMI).

Statutory authority

10-1-109 and 10-16-109, C.R.S.

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DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Proposed Amended Regulation 4-6-12

MANDATORY COVERAGE OF MENTAL ILLNESSES FOR SMALL GROUP GRANDFATHERED HEALTH BENEFIT PLANS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Rules
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 §§ 10-1-109 and 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to clarify the coordination of subsections (5) and (5.5) of § 10-16-104, C.R.S. (2012), concerning mental illness and biologically based mental illness (BBMI).

Section 3 Applicability

This regulation applies to every carrier which has small group grandfathered health benefit plans pursuant to § 10-16-105, C.R.S. (2012).

Section 4 Definitions

- A. "Biologically based mental illness" and "(BBMI)" shall have the same meaning as found at § 10-16-104(5.5)(a)(IV)(A), C.R.S. (2012).
- B. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- C. "Grandfathered health benefit plan" shall have the same meaning as found at § 10-16-102(31), C.R.S.
- D. "Small group health benefit plan" and "small group" shall have the same meaning as found at § 10-16-102(42), C.R.S. (2012).

Section 5 Rules

- A. Section 10-16-104(5), C.R.S. (2012), applies to small group grandfathered health benefit plans small group policies as defined in § 10-16-102(42), C.R.S. (2012).

- B. Section 10-16-104(5), C.R.S. (2012), applies to all mental illness conditions including, but not limited to, the BBMI benefits required by § 10-16-104(5.5), C.R.S. (2012), under **small group** grandfathered **small group** health benefit plans and includes the following mandated benefits:
1. At least **forty-five (45)** inpatient (**ninety (90)** partial hospitalization) days in any one twelve-month period;
 2. No less than **twenty (20)** outpatient visits or no less than \$1,000 paid for outpatient visits in any twelve-month period; and
 3. Copayment or coinsurance shall not exceed a 50% requirement.
- C. Section 10-16-104(5.5), C.R.S. (2012), applies to a defined subset of mental illness conditions for BBMI for **small group** grandfathered **small group** health benefit plans. Section 10-16-104(5.5), C.R.S. (2012), provides coverage for treatment for BBMI that is no less extensive than coverage provided for any other physical illness.
- D. Based on **sub**sections **5** B. and **5** C. **of this section 5**, the following findings are made:
1. The increased insurance coverage of § 10-16-104(5.5), C.R.S. (2012), for BBMI was not intended to duplicate coverage provided in § 10-16-104(5), C.R.S. (2012), or **to** provide a double benefit.
 2. Treatment for BBMI under § 10-16-104(5.5), C.R.S. (2012), might permit “different” types of treatment than would be permitted under **subsection** § 10-16-104(5), C.R.S. (2012), but will provide “additional” insurance benefits above the limitations set out in **subsection** § 10-16-104(5), C.R.S. (2012).
 3. BBMI benefits provided in accordance with § 10-16-104(5.5), C.R.S. (2012), reduce or exhaust the benefits mandated by § 10-16-104(5), C.R.S. (2012).
 4. BBMI benefits provided in accordance with § 10-16-104(5.5), C.R.S. (2012), must be provided at the more generous of the physical illness or mental illness benefits of § 10-16-104(5), C.R.S. (2012), through the **twentieth (20th)** visit. Thereafter, the copayment or coinsurance protections continue to apply to BBMI pursuant to § 10-16-104(5.5), C.R.S. (2012).
- E. Utilization review mechanisms used to make a determination to provide coverage for biologically based mental illnesses **es will must** not be more restrictive than **that those** used in the determination to provide coverage for any other physical illness.

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 shall become effective on **January-September 1, 2014**.

Section 9 History

Emergency Regulation 08-E-2 effective January 1, 2008.

New Regulation effective February 1, 2008.

Emergency Regulation 09-E-02 effective July 1, 2009.

Amended Regulation effective November 1, 2009.

Amended Regulation effective January 15, 2014.

Amended Regulation effective September 1, 2017.

Notice of Proposed Rulemaking

Tracking number

2017-00200

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 3:STANDARDS FOR REAL ESTATE APPRAISAL QUALIFYING EDUCATION PROGRAMS

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

**CHAPTER 3: STANDARDS FOR REAL ESTATE APPRAISAL QUALIFYING EDUCATION
PROGRAMS**

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the standards necessary for real estate appraisal qualifying education programs.

Proposed New, Amended and Repealed Rules

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CHAPTER 3: STANDARDS FOR REAL ESTATE APPRAISAL QUALIFYING EDUCATION PROGRAMS

- 3.3 The following may be approved as providers of qualifying appraisal education provided that the standards set forth in Board Rule 3.2 are maintained and the education providers have complied with all other requirements of the state of Colorado:
- A. Accredited colleges, junior colleges, community colleges or universities as defined in Board Rule 1.30;

- B. Professional appraisal and real estate related organizations;
 - C. State or federal government agencies;
 - D. Proprietary schools holding valid certificates of approval from the Colorado Division of Private Occupational Schools, Department of Higher Education;
 - E. Providers approved by other jurisdictions, provided the jurisdiction's appraiser regulation program ~~has been determined to be is~~ in compliance with Title XI, FIRREA, as determined by the ASC as defined in Board Rule 1.42;
 - F. Providers approved under the CAP as defined in Board Rule 1.39; and
 - G. Such other providers as the Board may approve upon petition of the provider or the applicant in a form acceptable to the Board.
- 3.7 Qualifying education courses and corresponding examinations must be successfully completed by the applicant. Successful completion means the applicant has attended the offering, participated in course activities, and achieved a passing score on the course examination.
- 3.10 Each applicant will provide a signed statement attesting to the successful completion of the required hours of qualifying appraisal education on a form prescribed by the Board. The Board reserves the right to require an applicant ~~or licensee~~ to provide satisfactory documentary evidence of completion of appropriate qualifying education course work.
- 3.11 Hours of qualifying education accepted in satisfaction of the education requirement of one level of licensure ~~or certification~~ may be applied toward the requirement for another level and need not be repeated. Applicants are responsible for demonstrating coverage of the required topics.
- 3.15 As to qualifying education courses completed in other jurisdictions with appraiser regulatory programs ~~established in conformance with that are in compliance with~~ Title XI, FIRREA, as determined by the ASC as defined in Board Rule 1.42, the Board will accept the number of hours of education accepted by that jurisdiction.
- 3.17 All qualifying education courses in the USPAP begun on and after January 1, 2003 must be in the form of a course approved under the CAP as defined in Board Rule 1.39, and taught by an instructor certified by the AQB ~~of and~~ who is also a state certified appraiser.
- 3.22 By offering real estate appraiser qualifying education ~~in the state of Colorado~~approved by the Board, each provider agrees to comply with the relevant statutes and Board Rules and to permit the Board to audit said courses at any time and at no cost.
- 3.24 Licenseses-Applicants are required to provide copies of course completion certificates to the Board upon request.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00201

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 4:STANDARDS FOR REAL ESTATE APPRAISAL LICENSING
EXAMINATIONS

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

CHAPTER 4: STANDARDS FOR REAL ESTATE APPRAISAL LICENSING EXAMINATIONS

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the standards necessary for real estate appraisal licensing examinations.

Proposed New, Amended and Repealed Rules

Deleted material is showed by ~~struck through~~; new material is indicated by underline. Rules, or portions of rules, which are unaffected are reproduced. Readers are advised to obtain a copy of the complete rules of the Board at www.dora.colorado.gov/dre.

CHAPTER 4: STANDARDS FOR REAL ESTATE APPRAISAL LICENSING EXAMINATIONS

- 4.6 Examinations developed by or contracted for the Board for licensed and certified appraisers must comply with the Real Property Appraiser Qualification Criteria as defined in Board Rule 1.32, if applicable.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00202

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 6:APPLICATION FOR LICENSURE

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Contact information**Name**

Martha Torres-Recinos

Title

Rulemaking Administrator

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

CHAPTER 6: APPLICATION FOR LICENSURE

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the procedures for applying for a real estate appraiser license.

Proposed New, Amended and Repealed Rules

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CHAPTER 6: APPLICATION FOR LICENSURE

- 6.1 Except as provided under Chapter 9 of these Rules, an applicant ~~or licensee~~ must complete and submit an application as follows:
- A. Licensure for a Licensed Appraiser, Certified Residential Appraiser or Certified General Appraiser credential:
 - 1. An applicant for an initial license must submit a set of fingerprints to the Colorado Bureau of ~~Investigations~~ Investigation for the purpose of

conducting a state and national criminal history record check prior to submitting an application.

2. Complete the Board created application and submit the application with the supporting documentation to include: qualifying education course completion certificates, college transcripts, and experience log.
3. Upon the Board approving the education and experience requirements, a “Letter of Exam Eligibility” will be issued.
4. After the issuance of the “Letter of Exam Eligibility”, schedule the appropriate examination with the examination provider approved by the Board.
5. After successfully passing the appropriate examination as defined in Board Rule 4.1, submit a copy of the examination results with proof of the required errors and omissions insurance policy as defined in Board Rule 6.10.
6. An application is deemed complete at the time that all required supporting ~~documents~~ documentation and fees are received by the Board.

B. Licensure for a Licensed Ad Valorem Appraiser credential:

1. Complete the Board created application and submit the application with the supporting documentation to include: qualifying education course completion certificates, a copy of the examination results as defined in Board Rule 4.1 and proof of employment with a qualified employer as defined in Board Rule 1.37.
2. Applicants for a Licensed Ad Valorem Appraiser credential are not required to submit a set of fingerprints for the purposes of conducting a state and national criminal history record check and are also exempt from the errors and omissions insurance requirements.
3. An application is deemed complete at the time that all required supporting ~~documents~~ documentation and fees are received by the Board.

6.5 Once the application is deemed ~~complete~~ completed, the Board will timely process the application. The Board reserves the right to require additional information and documentation from an applicant ~~or licensee~~ to determine compliance with applicable laws and regulations, and to verify any information and documentation submitted.

6.9 Repealed.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00203

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 7:CONTINUING EDUCATION REQUIREMENTS

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Contact information**Name**

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

CHAPTER 7: CONTINUING EDUCATION REQUIREMENTS

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the requirements necessary for continuing education for real estate appraisers.

Proposed New, Amended and Repealed Rules

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CHAPTER 7: CONTINUING EDUCATION REQUIREMENTS

- 7.3 Continuing real estate appraisal education must be taken from providers approved by the Board. In order to be approved by the Board, continuing education must meet the following standards:
- A. It must have been developed by persons qualified in the subject matter and instructional design;
 - B. It must be current;

- C. The instructor must be qualified with respect to content and teaching methods; and
- D. The number of participants and the physical facilities are consistent with the teaching method(s).

The Board, at its discretion, may require an evaluation in a manner determined by the Board of an educational offering to ensure compliance with the above standards. By offering real estate appraisal continuing education ~~in Colorado~~ [approved by the Board](#), each provider agrees to comply with relevant statutes and Board Rules and to permit Board audit of said courses at any time and at no cost. If the Board determines that the offering fails to comply with the standards set [forth](#) above, the Board will notify the provider of such deficiency and work with the provider to correct such deficiency prior to the next class offering. If such deficiency is not corrected, then the Board may withdraw approval of the provider, instructor and/or the class.

- 7.4 The following may be approved as providers of continuing appraisal education, provided the standards set forth in Board Rule 7.3 are maintained, and provided they have complied with all other requirements of the state of Colorado:
 - A. Accredited colleges, junior colleges, community colleges or universities as defined in Board Rule 1.30;
 - B. Professional appraisal and real estate related organizations;
 - C. State or federal government agencies;
 - D. Proprietary schools holding valid certificates of approval from the Colorado Division of Private Occupational Schools, Department of Higher Education;
 - E. Continuing education completed in other jurisdictions, providers approved by such other jurisdiction, provided that the jurisdiction's appraiser regulation program ~~has been determined to be~~ [is](#) in compliance with Title XI, FIRREA, [as determined by the ASC as defined in Board Rule 1.42](#);
 - F. The providers of continuing education approved under the CAP as defined in Board Rule 1.39; and
 - G. Other providers as the Board may approve upon petition of the education provider [or licensee](#) in a form acceptable to the Board.
- 7.7 The Board will award continuing education credit to credentialed appraisers who attend a Board's public meeting [in person](#), under the following conditions:
 - A. Credit will be awarded for a single Board meeting per license cycle; and
 - B. The meeting must be open to the public and must be a minimum of two (2) hours in length. The total credit cannot exceed seven (7) hours.
- 7.12 Continuing real estate appraisal education must be successfully completed by the licensee. Successful completion means attendance at the offering and participation in class activities. Successful completion of courses undertaken through distance education requires compliance with the provisions of Board Rule 7.14. Teaching of

continuing real estate appraisal education will constitute successful completion, if also in compliance with Board Rule 7.8; however, credit will be given for only one (1) presentation of a particular offering during each licensing period.

- 7.15 As to continuing education completed in other jurisdictions with appraiser regulatory programs ~~established in conformance~~ that are in compliance with Title XI, FIRREA, as determined by the ASC as defined in Board Rule 1.42, the Board will accept the number of hours of continuing education accepted by that jurisdiction.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00204

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 8: RENEWAL, REINSTATEMENT, INACTIVATION, SURRENDER OR
REVOCATION OF LICENSURE

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Contact information**Name**

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

**CHAPTER 8: RENEWAL, REINSTATEMENT, INACTIVATION, SURRENDER OR REVOCATION OF
LICENSURE**

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the requirements necessary for renewal, reinstatement, inactivation, surrender or revocation of licensure.

Proposed New, Amended and Repealed Rules

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**CHAPTER 8: RENEWAL, REINSTATEMENT, INACTIVATION, SURRENDER OR REVOCATION OF
LICENSURE**

- 8.5 No holder of an expired license which may be reinstated may apply for a new license of the same type. Such person must reinstate the expired license as provided in section 12-61-710(1), C.R.S., and these Rules. Nothing in this Board Rule 8.5 will act to prevent a person from applying for and receiving a license ~~or certificate~~ with higher qualification requirements than those of the expired license.
- 8.17 ~~An A Licensed~~ Ad Valorem Appraiser must be a County Assessor, an employee of a County Assessor's Office, or an employee of the Division of Property Taxation in the

Department of Local Affairs. If ~~an~~ [a Licensed](#) Ad Valorem Appraiser is no longer a County Assessor, leaves the employ of a County Assessor's Office, or leaves the employ of the Division of Property Taxation within the Department of Local Affairs, the [Licensed](#) Ad Valorem Appraiser must notify the Board within three (3) business days in a manner acceptable to the Board. Upon such notification or discovery by the Board, the [Licensed](#) Ad Valorem Appraiser will be placed on inactive status. The [Licensed](#) Ad Valorem Appraiser will not be returned to active status unless the licensee signs a certification that he or she is currently a County Assessor, an employee of a County Assessor's Office or an employee of the Division of Property Taxation in the Department of Local Affairs and the Board verifies the licensee's employment.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00205

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 9:LICENSURE AND CERTIFICATION BY ENDORSEMENT

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Contact information**Name**

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

CHAPTER 9: LICENSURE AND CERTIFICATION BY ENDORSEMENT

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the standards necessary for licensure by endorsement for real estate appraisers.

Proposed New, Amended and Repealed Rules

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CHAPTER 9: LICENSURE BY ENDORSEMENT

- 9.1 Pursuant to section 12-61-711(1) and (2), C.R.S., as amended, licensure by endorsement will be subject to the following restrictions and requirements:
- A. The Board may issue licenses by endorsement only to those persons holding an active license or certificate from another jurisdiction which is substantially equivalent to those described in Board Rules 1.13, 1.14 or 1.15, with qualification requirements substantially equivalent to those in Board Rules 2.2, 2.3 or 2.4, respectively;

- B. The applicant must be the holder of an active license or certificate in good standing under the laws of another jurisdiction;
- C. The appraiser regulatory program of the jurisdiction where the applicant holds an active license or certificate in good standing must ~~not have been disapproved by the appropriate authority under be compliance with~~ Title XI, FIRREA, as determined by the ASC as defined in Board Rule 1.42;
- D. The applicant must apply for licensure by endorsement on a form provided by the Board, pay the specified fees and meet all other Board requirements, including the submission of a set of fingerprints to the Colorado Bureau of Investigation for the purpose of conducting a state and national fingerprint-based criminal history record check as required by section 12-61-706(6)(a), C.R.S. as amended;
- E. The applicant must apply for and be issued by the Board a license by endorsement prior to undertaking appraisal activities in Colorado that would require licensure in Colorado; and
- F. A license issued by endorsement will be subject to the same renewal requirements as a license issued pursuant to section 12-61-706, C.R.S. as amended, and Chapters 7 and 8 of these Rules.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00206

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 10: TEMPORARY PRACTICE IN COLORADO

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Contact information**Name**

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

CHAPTER 10: TEMPORARY PRACTICE IN COLORADO

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the standards necessary for temporary real estate appraisal practice in Colorado.

Proposed New, Amended and Repealed Rules

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CHAPTER 10: TEMPORARY PRACTICE IN COLORADO

- 10.1 Pursuant to section 12-61-711 (2) and (3), C.R.S., as amended, ~~and in conformance with Title XI, FIRREA,~~ a Temporary Practice Permit may be issued to the holder of an active appraiser's license or certificate from another jurisdiction. Such Temporary Practice Permit must be subject to the following restrictions and requirements:
- A. The applicant must apply for and be issued a Temporary Practice Permit prior to his or her commencement of a real property appraisal in Colorado that is part of a federally related transaction;

- B. The applicant's business is temporary in nature and the applicant must identify in writing the appraisal assignment(s) to be completed under the Temporary Practice Permit prior to being issued a Temporary Practice Permit;
- C. The Temporary Practice Permit will be valid only for the appraisal assignment(s) listed thereon;
- D. The applicant must be the holder of an active license or certificate in good standing under the laws of another jurisdiction;
- E. The jurisdiction in which the applicant holds an active license or certificate in good standing has requirements that are substantially equivalent to those licensure requirements described in Board Rules 1.13, 1.14 or 1.15, and maintains qualification requirements substantially equivalent to those in Board Rules 2.2, 2.3 or 2.4, respectively ~~must impose licensure requirements that are in conformance with Title XI, FIRREA;~~
- F. The appraiser regulatory program of the jurisdiction where the applicant holds a license or certificate in good standing must be in compliance with ~~not have been disapproved by the appropriate authority under~~ Title XI, FIRREA, as determined by the ASC as defined in Board Rule 1.42;
- G. The applicant must apply for a Temporary Practice Permit on a form provided by the Board, pay the specified fees, and meet all other Board requirements; and
- H. Pursuant to section 12-61-711 (2) and (3), C.R.S., Temporary Practice Permits are available only to persons holding active licensure in another jurisdiction at levels substantially equivalent to those defined in Board Rules 1.13, 1.14 and 1.15. Temporary Practice Permits are not available to persons holding licensure in another jurisdiction at a trainee, apprentice, associate, intern, or other entry level.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00198

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 1:DEFINITIONS

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Contact information**Name**

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

CHAPTER 1: DEFINITIONS

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the “Board”) to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The specific purpose of this rule is to modify or add key terms pertaining to licensing and enforcement of real estate appraisers and appraisal management companies.

Proposed New, Amended and Repealed Rules

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CHAPTER 1: DEFINITIONS

- 1.7 Applicant: Any person applying for a license, Credential Upgrade, or Temporary Practice Permit.
- 1.14 Certified Residential Appraiser: A person who has been granted a license pursuant to section 12- 61-706(1)(b)(II), C.R.S., as a Certified Residential Appraiser by the Board as

a result of meeting the real estate appraisal education, experience, and examination requirements established by Board Rule 2.3, the AQB, or as a result of licensure through endorsement from another jurisdiction as provided by Chapter 9 of these Rules. The scope of practice for the Certified Residential Appraiser is limited to, if competent for the assignment, appraisal of one to four unit residential properties without regard to transaction value or complexity, or as allowed by section 12-61-706(4), C.R.S. Such scope of practice includes vacant or unimproved land that is to be used for development for a one to four unit residential property, or vacant or unimproved land for which the highest and best use is a one to four unit residential property. In compliance with Board Rule 1.16, the ~~The~~ scope of practice for a Certified Residential Appraiser does not include vacant or unimproved land that has the potential for subdivision development for which the subdivision development analysis method of land valuation is necessary and applicable.

- 1.19 Title XI, FIRREA: That part of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 known as the Appraisal Reform Amendments, and also known as 12 U.S.C. ~~Section sections~~ 3331 through ~~12 U.S.C. Section 3351~~ 3355, as amended.
- 1.32 Real Property Appraiser Qualification Criteria: Pursuant to section 12-61-706(1) and (2), C.R.S. as amended, the Board incorporates by reference in compliance with section 24-4-103(12.5), C.R.S., the 2015 Real Property Appraiser Qualification Criteria adopted by the AQB of TAF on December 9, 2011, including the Required Core Curricula, Guide Notes, and Interpretations thereof, and section VI, background checks of the criteria applicable relating to all the real property appraiser classifications described in Board Rules 1.13, 1.14, and 1.15. This Board Rule 1.32 excludes and does not incorporate by reference the following: the trainee real property appraiser classification and qualification requirements, the supervisory appraiser requirements, and supervisory appraiser/trainee appraiser course objectives and outline. A certified copy of the 2015 Real Property Appraiser Qualification Criteria is on file and available for public inspection at the Office of the Board at 1560 Broadway, Suite 925, Denver, Colorado 80202. Copies of the 2015 Real Property Appraiser Qualification Criteria may be examined at the Internet website of TAF at www.appraisalfoundation.org, and copies may be ordered through that mechanism. TAF may also be contacted at 1155 15th Street, NW, Suite 1111, Washington, DC 20005, or by telephone at (202) 347-7722 or telefax at (202) 347-7727. The 2015 Real Property Appraiser Qualification Criteria went into effect on January 1, 2015, with the exception of section IV regarding background checks which went into effect on January 1, 2017.
- 1.34 Draft Appraisal: ~~An A draft appraisal that does not bear the appraiser's signature and is must be~~ identified and labeled as a "draft". The purpose of issuing a draft appraisal cannot be to allow the client and/or the intended user(s) to improperly influence the appraiser.
- 1.36 Good Standing: A licensee, appraisal management company, or controlling appraiser must:
- A. ~~Not having have~~ been subject to a stipulation and a final agency order or final agency order, the terms of which were completed ~~no-not~~ less than three years prior, or had a license revoked or permanently surrendered for any of the violations enumerated under ~~§§sections~~ 12-61-713, 12-61-714, or 12-61-716 or

12-61-717, C.R.S. A license will be considered to be in good standing three years following the completion of all terms of an executed stipulation or final agency order.

B. Not have been subject to a stipulation for diversion, the terms of which have not been fully completed. A licensee will be considered to be in good standing once all terms of the stipulation of diversion have been successfully completed. If a licensee has an executed stipulation for diversion, the license will not be in good standing with the Board until all terms of the stipulated agreement have been successfully completed.

- 1.37 Licensed Ad Valorem Appraiser: A person who has been granted a license pursuant to section 12-61- 706(1)(b)(III), C.R.S., as a licensed-Licensed Ad Valorem Appraiser by the Board as a result of meeting the real estate appraisal education and examination requirements established by Board Rule 2.9. A licensed-Licensed Ad Valorem Appraiser cannot conduct appraisal assignments outside the scope of the appraiser's official duties as a County Assessor, an employee of a County Assessor's Office, or as an employee with the Division of Property Taxation within the Department of Local Affairs.
- 1.38 Review Appraiser: An appraiser, who is actively credentialed in a jurisdiction that is in compliance with Title XI, FIRREA, as determined by the ASC as defined in Board Rule 1.42, who performs a review of another appraiser's work subject to USPAP Standard 3. A review appraiser is not required to obtain a Colorado appraiser's license unless the review appraiser arrives at his or her own opinion of value for real property located in Colorado.
- 1.41- Director of the Division (Director): Has the same meaning as set forth in section 12-61-702(7), C.R.S.
- 1.42 Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council: A subcommittee created within the Federal Financial Institutions Examination Council as a result of Title XI, FIRREA, or its successor entity, to provide oversight of the appraiser regulatory system.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00207

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 12: LICENSE TITLES, LICENSE DOCUMENTS, AND SIGNATURES

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Contact information**Name**

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

CHAPTER 12: LICENSE TITLES, LICENSE DOCUMENTS, AND SIGNATURES

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the “Board”) to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the requirements concerning license titles, license documents and signatures.

Proposed New, Amended and Repealed Rules

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CHAPTER 12: LICENSE TITLES, LICENSE DOCUMENTS, AND SIGNATURES

12.4 In each appraisal report or other appraisal related work product, the license held by the appraiser(s) must be clearly identified by using the license titles defined in Board Rules 1.13, 1.14, 1.15, ~~1.18~~, and 1.37 and including the license number. Such license titles and numbers must be identified wherever the licensee signs, by any means or method, the report or other work product, including, but not limited to the:

- A. Letter of transmittal;

- B. Certification of the appraiser(s); and
- C. Appraisal or other work product report form or document, including addenda thereto.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00199

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 2:REQUIREMENTS FOR LICENSURE AS A REAL ESTATE APPRAISER

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Contact information**Name**

Martha Torres-Recinos

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

CHAPTER 2: REQUIREMENTS FOR LICENSURE AS A REAL ESTATE APPRAISER

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the requirements necessary for licensure as a real estate appraiser.

Proposed New, Amended and Repealed Rules

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CHAPTER 2: REQUIREMENTS FOR LICENSURE AS A REAL ESTATE APPRAISER

- 2.8 An applicant for ~~a licensure as a~~ Colorado Licensed Ad Valorem ~~License-Appraiser~~ must be a County Assessor, an employee of a County Assessor's Office, or an employee of the Division of Property Taxation in the Department of Local Affairs.
- 2.9 An applicant for licensure as a Colorado Licensed Ad Valorem ~~Licensed~~-Appraiser must successfully complete the following requirements, or the substantial equivalent thereof:
 - A. Real estate appraiser education:

1. Introduction to Ad Valorem Mass Appraisal: no less than 35 hours;
 2. Basic Appraisal Principles: no less than 30 hours;
 3. Basic Appraisal Procedures: no less than 30 hours; and
 4. 15-Hour National USPAP Course: 15 hours.
- B. Real Estate Appraisal examination: successful completion of the Ad Valorem Appraiser examination as provided in Chapter 4 of these Rules; and
- C. Ad Valorem employment: signed certification by the applicant that the applicant is currently a County Assessor, an employee of a County Assessor's Office, or an employee of the Division of Property Taxation in the Department of Local Affairs.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00208

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing**Date**

07/06/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

CHAPTER 13: DISCIPLINARY PROCEDURES

Statutory authority

Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

Contact information**Name**

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 6, 2017

CHAPTER 13: DISCIPLINARY PROCEDURES

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 as amended.

SPECIFIC PURPOSE OF THIS RULEMAKING

The purpose of this rule is to modify the procedures necessary for discipline against real estate appraisers and appraisal management companies.

Proposed New, Amended and Repealed Rules

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CHAPTER 13: DISCIPLINARY PROCEDURES

- 13.4 When a holder of a Board-issued license or Temporary Practice Permit has received written notification from the Board that a complaint has been filed against the holder, a written response to the Board is required to be submitted by the holder. Failure to submit a written response within the time set by the Board in its notification will be grounds for disciplinary action, unless the Board has granted an extension of time for

the response in writing and regardless of the question of whether the underlying complaint warrants further investigation or subsequent action by the Board. The licensee's holder's written response must contain the following:

- A. A complete and specific answer to the factual recitations, allegations or averments;
- B. A complete and specific response to any additional questions, allegations or averments presented in the notification letter;
- C. Any documents or records requested in the notification letter; and
- D. Any further information relative to the complaint that the licensee-holder believes to be relevant or material to the matters addressed in the notification letter.

- 13.9 A holder of a Board-issued license or Temporary Practice Permit licensee must respond in writing to any correspondence from the Board requiring a response. The written response must be submitted within the time period provided by the Board. The Board will send such correspondence to the licensee's holder's address of record filed with the Board. Failure to submit a timely written response will be grounds for disciplinary action.

A hearing on the above subject matter will be held on Thursday, July 6, 2017, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2017-00182

Department

1000 - Department of Public Health and Environment

Agency

1001 - Air Quality Control Commission

CCR number

5 CCR 1001-13

Rule title

REGULATION NUMBER 11 MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM

Rulemaking Hearing

Date

08/17/2017

Time

09:00 AM

Location

Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Sabin Conference Room, Denver, CO 80246

Subjects and issues involved

To consider revisions to Regulation Number 11 to clarify and make more transparent existing provisions, correct administrative errors, delete obsolete language, delete certain qualifying criteria and standards and establish inspection procedures when tampering is detected.

Six changes will be made in this rule making: 1) Delete the older IM 240 test as the sole data to be used to develop a clean screen low emitting vehicle index, thereby allowing the On-Board Diagnostic (OBD) test data collected from newer vehicles to also be used to develop the low emitting vehicle index; 2) Correct an administrative error where the readiness requirements for Envirotest public lanes and the readiness requirements for self-inspecting vehicle fleets were transposed in the regulation; 3) Delete readiness language from OBD Inspection Passing Criteria to clarify that readiness is a determinant of whether or not a vehicle will undergo an OBD inspection; 4) Correct language to clarify that the IM 240 test conducted on five percent of OBD tested vehicles will be the pass/fail determinant for those vehicles; 5) Establish language regarding OBD test procedures where tampering is detected; and 6) Delete obsolete language by removing antiquated equipment requirements.

The proposed revisions may also correct any typographical, grammatical, and formatting errors found through the regulation.

Statutory authority

Sections 42-4-306(1) and (3)(b)(V)(B); 42-4-306(6)(a) and 42-4-306(10); 42-4-307.7(4) and (6); 42-4-306(3)(a)(1)(A); 42-4-306(3)(b)(V)(B); 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended.

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DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 11

Motor Vehicle Emissions Inspection Program

5 CCR 1001-13

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

>>>>>>

PART C Inspection Procedures and Requirements for Exhaust Emissions, Fuel Evaporation Control, Visible Smoke Emissions, Emissions Control Systems, On-Board Diagnostics (OBD); and Practices to Ensure Proper Emissions Related Adjustments and Repairs

>>>>>>

II.C. Effective January 1, 2015, light-duty vehicles, to include light-duty trucks in their eighth through eleventh model year, and all light-duty vehicles, to include light-duty trucks of model year 1996 and newer that are unable to be tested on an IM 240 test, are to be inspected at licensed enhanced inspection centers and shall be administered an EPA approved on-board diagnostic test as specified in 40 CFR, 85.2222. Effective July 1, 2015, 1996 and newer light-duty vehicles, to include light duty trucks, that are owned by a fleet that operates a Fleet Inspection Station shall be administered an EPA approved on-board diagnostic test as specified in 40 CFR. 85.2222.

II.C.1. Vehicles shall be inspected in an as-received condition.

II.C.2. The on-board diagnostic inspection shall be conducted with the key-on/engine running.

II.C.3. The on-board diagnostic test analyzer system shall determine what monitors are supported by the diagnostic system and the readiness status for applicable monitors.

II.C.3.a. ~~If the readiness evaluation indicates that a vehicle has more than one unset (not ready) readiness monitor, and the malfunction indicator light (MIL) is commanded off, the vehicle shall be subjected to an IM 240 emissions inspection immediately. A readiness evaluation will ensure that:~~

- The oxygen sensor and/or heated oxygen sensor monitor(s) shall be ready if supported;
- The catalyst monitor shall be ready if supported, and;
- A 2001 or newer model year shall have no more than one (1) supported readiness monitor not ready; or

- A 2000 or older model year shall have no more than two (2) supported readiness monitors not ready.

If the above readiness criteria are not met, and the malfunction indicator light (MIL) is commanded off, the vehicle shall be subjected to an IM 240 emissions inspection immediately.-

II.C.3.b. If the vehicle's on-board diagnostics are unable to communicate electronically with the Colorado OBD Test Analyzer System, the vehicle will be subjected to an IM 240 emissions inspection immediately.

II.C.3.c. The readiness requirement, outlined in this Part C, Section II.C.3.a. may be waived to accommodate for specific vehicles with known readiness design problems, in accordance with applicable technical service bulletins, EPA guidance, or division technical findings, as approved by the Division.

II.C.4. The OBD test analyzer system shall evaluate the malfunction indicator light status and record status information in the vehicle test record.

II.C.5. All diagnostic trouble codes resulting in malfunction indicator light commanded-on status shall be recorded in the vehicle test record.

II.C.6. If the vehicle meets the passing criteria for the OBD inspection as listed in Part F, Section VII. Of this regulation, the vehicle passes the on-board diagnostic inspection.

II.C.7. Vehicles in an OBD "not ready" status, or vehicles unable to communicate with the OBD Test Analyzer System that default to an IM 240 test as described in Part C, Section II.B. shall be subject to pass/fail for the applicable IM 240 pass/fail standards in Part F, Section III. of this regulation.

II.C.8. If the malfunction indicator light is not commanded on and the vehicle passed the mil visual inspection, as outlined in this Part C, Section III.B., the vehicle shall pass the on-board diagnostic portion of the emissions inspection even if diagnostic trouble codes are present.

II.C.9. The division may require no more than five percent, at random, of all OBD tested vehicles to undergo an IM 240 test at the time of the OBD testing. The failure of the vehicle to pass IM 240 shall be reported to the motorist, but shall not be used to fail the vehicle. The IM 240 test shall be the pass/fail determinant for these vehicles.

II.C.10. If the vehicle's OBD responds that the catalyst readiness monitor is not supported or that all readiness monitors are supported; or if any other OBD tampering indicators are present, as determined by the Division and listed in the Division's Emissions Technical Center Procedures Manual, then the OBD test will be aborted and the vehicle owner will be provided with an Incomplete Inspection Report.

>>>>>>

VIII.B.2.Enhanced Program

For model year 1968 and newer, at least seven hundred fifteen dollars (\$715) or as adjusted annually by the Consumers Price Index for Urban Consumers (CPIU) of the previous year as compared to 2003 has been spent on emissions related adjustments and repairs as specified in Part C, Section IX, provided that proof of repair costs for that specific vehicle has been provided to Department of Revenue personnel or their designee in the form of an itemized receipt for parts purchased if repaired by the owner, or , invoice, work order, manifest, or statement in which emissions related parts and/or repairs are specifically identified as specified in 42-9-108 C.R.S.

For model year 1967 and earlier at least seventy-five dollars (\$75) has been spent on emissions related adjustments and repairs as specified in Part C, Section IX provided that proof of repair costs for that specific vehicle has been provided to and verified by the emissions inspector in the form of an itemized receipt for parts purchased if repaired by the owner, or invoice, work order, manifest, or statement in which emissions related parts and/or repairs, are specifically identified as specified in 42-9-108 C.R.S .

The motorist is to be referred to the Department of Revenue or its designee pursuant to Sections IX.-C.- of this Part C.

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>>>>>

IX. (Reserved)

X. EMISSIONS RELATED REPAIRS

>>>>>

PART D Qualification and Licensing of Emissions Mechanics, Emissions Inspectors, and Clean Screen Inspectors; Licensing of Emissions Inspection and Readjustment Stations, Inspection-Only Stations, Inspection-Only Facilities, Fleets, Motor Vehicle Dealer Test Facilities, Enhanced Inspection Centers; Qualification of Clean Screen Inspection Sites; and Registration of Emissions Related Repair Facilities and Technicians

>>>>>

I.B.4. Emissions control systems applications guide as incorporated into the TAS, and oxygen sensor/check engine light, systems maintenance guide in either printed or electronic medium.

~~I.B.5.—Dwell meter.~~

~~I.B.6.—Ignition timing light.~~

~~I.B.7.—Propane enrichment kit for idle mixture adjustment and diagnostics.~~

I.B.85. Commercially available reference manuals giving idle speed, idle mixture, mixture control dwell or fuel injection duration, timing, dwell, fast idle speed specification, high altitude specifications and information covering the emissions control systems description, diagnostic and repair procedures for the year models of vehicles involved in the AIR Program. In either printed or electronic medium.

I.B.96. Sufficient hand tools including but not limited to suitable computer scanner diagnostic link, digital volt/ohm meter, vacuum pump and other automotive diagnostic equipment for proper performance of the inspections, adjustments and emissions related repairs as applicable to the licensed entity.

I.B.107. Division approved span gas and equipment for performing gas span checks and calibrations.

I.B.118. Suitable non-reactive tail pipe extenders or probe adapter for inspecting vehicles with screened or baffled exhaust systems, or exhaust systems with multiple tail pipes.

I.B.129. The analyzer manufacturer's maintenance and calibration manual must be retained in the inspection area.

~~I.B.13. (Reserved)~~

I.B.1410. Items #5, 6, 7, 8 and 9 above are not required for licensing as an inspection-only station or inspection-only facility.

~~I.B.15. Items #3 through 11 above are not required for a vehicle fleet self inspection station pursuant to 42-4-309 C.R.S.~~

>>>>>

PART F Maximum Allowable Emissions Limits for Motor Vehicle Exhaust, Evaporative and Visible Emissions for Light-Duty and Heavy-Duty Vehicles

>>>>>

VI. CLEAN SCREEN PROGRAM MAXIMUM ALLOWABLE EMISSIONS LIMITS

VI.A. In order to obtain a Certificate of Emissions Control through the Clean Screen Program, vehicles must not exceed maximum emissions concentrations of 0.50 percent carbon monoxide (CO), 1,000 parts per million nitrogen oxides (NOx), and 200 parts per million hydrocarbon (HC) as reflected in remote sensing emissions readings.

VI.B. Vehicle owners who participate in the Clean Screen Program shall not be subject to the provisions of this Part F other than this Section VI.

VI.B.1. On or before July 1st of each year the Air Pollution Control Division shall develop a low emitting vehicle index based on a tabulation of the previous calendar year's ~~IM-240~~ inspection program results for specified make, model and model year of vehicles.

VI.B.2. A passing rate for exhaust emissions shall be set as the minimum allowable passing criteria for the low emitting vehicle index.

VI.B.3. In developing the low emitting vehicle index, the Division may use passing criteria as necessary, based on sound scientific evidence, to ensure that the use of the low emitting vehicle index is equivalent to or better than the use of a second remote sensing measurement in terms of air quality benefits.

VI.B.4. The passing rate criteria for the low emitting vehicle index, as established by the Division, shall be maintained and contained in the Air Pollution Control Division's Emissions Technical Center Procedures Manual.

VII. ON-BOARD DIAGNOSTIC INSPECTION PASSING CRITERIA

In order for a vehicle (owner) to obtain a certificate of emissions compliance, the results of the OBD inspection as specified in Part C, Section II.C. of this regulation must meet the following requirements:

- VII.A. The data link connector (DLC) is not missing, has not been tampered with, and is operational
- VII.B. The malfunction indicator light (MIL) illuminates when the ignition key is turned to the key on, engine off (KOEO) position.
- VII.C. The MIL extinguishes and remains off once the vehicle's engine is started (KOER).
- VII.D. The MIL status, as indicated by the on-board diagnostic test analyzer system is commanded off.

~~VII.E. Only one readiness monitor may be set to "not ready" status.~~

~~VII.F. Upon a retest, all monitors except the evaporative monitor must be set to "ready".~~

>>>>>

PART H Statements of Basis, Specific Statutory Authority and Purpose

>>>>>

XXXIV. AMENDMENTS TO PARTS C, D, F AND APPENDIX A

ADOPTED AUGUST 17, 2017

Basis and Purpose

These revisions are intended to clarify and make more transparent existing provisions, correct administrative errors, delete obsolete language, delete certain qualifying criteria and standards and establish inspection procedures when tampering is detected.

Six changes were made in this rule making: 1) Deleted the older IM 240 test as the sole data to be used to develop a clean screen low emitting vehicle index, thereby allowing the On-Board Diagnostic ("OBD") test data collected from newer vehicles to also be used to develop the low emitting vehicle index; 2) Corrected an administrative error where the readiness requirements for Envirotest public lanes and the readiness requirements for self-inspecting vehicle fleets were transposed in the regulation; 3) Deleted readiness language from OBD "Inspection Passing Criteria" to clarify that readiness is a determinant of whether or not a vehicle will undergo an OBD inspection; 4) Corrected language to clarify that the IM 240 test conducted on five percent of OBD tested vehicles will be the pass/fail determinant for those vehicles; 5) Established language regarding OBD test procedures where tampering is detected; and 6) Deleted obsolete language by removing antiquated equipment requirements.

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedures Act, Section 24-4-103, C.R.S., and the statutory authority provided in Sections 42-4-301 through 42-4-316, C.R.S.

Federal Requirements

The current inspection and maintenance program is contained in Colorado's Ozone State Implementation Plan (SIP). Any revision to the program requires that air quality credits achieved from the program are not lost. The six changes will not result in any loss in air quality credit.

In general, EPA rules require certain nonattainment areas to implement Inspection and Maintenance programs as part of a SIP. Under the Clean Air Amendments of 1990, the Denver metropolitan area was required to implement an "Enhanced" Inspection and Maintenance Program, specifically for carbon monoxide. Since that time, the state has come into attainment with carbon monoxide, but the program remains a necessary element of Colorado's Ozone SIP. Colorado's current inspection program is a hybrid system, utilizing both OBD inspections and IM 240 inspections. This hybrid program is in compliance with the Code of Federal Regulations. See Title 40, Part 51, Subpart S, Sections 51.351(f) and 51.357(a)(13).

Specific Statutory Authority

C.R.S. §§ 42-4-306(1) and (3)(b)(V)(B) authorize the Commission to remove incomplete and obsolescent qualifying criteria for the data used to develop the low emitting vehicle index. Sections 42-4-306(6)(a) and 42-4-306(10) authorize the Commission to develop and adopt regulations providing inspection procedures for detection of tampering with emissions-related equipment and on-board diagnostics systems. Sections 42-4-307.7(4) and (6) authorize the Commission to modify roadside remote sensing clean screen 'Low Emitter Index' criteria. Section 42-4-306(3)(a)(1)(A) authorizes the Commission to correct administrative errors, clarify procedures and practices and remove antiquated equipment requirements regarding the proper performance of inspections. Section 42-4-306(3)(b)(V)(B) authorizes the Commission to implement OBD testing.

Findings pursuant to C.R.S. 25-7-110.5(5)

The Commission finds that the revisions adopted do not exceed the requirements of the federal Clean Air Act or differ from the federal act or rules thereunder.

Findings pursuant to C.R.S. § 25-7-110.8

Revisions are being made to correct administrative errors, clarify existing provisions and ensure the integrity of the automobile inspection and readjustment program. To the extent that C.R.S. § 25-7-110.8 requirements apply to this rulemaking, and after considering all the information in the record, the Commission hereby makes the determination that:

- a. These rules are based upon reasonably available, validated, reviewed, and sound scientific methodologies, and the Commission has considered all information submitted by interested parties.
- b. Evidence in the record supports the finding that the rules shall result in a continued demonstrable reduction in air pollution.
- c. Evidence in the record supports the finding that the rules shall bring about reductions in risks to human health or the environment by continuing to achieve necessary reductions in air pollution.
- d. The revised rules are the most cost-effective alternative to achieve the necessary reduction in air pollution and provide the regulated community flexibility.

- e. The rule revisions will maximize the air quality benefits of regulation in the most cost-effective manner.

Further, the Commission corrected any typographical, grammatical and formatting errors found within the regulation.

APPENDIX A Technical Specifications

>>>>>

ATTACHMENT V Specifications for Colorado On-Board Diagnostic (OBD) Stand-Alone Analyzer

>>>>>

Readiness Monitors

As part of the OBD inspection, the status of the vehicle's non-continuous readiness monitors is to be queried. The OBD TAS Manufacturer will implement EPA's listing of "Manufacturers Known to Have OBD Readiness Issues" and apply corrections to the readiness monitor requirements for those vehicles.

~~Otherwise the following readiness monitors requirements apply:~~

- ~~o The oxygen sensor and/or heated oxygen sensor monitor(s) shall be ready if supported;~~
- ~~o The catalyst monitor shall be ready if supported; and~~
- ~~o A 2001 or newer model year shall have no more than one (1) supported readiness monitor not ready; or~~
- ~~o A 2000 or older model year shall have no more than two (2) supported readiness monitors not ready~~

If the readiness evaluation indicates that a vehicle has more than one unset (not ready) readiness monitor, and the malfunction indicator light (MIL) is commanded off, If the readiness monitor requirements are not met and the MIL is not commanded on then the inspection shall be automatically aborted with the reason printed out the vehicle Inspection Report (VIR).

If a vehicle is unable to receive an OBD inspection (i.e. unable to communicate, DLC or readiness monitor issues), then the inspection will be aborted and the reason printed out the vehicle Inspection Report (VIR).



COLORADO

Air Quality Control Commission

Department of Public Health & Environment

NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 11

SUBJECT:

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 11 to clarify and make more transparent existing provisions, correct administrative errors, delete obsolete language, delete certain qualifying criteria and standards and establish inspection procedures when tampering is detected.

Six changes will be made in this rule making: 1) Delete the older IM 240 test as the sole data to be used to develop a clean screen low emitting vehicle index, thereby allowing the On-Board Diagnostic (OBD) test data collected from newer vehicles to also be used to develop the low emitting vehicle index; 2) Correct an administrative error where the readiness requirements for Envirotest public lanes and the readiness requirements for self-inspecting vehicle fleets were transposed in the regulation; 3) Delete readiness language from OBD "Inspection Passing Criteria" to clarify that readiness is a determinant of whether or not a vehicle will undergo an OBD inspection; 4) Correct language to clarify that the IM 240 test conducted on five percent of OBD tested vehicles will be the pass/fail determinant for those vehicles; 5) Establish language regarding OBD test procedures where tampering is detected; and 6) Delete obsolete language by removing antiquated equipment requirements.

The proposed revisions may also correct any typographical, grammatical, and formatting errors found through the regulation.

All required documents for this rulemaking can be found on the Commission website at: <https://www.colorado.gov/pacific/cdphe/aqcc>

HEARING SCHEDULE:

DATE: August 17, 2017
TIME: 9:00 AM
PLACE: Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South, Sabin Conference Room
Denver, CO 80246

PUBLIC COMMENT:

The Commission encourages all interested persons to provide their views either orally at the hearing or in writing prior to or at the hearing. The Commission encourages that written comments be submitted by **July 31, 2017** so that Commissioners have the opportunity to review the information prior to the hearing.

Information should be printed and include: your name, address, phone number, email address, and the name of the group that you may be representing (if applicable).

Written submissions should be mailed to:

Colorado Air Quality Control Commission
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South, EDO-AQCC-A5
Denver, Colorado 80246

Electronic submissions should be emailed to: cdphe.aqcc-comments@state.co.us

Public testimony will be taken on August 17, 2017. An approximate time for public comment will be posted in the meeting agenda.

PARTY STATUS:

Any person may obtain party status for the purpose of this hearing by complying with the requirements of the Commission's Procedural Rules. A petition for party status must be filed by electronic mail with the Office of the Air Quality Control Commission no later than close of business on **June 19, 2017**. The petition must: *1) identify the applicant; 2) provide the name, address, telephone and facsimile numbers, and email address of the applicants representative; and 3) briefly summarize what, if any, policy, factual, and legal issues the applicant has with the proposal(s) as of the time of filing the application.* Electronically mailed copies must also be received, by this same date, by the Division staff person and the Assistant Attorneys General representing the Division and the Commission identified below.

Theresa L. Martin
Air Quality Control Commission
4300 Cherry Creek Drive South, EDO-AQCC-A5
Denver, CO 80246
Theresa.Martin@state.co.us

Doug Decker
Air Pollution Control Division
4300 Cherry Creek Drive South, APCD-B1
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Attorney for the Commission
Thomas Roan
Colorado Department of Law
Natural Resources Section, Air Quality Unit
1300 Broadway, 10th Floor
Denver, CO 80203
Tom.Roan@coag.gov

Attorney for the Division
Laura Mehew
Colorado Department of Law
Natural Resources Section, Air Quality Unit
1300 Broadway, 10th Floor
Denver, CO 80203
Laura.Mehew@coag.gov

Requests received beyond the stated deadline shall only be considered upon a written motion for good cause shown. The Commission reserves the right to deny party status to anyone that does not comply with the Commission's Procedural Rules.

ALTERNATE PROPOSAL:

The submittal of an alternate proposal must be accompanied by an electronic copy of the alternate proposed rule and all other associated documents as required by the Commission's Procedural Rules, and must be filed by electronic mail with the Office of the Commission by **close of business July 20, 2017**. Alternate proposals must also be filed by electronic mail with the Division staff person and with each of the Assistant Attorneys General.

STATUS CONFERENCE:

A status conference will be held **June 26, 2017 at 10:30 a.m.**, at the Department of Public Health and Environment, Carson Conference Room to ascertain and discuss the issues involved, and to ensure that parties are making all necessary efforts to discuss and resolve such issues prior to the submission of prehearing statements. Attendance at this status conference is mandatory for anyone who has requested party status.

PREHEARING CONFERENCE/PREHEARING STATEMENTS:

Attendance at the prehearing conference is mandatory for all parties to this hearing. A prehearing conference will be held **July 27, 2017 at 2:00 p.m.** at the Department of Public Health and Environment, Carson Conference Room. All parties must submit by electronic mail a prehearing statement to the Commission Office by close of business **July 20, 2017**. In addition, any exhibits to the prehearing statements or alternate proposals must be submitted in a separate electronic transmission to the Commission Office by close of business **July 20, 2017**. Electronically mailed copies of these documents must be delivered by that date to all persons who have been granted party status and to the Division point of contact and each of the Assistant Attorneys General identified above by close of business **July 20, 2017**. Rebuttals to the prehearing statement, and any exhibits thereto, may be submitted to the Commission Office and all other parties by close of business **August 3, 2017**.

EXCEPTIONS TO FILE DOCUMENTS BY ELECTRONIC MAIL:

The Commission's Procedural Rules provide for an exception to file documents by electronic mail. Any person may petition the Commission to file documents in paper copy format if they are unable for any reason to comply with the requirements of the Commission's Procedural Rules. If granted an exception to electronic filing pursuant to the provisions of Subsection III.1.3. of the Commissions Procedural Rules, the applicant for party status shall file an original and fifteen copies in the Office of the Air Quality Control Commission, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246., and shall also deliver copies to each party, the Assistant Attorneys General representing the Commission and Division, and the Division staff person for the proceedings by electronic mail or as otherwise provided by the exception granted under Subsection III.1.3.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

C.R.S. Sections 42-4-306(1) and (3)(b)(V)(B) authorize the Commission to remove incomplete and obsolescent qualifying criteria for the data used to develop the low emitting vehicle index. Sections 42-4-306(6)(a) and 42-4-306(10) authorize the Commission to develop and adopt regulations providing inspection procedures for detection of tampering with emissions-related equipment and on-board diagnostics systems. Sections 42-4-307.7(4) and (6) authorize the Commission to modify roadside remote sensing clean screen 'Low Emitter Index criteria. Section 42-4-306(3)(a)(1)(A) authorizes the Commission to correct administrative errors, clarify procedures and practices and remove antiquated equipment requirements regarding the proper performance of inspections. Section 42-4-306(3)(b)(V)(B) authorizes the Commission to implement OBD testing.

The rulemaking hearing will be conducted in accordance with Sections 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended, the Commission's Procedural Rules, and as otherwise stated in this notice. This list of statutory authority is not intended as an exhaustive list of the Commission's statutory authority to act in this matter.

Dated this 19th day of May 2017 at Denver, Colorado

Colorado Air Quality Control Commission



Michael Silverstein, Administrator

Notice of Proposed Rulemaking

Tracking number

2017-00186

Department

1000 - Department of Public Health and Environment

Agency

1011 - Health Facilities and Emergency Medical Services Division (1011, 1015 Series)

CCR number

6 CCR 1011-1 Chap 22

Rule title

CHAPTER 22 - BIRTH CENTERS

Rulemaking Hearing

Date

07/19/2017

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

The Department is proposing comprehensive amendments to the Birth Centers regulations to ensure that the standards reflect current practice

Statutory authority

Sections 25-1.5-103 and 25-3-101, C.R.S. (2016).

Contact information

Name

Lorraine Dixon-Jones

Title

Policy Advisor

Telephone

(303) 692-2889

Email

lorraine.dixon@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: Lorraine Dixon-Jones, Policy Analyst, Health Facilities and Emergency Medical Services Division

Through: Randy Kuykendall, MLS, Division Director, Health Facilities and Emergency Medical Services Division, DRK

Date: April 24, 2017

Subject: Proposed Amendments to 6 CCR 1011-1, Standards for Hospitals and Health Facilities, Chapter 22, Birth Centers with a request for a rulemaking hearing to be set for July 19, 2017

The Department is proposing comprehensive amendments to its regulations regarding birth centers to ensure that standards reflect current practice. Important components of the birth center model of care that are addressed in the proposed regulations include:

- Services are for low risk pregnancies that do not require extensive medical interventions such as those available in a hospital.
- Clients are oriented to the level of services available at the center, which include prenatal, intrapartum and postpartum care. Clients are made aware of the types of services that birth centers do not provide, including anesthesia other than local anesthesia.
- Twenty-four hour, seven day access to a care provider.
- Facilities must provide their clients with continuous risk assessment during the course of the pregnancy and during labor and delivery. Client needs outside of scope of the birth center practice will be addressed through consultation by the clinical staff with other providers, referral of clients to other providers, or transfer of the clients to a hospital.
- Intrapartum care by clinical staff during labor and delivery.
- Discharge process that involves provision of or counselling about state mandated newborn screening.

Division personnel and stakeholders met monthly from September through March to arrive at consensus regarding these proposed rule amendments. The stakeholder group included representation from birth centers, the Colorado Hospital Association, the Department of Regulatory Agencies, and the Department of Health Care Policy and Financing. In addition to the amendments being based on stakeholder comment, they are also informed by research on regulations in other states and standards established by the American Association of Birth Centers and the Commission for the Accreditation of Birth Centers.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to
6 CCR 1011-1, Standards for Hospitals and Health Facilities,
Chapter 22 - Birth Centers

Basis and Purpose.

Birth centers are facilities that serve clients with low risk pregnancies, i.e., pregnancies for which the client's medical history demonstrates an expected normal and uncomplicated course of pregnancy and labor. The entire regulatory chapter for birth centers has been revised to enhance the safety and well-being of clients. While most of the revisions clarify and enhance existing requirements, some amendments delete obsolete provisions and others establish new requirements. Examples of changes are shown below.

Examples of Deleted Provisions

- The requirement that certified nurse midwives (CNMs) have "a backup agreement with a physician who will accept calls and referrals" has been deleted. This provision became obsolete when the Nurse Practice Act was changed to allow CNMs to practice independently.
- Currently, the regulations specify high risk factors that preclude eligibility to birth center care, such as certain levels of hypertension. Since these specifications can become outdated when medical standards change, they are being deleted and replaced with provisions that require facilities to establish risk factors based on national standards of birth center care. This allows facility practices to evolve with changes in professional practices.

Examples Enhanced Provisions

- Existing regulations require the facilities to have agreements with emergency medical services providers. The amendments broaden this standard to require facilities to have a plan for both emergency and non-emergency transfers.
- Existing provisions require either a clinical director or a delegated committee to be responsible for the quality of care. The amendments specify that clinical services must be under the supervision of a clinical director (rather than a delegated committee) - since stakeholders indicated that this is current practice. In addition, the clinical director will be responsible for the coordination of all professional medical consultants to the facility.

Examples of New Provisions

Birth centers will be required to:

- Establish an emergency preparedness plan for events such as fire or loss of utilities.
- Have individualized discharge plans that include follow up visits.

In addition, the entire chapter has been reformatted to more closely align with the regulatory chapters of other facility types, such as ambulatory surgical centers.

These rules are promulgated pursuant to the following statutes: Section 25-1.5-103, C.R.S., (2016) and Section 25-3-101, C.R.S. (2016).

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 rulemaking incorporate materials by reference?

___X___ Yes
_____ 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 rulemaking create or modify fines or fees?

_____ Yes
___X___ No

REGULATORY ANALYSIS
for Amendments to
6 CCR 1011-1, Standards for Hospitals and Health Facilities,
Chapter 22 - Birth Centers

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.

Birth centers and the clients served will be affected. Facilities will bear the costs of the proposed rule, as will clients, if costs are passed on to them. The facilities will benefit from the removal of obsolete provisions and the updating of the requirements to reflect current standards of practice.

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.

The quantitative effects are expected to vary, dependent on the extent that birth centers must change their current operating procedures. Clients will benefit from enhanced safety requirements.

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 will have to amend its inspection processes to reflect the new provisions; however it is expected that costs will be absorbed within the existing budget. There are no anticipated effects on state revenues.

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

There have been several narrowly focused revisions to Chapter 22 within the past 5 years prompted by the need to conform to changes in statute. However the last time that portions of practice standards were updated to reflect current practice was in 1996. As such, the proposed rule represents a comprehensive revision of all of the requirements. Unclear, obsolete as well as outdated provisions create undue burden to facilities. In addition, new requirements are designed to more comprehensively safeguard the well-being of clients.

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

No less costly or intrusive methods were encountered during the stakeholder process or through policy research.

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

During the stakeholder process, various amendments were discussed and rejected either due to lack of consensus or insufficient statutory authority to address them. For example, some stakeholders wanted to include direct entry mid-wives as part of the clinical staff. Direct entry midwives (DEMs) are regulated through a registration process by the Department of Regulatory Affairs (DORA). Both the authorizing statute and the DORA rules

for these service providers refer to DEM services as being provided in the “home,” as shown below.

Statute: Section 12-37-102(3) C.R.S. "Direct-entry midwifery" or "practice of direct-entry midwifery" means the advising, attending, or assisting of a woman during pregnancy, labor and natural childbirth at home, and during the postpartum period in accordance with this article.

Regulation: 4 CCR 739-1(5)(E)At least one home visit shall be made during the third trimester to assure that environmental conditions are appropriate, supplies are procured, and birth participants are prepared for the home birth.

The department advised the stakeholders to seek a statutory and/or a regulatory change clarifying the authority of these providers to serve in locales other than the “home.” Since, to date, changes have not been made to either the statute or DORA rules, this stakeholder recommendation has not been incorporated in these licensure rules.

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.

There are 5 birth centers in the state with the labor and delivery capacity ranging from 3 to 4 beds. To be licensed as a birth center the center must be a free standing facility that is not a hospital, attached to a hospital or in a hospital. Birth centers provide an alternative along the continuum of care for low risk pregnancies.

STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1011-1, Standards for Hospitals and Health Facilities,
Chapter 22 - Birth Centers

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:

- Representatives from all the licensed birth centers of the state
- Colorado Chapter of American College of Nurse Midwives
- Colorado Midwives Association
- The Colorado Medical Society
- Elephant Circle
- Prospective birth centers
- Architects working with prospective birth centers
- Colorado Chapter of American College of Obstetricians and Gynecologists
- Prevention Services Division, CDPHE
- Hazardous Materials and Waste Management Division, CDPHE
- Department of Regulatory Agencies
- Department of Health Care Policy and Financing
- Colorado Hospital Association

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 stakeholders achieved consensus on the model of care for birth centers -which is distinct from the services provided in hospitals-as well as the revisions, since they conform with this model.

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?

It is anticipated that this proposal impacts Coloradoans equitably since the proposal requires facilities to have policies and procedures for admission and client care that are culturally

competent and address the social determinants of health in accordance with national standards for midwifery care.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities Regulation Division

STANDARDS FOR HOSPITALS AND HEALTH FACILITIES

CHAPTER ~~XXII~~ 22- BIRTH CENTERS

6 CCR 1011-1 Chapter 22

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

SECTION 1 – STATUTORY AUTHORITY AND APPLICABILITY

1.1 THE STATUTORY AUTHORITY FOR THE PROMULGATION OF THESE RULES IS SET FORTH IN SECTION 25-1.5-103 AND 25-3-101, *ET SEQ.*, C.R.S.

1.2 A BIRTH CENTER, AS DEFINED HEREIN, SHALL COMPLY WITH ALL APPLICABLE FEDERAL AND STATE STATUTES AND REGULATIONS, INCLUDING, BUT NOT LIMITED TO:

(A) THIS CHAPTER 22, AND

(B) 6 CCR, 1011-1, CHAPTER 2, GENERAL LICENSURE STANDARDS, UNLESS OTHERWISE MODIFIED HEREIN.

1.3 THIS REGULATION INCORPORATES BY REFERENCE (AS INDICATED WITHIN) MATERIALS ORIGINALLY PUBLISHED ELSEWHERE. SUCH INCORPORATION DOES NOT INCLUDE LATER AMENDMENTS TO OR EDITIONS OF THE REFERENCED MATERIAL. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAINTAINS COPIES OF THE COMPLETE TEXT OF THE INCORPORATED MATERIALS FOR PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS, AND SHALL PROVIDE CERTIFIED COPIES OF THE INCORPORATED MATERIAL AT COST UPON REQUEST. INFORMATION REGARDING HOW THE INCORPORATED MATERIAL MAY BE OBTAINED OR EXAMINED IS AVAILABLE FROM:

HEALTH FACILITIES AND EMERGENCY MEDICAL SERVICES DIVISION
COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
4300 CHERRY CREEK DRIVE SOUTH
DENVER, CO 80246
PHONE: 303-692-2800

COPIES OF THE INCORPORATED MATERIALS HAVE BEEN PROVIDED TO THE STATE PUBLICATIONS DEPOSITORY AND DISTRIBUTION CENTER, AND ARE AVAILABLE FOR INTERLIBRARY LOAN. ANY INCORPORATED MATERIAL MAY BE EXAMINED AT ANY STATE PUBLICATIONS DEPOSITORY LIBRARY.

~~Copies of these regulations may be obtained at cost by contacting:~~

~~Division Director
Colorado Department of Public Health and Environment
Health Facilities Division
4300 Cherry Creek Drive South
Denver, Colorado 80222-1530
Main switchboard: (303) 692-2800~~

~~These chapters of regulation incorporate by reference (as indicated within) material originally published elsewhere. Such incorporation, however, excludes later amendments to or editions of the referenced material. Pursuant to 24-4-103 (12.5), C.R.S., the Health Facilities Division of the Colorado Department of Public Health And Environment maintains copies of the incorporated texts in their entirety which shall be available for public inspection during regular business hours at:~~

1 Division Director
2 Colorado Department of Public Health and Environment
3 Health Facilities Division
4 4300 Cherry Creek Drive South
5 Denver, Colorado 80222-1530
6 Main switchboard: (303) 692-2800

7 ~~Certified copies of material shall be provided by the division, at cost, upon request. Additionally, any~~
8 ~~material that has been incorporated by reference after July 1, 1994 may be examined in any state~~
9 ~~publications depository library. Copies of the incorporated materials have been sent to the state~~
10 ~~publications depository and distribution center, and are available for interlibrary loan.~~

11 12 **SECTION 2 – DEFINITIONS**

13 ~~Birth Center—Any public or private health facility or institution which is not licensed as a hospital or as~~
14 ~~part of a hospital and provides care during delivery and immediately after delivery for generally less than~~
15 ~~twenty-four hours. “BIRTH CENTER” MEANS A FREESTANDING FACILITY LICENSED BY THE DEPARTMENT THAT IS~~
16 ~~NOT A HOSPITAL, ATTACHED TO A HOSPITAL, OR IN A HOSPITAL WHICH PROVIDES PRENATAL, LABOR, DELIVERY AND~~
17 ~~POSTPARTUM CARE TO LOW RISK PREGNANT PERSONS AND THE NEWBORNS. CARE DURING DELIVERY AND~~
18 ~~IMMEDIATELY AFTER DELIVERY SHALL BE GENERALLY LESS THAN TWENTY-FOUR HOURS.~~

19 ~~IV.B. Definition: “Certified Nurse-Midwife” “CERTIFIED NURSE MIDWIFE” (CNM) MEANS AN ADVANCED~~
20 ~~PRACTICE—a professional nurse licensed in the state of Colorado who is educated in the two disciplines of~~
21 ~~nursing and midwifery, who possesses evidence of certification according to the requirements of the~~
22 ~~American College of Nurse-Midwives MIDWIFERY CERTIFICATION BOARD.~~

23
24 “CLIENT” MEANS A PERSON RECEIVING PRENATAL, INTRAPARTUM, AND POSTPARTUM SERVICES. UNLESS THE
25 CONTEXT DICTATES OTHERWISE, CLIENT ALSO MEANS AN INFANT RECEIVING NEWBORN CARE SERVICES FROM THE
26 FACILITY.

27
28 “FACILITY” MEANS A BIRTH CENTER.

29
30 “INTRAPARTUM” MEANS PERTAINING TO THE PERIOD OF LABOR AND BIRTH.

31
32 “LOW RISK PREGNANCY” MEANS EXPECTED NORMAL, UNCOMPLICATED PRENATAL AND INTRAPARTUM COURSE
33 ASSISTED BY ADEQUATE PRENATAL CARE AND PROSPECTS FOR A NORMAL UNCOMPLICATED BIRTH BASED ON
34 CONTINUAL SCREENING FOR PRENATAL HIGH RISK FACTORS. PRENATAL HIGH RISK FACTORS SHALL PRECLUDE
35 ELIGIBILITY FOR ADMISSIONS AS WELL AS CONTINUED SERVICES AT THE FACILITY.

36
37 “MEDICAL WASTE” MEANS WASTE THAT MAY CONTAIN DISEASE CAUSING ORGANISMS SUCH AS DISCARDED
38 SURGICAL GLOVES, SHARPS, BLOOD, HUMAN TISSUE, PRODUCTS OF CONCEPTION; OR WASTE THAT MAY CONTAIN
39 CHEMICALS THAT PRESENT POTENTIAL HEALTH HAZARDS SUCH AS PHARMACEUTICAL WASTE AND LABORATORY
40 WASTE.

41 42 **I. LICENSE**

43 ~~A. Birth Center shall meet all the requirements specified in chapter II and this Chapter XXII of the~~
44 ~~Colorado Department of Health Standards for Hospitals and Health Facilities.~~

45 **SECTION 3 – RESERVED**

46 **SECTION 4 – II. GOVERNING BODY**

47 4.1 ~~A. Responsibility:~~ THE GOVERNING BODY SHALL BE RESPONSIBLE FOR THE OVERALL OPERATION AND
48 MANAGEMENT OF THE FACILITY. THE GOVERNING BODY ~~A Governing Body~~ shall provide ADEQUATE
49 facilities, personnel and services necessary for the welfare and safety of the patients-CLIENTS.

4.2 ~~B. Duties:~~ The Governing ~~B~~body shall:

- (A) ~~1.~~ adopt ADMINISTRATIVE AND OPERATIONAL by-laws in accordance with legal requirements THAT INCLUDE THE FACILITY'S ORGANIZATIONAL STRUCTURE WITH LINES OF AUTHORITY AND RESPONSIBILITY.
- (B) ~~2. meet regularly~~ MEET AT LEAST ANNUALLY and maintains accurate records of such meetings. ;
- (C) DEFINE THE SCOPE OF THE SERVICES PROVIDED BY THE FACILITY.
- (D) ENSURE THAT THE FACILITY IS AVAILABLE FOR OCCUPANCY 24 HOURS PER DAY. ;
- (E) ~~5. establish a formal means of liaison with the clinical staff;~~ APPOINT, IN WRITING, A FULL-TIME ADMINISTRATOR.
- (F) ~~3. appoint a credentials committee, composed of clinical staff, which shall have the authority and responsibility for appointments and reappointments of clinical staff and ensure that only members of the clinical staff shall admit patients to the birth center; 4. appoint and delineate, IN WRITING, clinical privileges of practitioners based upon recommendations by the clinical staff and other appropriate indicators of physicians and certified nurse mid-wife competence. OF AND COMMENSURATE WITH THE PRACTITIONER'S QUALIFICATIONS, EXPERIENCE, AND PRESENT CAPABILITIES. AN UP-TO-DATE ROSTER OF PRACTITIONERS CREDENTIALLED BY THE FACILITY THAT SPECIFIES THE APPROVED PROCEDURAL PRIVILEGES OF EACH PRACTITIONER SHALL BE AVAILABLE TO THE STAFF AT ALL TIMES.~~
- (G) ~~6. approve by-laws, rules and regulations of the clinical staff; 7. appoint committees consistent with the needs of the birth center.~~ APPROVE WRITTEN POLICIES AND PROCEDURES FOR THE OPERATION OF THE FACILITY. POLICIES AND PROCEDURES SHALL BE CONSISTENT WITH CURRENT PROFESSIONAL STANDARDS, REVIEWED ANNUALLY AND REVISED AS NECESSARY.
- (H) ENSURE THAT CONTRACTED SERVICES ARE DELIVERED IN ACCORDANCE WITH THE FACILITY'S POLICIES AND PROCEDURES. CONTRACTS SHALL BE REVIEWED ANNUALLY AND REVISED AS NECESSARY.
- (I) DEVELOP JOB DESCRIPTIONS FOR ALL EMPLOYEE POSITIONS THAT DELINEATE FUNCTIONAL RESPONSIBILITIES AND AUTHORITY.
- (J) ~~C. Quality of Care: 1. Conduct, with the active participation of the clinical staff, an ongoing, comprehensive self-assessment of the quality of care provided, including the medical necessity of procedures performed, the appropriateness of care, and the appropriateness of utilization. This information shall provide a basis for the revision of facility policies and the granting or continuation of clinical privileges. MAINTAIN AN EFFECTIVE QUALITY MANAGEMENT PROGRAM IN ACCORDANCE WITH 6 CCR 1011-1, CHAPTER 2, SECTION 3.1.~~
- (K) ~~C.2. Require that the facility's Quality Assurance Program~~ ADOPT A NATIONAL STANDARD FOR INFECTION CONTROL AND ensures the adequate investigation, control and prevention of infections.
- (L) ~~C.3. Provide that there shall be on file in the center an agreement with an ambulance service (air or ground) for emergency transfer of patients to hospital.~~ ESTABLISH A WRITTEN PLAN FOR EMERGENT AND NON EMERGENT TRANSPORT OF CLIENTS TO A HOSPITAL WITH SPECIFIC EXAMPLES THAT DENOTE EMERGENT AND NON-EMERGENT CONDITIONS. THE EFFECTIVENESS OF THE PLAN SHALL BE EVALUATED ANNUALLY. CLIENTS WITH AN EMERGENT

CONDITION SHALL BE TRANSPORTED BY EMERGENCY MEDICAL SERVICES TO THE NEAREST HOSPITAL CAPABLE OF PROVIDING CARE.

(M) DEVELOP AND MAINTAIN A WRITTEN EMERGENCY PREPAREDNESS PLAN FOR THE EMERGENCY CARE OR RELOCATION OF CLIENTS IN THE EVENT OF FIRE OR OTHER PHYSICAL DAMAGE TO THE FACILITY, WEATHER EMERGENCIES ENDEMIC TO THE REGION, LOSS OF UTILITIES OR EQUIPMENT MALFUNCTION. THE PLAN SHALL BE CURRENT. EMERGENCY EVACUATION DRILLS SHALL BE CONDUCTED AT LEAST SEMIANNUALLY.

(N) ENSURE THAT STAFF PERFORM MEDICAL EMERGENCY DRILLS AT LEAST QUARTERLY.

SECTION 5 – ~~III~~ ADMINISTRATOR

- 5.1 ~~A. Responsibility:~~ The administrator shall HAVE AUTHORITY FOR THE DAY TO DAY OPERATION OF THE FACILITY. THE ADMINISTRATOR SHALL DESIGNATE IN WRITING A QUALIFIED EMPLOYEE TO ACT AS ADMINISTRATOR IN THE TEMPORARY ABSENCE OF THE ADMINISTRATOR. ~~be the official representative of the governing body and the chief executive officer of the birth center. The administrator shall be delegated responsibility and authority in writing by the governing body for the management of the birth center and shall provide liaison among the governing body, clinical staff and other departments of the birth center.~~
- 5.2 ~~B. Duties:~~ The administrator shall be responsible for the development of FACILITY ~~Birth Center~~ policies and procedures for employee and clinical staff use. All policies and procedures shall be reviewed and/or updated as necessary but at least annually.

SECTION 6 – ~~IV~~ CLINICAL STAFF

- 6.1 ~~A. Organization:~~ The ~~birth center~~ FACILITY shall have an organized clinical staff restricted to THE FOLLOWING PRACTITIONERS: physicians and certified ~~nurse-midwives~~ NURSE MIDWIVES. THE CLINICAL STAFF SHALL BE CURRENTLY LICENSED TO PRACTICE MEDICINE OR MIDWIFERY IN COLORADO.
- ~~B. Definition: Certified Nurse-Midwife (CNM)—a professional nurse licensed in the state of Colorado who is educated in the two disciplines of nursing and midwifery, who possesses evidence of certification according to the requirements of the American College of Nurse-Midwives.~~
- 6.2 ~~B.~~ CLINICAL SERVICES SHALL BE UNDER THE SUPERVISION OF A CLINICAL DIRECTOR. THE CLINICAL DIRECTOR SHALL BE RESPONSIBLE FOR IMPLEMENTING, COORDINATING AND ASSURING THE QUALITY OF CLIENT CARE SERVICES. THE CLINICAL DIRECTOR SHALL ALSO BE RESPONSIBLE FOR THE COORDINATION OF ALL THE PROFESSIONAL MEDICAL CONSULTANTS TO THE FACILITY.
- 6.3 ~~C. Duties:~~ The clinical ~~DIRECTOR~~ staff or a delegated committee OF CLINICAL STAFF shall:
- ~~1. be responsible for the quality of all medical care provided patients in the facility;~~
 - (A) ~~2. hold meetings regularly~~ MEET AT LEAST ANNUALLY and maintain accurate records of such meetings.;
 - (B) ~~3. formulate, adopt and enforce by-laws, rules, regulations and policies for the proper conduct of its members.;~~
 - (C) ~~4. recommend staff privileges to the governing body.;~~

- (D) ~~5. establish formal liaison with the governing body.;~~
- (E) ~~6. participate actively in the quality assurance MANAGEMENT program.;~~
- (F) ~~7. recommend admission and procedure policies and procedures FOR ADMISSION AND CLIENT CARE to the governing body. SUCH POLICIES AND PROCEDURES SHALL ADDRESS CULTURAL COMPETENCY AND THE SOCIAL DETERMINANTS OF HEALTH, IN ACCORDANCE WITH NATIONAL STANDARDS FOR MIDWIFERY CARE.~~

~~D. Clinical Staff Requirements;~~

- ~~1. Each staff physician shall be licensed to practice medicine in the state of Colorado and provide proof.~~
- ~~2. Each certified nurse midwife shall be licensed as a professional nurse and show proof.~~
- ~~3. Any physician applying for privileges at the birthing center must demonstrate hospital admitting privileges for patients who develop complications.~~
- ~~4. Any certified nurse midwife applying for privileges must provide proof of a back-up agreement with a physician who will accept consultation calls and referrals from the CNM 24 hours a day. Proof of hospital admitting privileges of the back-up physicians must be submitted.~~
- ~~5. A physician or certified nurse mid-wife shall be present at each birth and until the woman and newborn are stable postpartum. A second person in addition to the above, who is a registered nurse with adult and infant resuscitation skills, shall be present during the delivery.~~
- ~~6. A certified nurse midwife or registered nurse with adult and infant resuscitation skills shall be present at the birthing center at all times when a patient is present. Additional and sufficient personnel shall be provided when more than one woman is in active labor.~~

- 6.4 PRACTITIONER CONSULTATIVE SERVICES BY INDIVIDUALS SUCH AS ADVANCED PRACTICE NURSES, FAMILY MEDICINE PRACTITIONERS, OBSTETRICIANS, AND PEDIATRICIANS SHALL BE AVAILABLE TO CLINICAL STAFF COMMENSURATE WITH THE SCOPE OF SERVICES PROVIDED BY THE FACILITY. AN UP-TO-DATE ROSTER OF PROFESSIONAL MEDICAL CONSULTANTS SHALL BE AVAILABLE TO THE STAFF AT ALL TIMES.

SECTION 7 – V. MEDICAL RECORDS HEALTH INFORMATION MANAGEMENT

- 7.1 ~~A. Facilities:~~ The center FACILITY shall provide sufficient space and equipment for the processing and the safe storage OF HEALTH INFORMATION records. RECORDS SHALL BE MAINTAINED AND STORED OUT OF DIRECT ACCESS OF WATER, FIRE, AND OTHER HAZARDS TO PROTECT THEM FROM DAMAGE AND LOSS. A RECORDS RECOVERY OR BACKUP SYSTEM SHALL BE UTILIZED TO ENSURE THAT THERE IS NO LOSS OF HEALTH INFORMATION RECORDS.
- 7.2 ~~B. Personnel:~~ A person knowledgeable in HEALTH INFORMATION the management of Medical Records shall be responsible for the proper administration and functioning of the medical records section PROTECTION OF HEALTH INFORMATION.
- 7.3 ~~C. Security:~~ Medical records shall be protected from loss, damage and unauthorized use. THE FACILITY SHALL STORE HEALTH INFORMATION IN A MANNER THAT PROTECTS CLIENT PRIVACY AND CONFIDENTIALITY AND ALLOWS FOR RETRIEVAL OF RECORDS IN A TIMELY MANNER.

7.4 ~~D. Preservation:~~ RETENTION

(A) With the exception of HEALTH INFORMATION ~~medical~~ records of minors (individuals under the age of 18 years) ~~medical~~ records shall be preserved as original records, or on microfilm, OR ELECTRONIC FORMAT for no less than ~~ten~~ SEVEN years after the most recent ~~patient~~ CLIENT care ~~usage~~-ENCOUNTER, after which time records may be destroyed at the discretion of the facility.

(B) 1. ~~Medical~~ HEALTH INFORMATION records of minors shall be preserved for the period of minority plus 10 years.

2. ~~Facilities shall establish procedures for the notification to patients whose records are to be destroyed prior to the destruction of such records.~~

3. ~~The sole responsibility for the destruction of all medical records shall be in the facility involved.~~

4. ~~Nothing in this section shall be construed to affect the requirements for the destruction of public records as set out in Part 1 of Article 80 of Title 24, C.R.S.~~

E. ~~Content:~~ The medical records shall contain sufficient accurate information to justify the diagnosis and warrant the treatment and end results including, but not limited to:

1. ~~complete patient identification and a unique identification number;~~

2. ~~admission and discharge dates;~~

3. ~~chief complaint and admission diagnosis;~~

4. ~~medical history and physical examination completed prior to birth;~~

5. ~~diagnostic tests, laboratory and x-ray reports when appropriate;~~

6. ~~progress notes if appropriate;~~

7. ~~properly executed informed consent which shall be obtained prior to the onset of labor and shall include evidence of an explanation by personnel of the birth services offered and the potential risks;~~

8. ~~patient's condition on discharge, final diagnosis and instructions given patient for follow-up care of patient and child;~~

9. ~~obstetrical records shall include in addition to the requirements for medical records the following:~~

a. ~~prenatal care record containing at least a hemoglobin or hematocrit, urine screening, prenatal blood serology, RH factor determination, rubella titre, past obstetrical history and physical examination;~~

b. ~~labor and delivery record, including reasons for induction and operative procedures if any;~~

c. ~~records of anesthesia and analgesia and medication given in the course of labor, delivery and postpartum.~~

7.5 GENERAL CONTENT

- (A) COMPLETE HEALTH INFORMATION RECORDS SHALL BE MAINTAINED ON EVERY CLIENT FROM THE TIME OF REGISTRATION FOR SERVICES THROUGH DISCHARGE. ALL ENTRIES INTO THE RECORD SHALL BE DATED, TIMED, AND SIGNED BY THE APPROPRIATE PERSONNEL.
- (B) ALL ORDERS FOR DIAGNOSTIC PROCEDURES, TREATMENTS AND MEDICATIONS SHALL BE SIGNED BY THE CLINICAL STAFF OR OTHER AUTHORIZED LICENSED PRACTITIONERS SUBMITTING THEM AND ENTERED IN THE RECORD IN INK OR TYPE, AS A FACSIMILE, OR BY ELECTRONIC MEANS. THE PROMPT COMPLETION OF THE HEALTH INFORMATION RECORD SHALL BE THE RESPONSIBILITY OF THE CLINICAL STAFF. AUTHENTICATION MAY BE BY WRITTEN SIGNATURE, IDENTIFIABLE INITIALS OR COMPUTER KEY.
- (C) THE RECORD SHALL CONTAIN ACCURATE DOCUMENTATION OF SIGNIFICANT CLINICAL INFORMATION PERTAINING TO THE CLIENT AND NEWBORN SUFFICIENTLY DETAILED AND ORGANIZED IN SUCH A MANNER TO ENABLE:
- (1) ANOTHER PRACTITIONER TO ASSUME CARE OF THE CLIENT OR NEWBORN AT ANY TIME.
 - (2) EVALUATION OF THE QUALITY OF CLIENT CARE BY THE QUALITY MANAGEMENT PROGRAM.
 - (3) THE CLINICAL STAFF TO UTILIZE THE RECORD TO INSTRUCT THE CLIENT AND FAMILY MEMBERS.
 - (4) THE CLINICAL STAFF TO DETERMINE HIGH RISK FACTORS THROUGHOUT THE PREGNANCY, LABOR, DELIVERY AND POSTPARTUM PERIOD.

7.6 CONTENT OF ADULT CLIENT RECORD

- (A) THE RECORDS OF ADULT CLIENTS SHALL CONTAIN, BUT NOT BE LIMITED TO:
- (1) IDENTIFICATION DATA INCLUDING HISTORY, PHYSICAL EXAMINATION, AND RISK ASSESSMENTS, INCLUDING PSYCHOSOCIAL INFORMATION. EACH CLIENT SHALL HAVE A UNIQUE MEDICAL RECORD IDENTIFICATION NUMBER.
 - (2) EXECUTED INFORMED CONSENT(S) WHICH SHALL BE OBTAINED PRIOR TO THE ONSET OF LABOR.
 - (3) ALL LABORATORY TESTING RESULTS, INCLUDING BUT NOT LIMITED TO, TEST RESULTS FOR RUBELLA SCREENING AND RH FACTOR.
 - (4) CLINICAL OBSERVATIONS, INTERVENTIONS, AND MEDICATIONS ADMINISTERED DURING PRENATAL CARE, LABOR AND DELIVERY, AND IMMEDIATE POSTPARTUM CARE.
 - (5) MEDICAL ORDERS AND, IF APPLICABLE, CONSULTATIVE REPORTS.
 - (6) COMPLICATIONS, REFERRALS, AND TRANSFERS.
 - (7) DISCHARGE SUMMARY.
 - (8) POST PARTUM VISITS.

- (9) THE FAMILY MEMBER OR SUPPORT PERSON DESIGNATED BY THE CLIENT, WHO WILL CARE FOR THE NEWBORN IN THE EVENT THAT THE ADULT CLIENT IS SEPARATED FROM THE NEWBORN.

7.7 CONTENT OF NEWBORN RECORD

- (A) ~~10. Records of newborns infants shall be maintained as separate records and shall include in addition to the requirements for medical records, the following information. THE CLINICAL RECORDS OF THE NEWBORN SHALL CONTAIN:~~

- (1) ~~a. date and hour~~ TIME of birth, birth weight and length, period of gestation, sex and condition of infant on delivery (including Apgar and any resuscitative measures taken).;
- (2) ~~e.~~ record of ophthalmic prophylaxis.;
- (3) ~~d.~~ record of administration of Rh immune globulin if any.;
- (4) ~~e. appropriate~~ physical examination at birth and at discharge.;
- (5) ~~f.~~ genetic screening, PKU or other metabolic disorders report.;
- (6) ~~g.~~ fetal monitoring record.;
- (7) ~~h.~~ copy of birth certificate WORKSHEET.;
- (8) ANY COMPLICATIONS, REFERRALS AND TRANSFERS.
- (9) DISCHARGE SUMMARY.

- 7.8 ~~F. Nursing Records: Standard nursing practice and procedure shall be followed in the PROGRESS NOTES. THE FACILITY SHALL ESTABLISH A STANDARD METHODOLOGY FOR recording of CLIENT EDUCATION, medications, and treatments AND PROCEDURES. including operative and post-operative notes. Nursing notes DOCUMENTATION shall include notation of the instructions given patients TO CLIENTS pre-operatively and at the time of discharge. All recordings shall be in ink and properly signed, including name and identifying title.~~

~~G. Entries: All orders for diagnostic procedures, treatments and medications will conform to the requirements of Chapter IV, section 4.4, of Standards for Hospitals and Health Facilities.~~

- 7.9 CENTRAL LOG. THERE SHALL BE A LOG FOR REGISTERING BIRTHS, WITH INFORMATION ABOUT THE ADULT CLIENT AND THE NEWBORN.

- (A) ADULT CLIENT. THE LOG SHALL CONTAIN THE FOLLOWING INFORMATION FOR THE ADULT CLIENT:

- (1) NAME.
- (2) DATE OF DELIVERY.
- (3) TIME OF DELIVERY.
- (4) TYPE OF DELIVERY.
- (5) TRANSFER INFORMATION, IF APPLICABLE:

(a) MODE OF TRANSFER, I.E, EMS OR OTHER.

(b) REASON FOR TRANSFER.

(c) OUTCOME AFTER TRANSFER.

(B) NEWBORN. THE LOG SHALL CONTAIN THE FOLLOWING INFORMATION FOR THE NEWBORN:

(1) NAME, IF AVAILABLE.

(2) SEX.

(3) WEIGHT.

(4) GESTATIONAL AGE.

(5) APGAR SCORE.

(6) TRANSFER INFORMATION, IF APPLICABLE:

(a) MODE OF TRANSFER, I.E, EMS OR OTHER.

(b) REASON FOR TRANSFER.

(c) OUTCOME AFTER TRANSFER.

SECTION 8 – ~~VII~~ – NURSING AND OTHER PERSONNEL

~~A. Orientation; The purpose and objectives of the birth center shall be explained to all personnel as part of an overall orientation program.~~

8.1 STAFFING

(A) EACH FACILITY SHALL BE STAFFED WITH AN APPROPRIATE NUMBER OF PROFESSIONAL AND ANCILLARY PERSONNEL WHOSE EDUCATION, TRAINING AND EXPERIENCE IS COMMENSURATE WITH ASSIGNED DUTIES AND RESPONSIBILITIES.

(B) ~~VI. NURSING SERVICES A. Nursing Personnel;~~ There shall be sufficient Registered Professional Nurses – REGISTERED NURSES and auxiliary nursing personnel on duty to meet the total nursing needs of the patients CLIENTS.

8.2 PERSONNEL FILES SHALL BE MAINTAINED ON THE PREMISES FOR ALL PERSONNEL WHICH CONTAIN AT MINIMUM:

(A) EVIDENCE OF CURRENT LICENSURE OR CERTIFICATION.

(B) SIGNED CONTRACTS FOR CONTRACTED EMPLOYEES.

8.3 THE FACILITY SHALL DEVELOP AND IMPLEMENT WRITTEN POLICIES AND PROCEDURES REGARDING:

(A) THE CONDITIONS OF EMPLOYMENT, ORIENTATION AND MANAGEMENT OF EMPLOYEES.

(B) EVALUATION OF SKILLS FOR NON-CREDENTIALLED STAFF.

(C) EMPLOYEE HEALTH TO PROTECT CLIENTS FROM BEING EXPOSED TO COMMUNICABLE DISEASE.
THE POLICY SHALL:

(1) ADDRESS PRE-EMPLOYMENT HEALTH REQUIREMENTS, IF ANY.

(2) IDENTIFY WHICH COMMUNICABLE DISEASES RENDER AN EMPLOYEE INELIGIBLE FOR DUTY AND THE PROCESS FOR RESTORING ELIGIBILITY FOR DUTY.

(3) PROVIDE THAT STAFF EXPOSED TO BLOOD SHALL HAVE FULL IMMUNIZATION AGAINST HEPATITIS B OR DOCUMENTATION OF REFUSAL.

~~B. Policies: There shall be appropriate written personnel policies, rules and regulations governing the conditions of employment, the management of employees and the types of functions to be performed.~~

8.4 THE FACILITY SHALL REQUIRE ALL PERSONS, INCLUDING STUDENTS, WHO EXAMINE, OBSERVE, OR TREAT CLIENTS TO WEAR IDENTIFICATION STATING, AT MINIMUM, THE PERSON'S NAME AND CREDENTIALS.

SECTION 9 – VIII ADMISSIONS AND DISCHARGE

~~A. Admissions: All persons admitted to a birth center shall be under the direct care of a member of the provider staff and agree to remain at the center not less than four hours postpartum.~~

9.1 ~~A.~~ ONLY MEMBERS OF THE CLINICAL STAFF SHALL ADMIT CLIENTS TO THE FACILITY.

9.2 ~~B. Disclosure Document:~~ As a condition of acceptance for birth center care ADMISSION all persons shall sign prior to the onset of labor a disclosure document which shall contain:

(A) ~~1.~~ an explanation of the services available;

(B) ~~2.~~ an explanation of the services not available, including types of anesthesia;

(C) ~~4. a statement of the additional risk involved in having a child at a birth center instead of a hospital;~~ THE RISKS, BENEFITS AND ELIGIBILITY REQUIREMENTS FOR CARE.

(D) ~~3.~~ THE FACILITY'S PLAN FOR PROVISION OF EMERGENCY AND NON-EMERGENCY CARE IN THE EVENT OF COMPLICATIONS WITH CLIENT OR NEWBORN, AND a statement of the time to and location of the nearest hospital facilities for care of mother THE CLIENT and child NEWBORN;

(E) ~~5. a statement of cost.~~ A WRITTEN STATEMENT OF FEES FOR SERVICES AND RESPONSIBILITIES FOR PAYMENT.

9.3 ONLY LOW RISK PREGNANT PERSONS FOR WHOM PRENATAL AND INTRAPARTUM HISTORY, PHYSICAL EXAMINATION, AND LABORATORY SCREENING PROCEDURES HAVE DEMONSTRATED A NORMAL, UNCOMPLICATED COURSE OF PREGNANCY AND LABOR SHALL BE ADMITTED.

(A) THE FACILITY SHALL SPECIFY IN POLICY AND PROCEDURE THE CRITERIA USED TO EVALUATE RISK STATUS. THE CRITERIA SHALL BE BASED ON A CURRENT NATIONAL STANDARD OF CARE, SUCH AS, BUT NOT LIMITED TO, INDICATORS ESTABLISHED BY THE AMERICAN ASSOCIATION OF BIRTH CENTERS. THE SOCIAL, MEDICAL, OBSTETRIC, FETAL AND/OR NEONATAL RISK FACTORS WHICH EXCLUDE PERSONS FROM THE LOW-RISK INTRAPARTUM GROUP SHALL BE CLEARLY DELINEATED AND ANNUALLY REVIEWED AND UPDATED AS APPROPRIATE.

(B) THE CRITERIA USED TO EVALUATE RISK STATUS SHALL BE APPLIED FOR EACH CLIENT DURING THE ENTIRE COURSE OF CARE DELIVERED BY THE FACILITY.

(C) PRENATAL CARE IN ACCORDANCE WITH CURRENT STANDARDS OF PRACTICE SHALL BE A PREREQUISITE FOR ADMISSION.

~~G. Prohibitions from Birth Center Delivery:~~

~~(A) 1. Medical limitations:~~

- ~~a. current drug or alcohol addiction;~~
- ~~b. paraplegia, quadraplegics;~~
- ~~c. hypertensives on medications;~~
- ~~d. hypertension over 140/90;~~
- ~~e. diabetes (insulin dependent or gestational);~~
- ~~f. history of significant deep vein thrombophlebitis or any thrombophlebitis with this pregnancy;~~
- ~~g. severe anemia (hct. below 30 at admission);~~
- ~~h. epileptics on medication;~~
- ~~i. mental impairment that would interfere with the ability to follow directions;~~
- ~~j. morbid obesity (100% over ideal body weight).~~

~~(B) 2. Obstetrical Limitations:~~

- ~~a. grand multiparity (over five births);~~
- ~~b. previous birth of a baby with serious congenital anomaly of a probably repeating type that cannot be excluded through antenatal evaluation;~~
- ~~c. suspected congenital anomaly;~~
- ~~d. previous Cesarean delivery;~~
- ~~e. preeclampsia;~~
- ~~f. multiple gestation;~~
- ~~g. intrauterine growth retardation or macrosomia;~~
- ~~h. documented oligohydramnios or polyhydramnios;~~
- ~~i. abnormal fetal surveillance studies;~~
- ~~j. fetal presentation other than vertex;~~
- ~~k. rising antibody titre of any type that is known to affect fetal well being;~~

- ~~l. all RH sensitizations;~~
- ~~m. significant third trimester bleeding of unexplained cause;~~
- ~~n. need for induction of labor (no induction allowed);~~
- ~~o. need for general or conduction anesthesia;~~
- ~~p. need for C-section (no C-sections allowed);~~
- ~~q. placental abnormalities (previa or abruptio) which might threaten the neonate;~~
- ~~r. known or suspected active genital herpes at the time of admission;~~
- ~~s. premature labor (before 37 weeks) or postmaturity (after 42 weeks);~~
- ~~t. any other condition or need which will adversely affect the health of the mother or infant during pregnancy, labor, birth, or the immediate postpartum period.~~

9.4 DISCHARGE PLANNING

(A) AN INDIVIDUALIZED DISCHARGE PLAN SHALL BE COMMUNICATED TO THE CLIENT AND RECORDED IN THE CLIENT'S CHART. THE DISCHARGE PLAN SHALL INCLUDE:

- (1) INFORMATION ABOUT FOLLOW UP VISITS. A FOLLOW UP VISIT SHALL BE SCHEDULED PRIOR TO DISCHARGE.
- (2) REFERRALS FOR CONTINUITY OF CARE FOR BOTH THE CLIENT AND NEWBORN. THE FACILITY SHALL PROVIDE THE RELEVANT PORTIONS OF THE NEWBORN RECORDS TO THE CLIENT. UPON REQUEST BY THE CLIENT OR THE PEDIATRIC CARE PROVIDER, THE FACILITY SHALL PROVIDE A COPY OF THE NEWBORN RECORDS TO THE PEDIATRIC CARE PROVIDER.

(B) THE FACILITY SHALL PROVIDE A LIST OF AVAILABLE COUNSELORS AND COUNSELING SERVICES TO CLIENTS KNOWN TO BE CONSIDERING RELINQUISHING OR TERMINATING PARENTAL RIGHTS. THE LIST SHALL ALSO BE PROVIDED TO ANY OTHER FAMILY OR SUPPORT PERSON DESIGNATED BY THE CLIENT.

(C) THE FACILITY SHALL FILE BIRTH CERTIFICATES WITH THE STATE REGISTRAR IN ACCORDANCE WITH SECTION 25-2-112, C.R.S.

~~VIII Admissions D. Conditions Requiring Intrapartum Transfer from Birth Center to a Hospital: E. Conditions Requiring for Post-partum Transfer from Birth Center to a Hospital~~

SECTION 10 – LABORATORY SERVICES

10.1 CLINICAL LABORATORY SERVICES SHALL BE AVAILABLE AS REQUIRED BY THE NEEDS OF THE CLIENTS AS DETERMINED BY THE CLINICAL STAFF. WHETHER PROVIDED ON-SITE OR BY CONTRACT, THE LABORATORY SHALL MEET THE REQUIREMENTS OF THE "CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988," 42 USC § 263a, AND THE CORRESPONDING REGULATIONS AT 42 CFR PART 493.

~~X. LABORATORY A. Services: Clinical pathology services shall be available as required by the needs of the patients as determined by the provider staff.~~

- ~~1. Quality Control: Internal quality control shall be established to insure compliance with generally accepted standards of laboratory practice and procedure.~~

SECTION 11 – FOOD SERVICES

- 11.1 SAFE FOOD STORAGE AND PREPARATION PRACTICES SHALL BE FOLLOWED, IN ACCORDANCE WITH POLICIES AND PROCEDURES DEVELOPED BY THE FACILITY, WHETHER FOOD IS PREPARED AT THE FACILITY, BY A CONTRACTED CATERING SERVICE, OR BROUGHT BY CLIENTS.

SECTION 12 – EMERGENCY CARE AND TRANSFERS

- 12.1 POLICIES AND PROCEDURES REGARDING EMERGENCY CARE AND TRANSFER SHALL ADDRESS, BUT NOT BE LIMITED TO, THE FOLLOWING:

- (A) TRANSFER OF INFORMATION REQUIRED FOR PROPER CARE AND TREATMENT OF THE INDIVIDUAL(S) TRANSFERRED, INCLUDING CLIENT HEALTH RECORDS.
- (B) SECURITY AND ACCOUNTABILITY OF THE PERSONAL EFFECTS OF THE INDIVIDUAL(S) BEING TRANSFERRED.
- (C) COMMUNICATION WITH THE RECEIVING HOSPITAL.
- (D) TRANSFER TO A HOSPITAL, WHEN APPROPRIATE, IN A TIMELY MANNER TO ENSURE THE WELL-BEING OF THE ADULT CLIENT AND NEWBORN.

- 12.2 ~~VIII Admissions D. Conditions Requiring Intrapartum Transfer from Birth Center to a Hospital:~~ CLIENTS WITH THE FOLLOWING CONDITIONS INTRAPARTUM SHALL BE TRANSFERRED TO A HOSPITAL:

- (A) ~~1. a desire~~ CLIENT REQUEST for transfer from birth center care;.
- (B) ~~2. patient inadvertently~~ CLIENT admitted with any of the listed conditions which preclude birth center delivery;.
- ~~3. excessive need for analgesia during labor, or for anesthesia other than pudendal or local;~~
- (C) NEED FOR PHARMACOLOGIC AGENTS FOR CERVICAL RIPENING, INDUCTION, AND AUGMENTATION OF LABOR.
- (D) ~~4. failure of progressive cervical dilation or descent after trial of therapeutic steps capable of being applied at the center FACILITY;~~
- (E) FETAL MONITORING BEYOND INTERMITTENT AUSCULTATION.
- (F) ~~5. fetal distress without delivery imminent;~~
- ~~6. passage of any meconium when delivery is not imminent;~~
- (G) ~~7. development of hypertension or preeclampsia;~~
- (H) ~~8. intrapartum hemorrhage (placenta previa or abruptio placentae);.~~
- (I) ~~9. prolapsed cord;~~

(J) ~~10-~~ change to non-vertex presentation;.

(K) ~~11-~~ evidence of amnionitis;.

(L) ~~12-~~ development of ANY other ~~severe medical or surgical problems~~ COMPLICATION BEYOND THE FACILITY'S SCOPE OF SERVICES IDENTIFIED BY THE GOVERNING BOARD PURSUANT TO SECTION 4.2 (C) OF THESE REGULATIONS.

12.3 ~~VIII Admissions E. Conditions Requiring for Post-partum Transfer from Birth Center to a Hospital~~
CLIENTS WITH THE FOLLOWING CONDITIONS POST-PARTUM SHALL BE TRANSFERRED TO A HOSPITAL:

(A) ~~1. Maternal:~~ ADULT CLIENT

(1) ~~a-~~ hemorrhage not responding to treatment;..

~~b-~~ need for transfusion;

(2) ~~c-~~ retained placenta ~~greater than 30 minutes~~, .

(3) ~~d-~~ need for extended observation ~~that prevents discharge home~~; .

(4) ~~e-~~ ~~any other significant morbidity~~ DEVELOPMENT OF ANY OTHER COMPLICATION BEYOND THE FACILITY'S SCOPE OF SERVICES IDENTIFIED BY THE GOVERNING BOARD PURSUANT TO SECTION 4.2 (C) OF THESE REGULATIONS.

(B) ~~2. Infant:~~ NEWBORN

(1) ~~a-~~ Apgar less than 7 at 5 minutes;..

(2) ~~b-~~ need for oxygen beyond 5 minutes;..

(3) ~~c-~~ signs of prematurity;..

(4) ~~d-~~ signs of respiratory distress;..

(5) ~~e-~~ jaundice, anemia, polycythemia, or hypoglycemia;..

(6) ~~f-~~ persistent hypothermia (less than 97° E at 2 hours of life);..

(7) ~~g-~~ persistent hypotonia; .

(8) ~~h-~~ exaggerated tremors, seizures or irritability;..

(9) ~~i-~~ any significant congenital anomaly, seen or suspected;..

(10) ~~j-~~ sign of significant birth trauma;..

~~k-~~ feeding difficulty;..

(11) ~~l-~~ ~~any other significant morbidity~~ DEVELOPMENT OF ANY OTHER COMPLICATION BEYOND THE FACILITY'S SCOPE OF SERVICES IDENTIFIED BY THE GOVERNING BOARD PURSUANT TO SECTION 4.2 (C) OF THESE REGULATIONS.

SECTION 13 – RESERVED

SECTION 14 – ~~XL~~ PHARMACEUTICAL SERVICES

14.1 THE FACILITY SHALL MAINTAIN AN INVENTORY OF MEDICATIONS SUFFICIENT TO CARE FOR THE NUMBER OF ADULT CLIENTS AND NEWBORNS REGISTERED FOR CARE.

~~There shall be~~ 14.2 THE FACILITY SHALL DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES FOR THE STORAGE, DISPENSING AND ADMINISTRATION OF DRUGS AND BIOLOGICALS IN ACCORDANCE WITH PROFESSIONAL STANDARDS OF PRACTICE AND APPLICABLE STATE AND FEDERAL LAWS AND REGULATIONS, INCLUDING BUT NOT LIMITED TO 21 CFR SECTION 1300, ET SEQ., PERTAINING TO FEDERAL DRUG ENFORCEMENT ADMINISTRATION REQUIREMENTS FOR CONTROLLED SUBSTANCES. ~~B. When the facility maintains its own pharmaceutical services, it shall comply with applicable regulations of the Colorado State Board of Pharmacy.~~

14.3 MEDICATION SHALL BE ADMINISTERED ONLY BY A LICENSED NURSE OR THE CLINICAL STAFF.

14.4 THE FACILITY SHALL MONITOR THE EXPIRATION DATE OF ALL MEDICATIONS.

14.5 MEDICATIONS MAINTAINED IN THE FACILITY SHALL BE APPROPRIATELY STORED AND SAFEGUARDED AGAINST DIVERSION OR ACCESS BY UNAUTHORIZED PERSONS.

(A) APPROPRIATE RECORDS SHALL BE KEPT REGARDING THE DISPOSITION OF ALL MEDICATIONS. EXPIRED MEDICATIONS ARE DISPOSED OF IN ACCORDANCE WITH STATE LAW.

(B) CONTROLLED SUBSTANCES

(1) CONTROLLED SUBSTANCES SHALL BE MAINTAINED IN DOUBLE-LOCKED, SECURED CABINETS. THERE SHALL BE A WRITTEN PROCEDURE FOR MAINTAINING ACCOUNTABILITY AND MONITORING FOR DIVERSION.

(2) ON-SITE DESTRUCTION OF CONTROLLED SUBSTANCES SHALL BE WITNESSED AND DOCUMENTED IN WRITING BY TWO CLINICALLY LICENSED INDIVIDUALS AND DESTROYED IN A MANNER THAT RENDERS THE CONTROLLED SUBSTANCES TOTALLY IRRETRIEVABLE.

SECTION 15 – CLIENT CARE

15.1 CLIENT RIGHTS. THE FACILITY SHALL BE COMPLIANCE WITH 6 CCR 1011.1, CHAPTER 2, PART 6.

15.2 POLICIES AND PROCEDURES. THE FACILITY SHALL DEVELOP AND IMPLEMENT WRITTEN POLICIES AND PROCEDURES TO PROVIDE COMPREHENSIVE PERINATAL CARE FOR LOW-RISK PREGNANCY, NEWBORN CARE AND REFERRAL OF HIGH RISK PREGNANCY CONSISTENT WITH CURRENT STANDARDS OF PRACTICE. POLICIES AND PROCEDURES SHALL INCLUDE BUT NOT BE LIMITED TO:

(A) PARENT EDUCATION, INCLUDING ORIENTATION TO THE PHILOSOPHY OF CARE AND THE SCOPE OF SERVICES OF THE FACILITY.

(B) CONTINUOUS SCREENING FOR HIGH RISK THAT ADDRESSES:

(1) A SCREENING PROCESS THAT INCLUDES WRITTEN CRITERIA FOR ADMISSION OF ONLY LOW RISK PREGNANCIES.

(2) THE ROUTINE EVALUATION OF CLIENTS THROUGHOUT PREGNANCY TO ASSURE THAT THEIR PREGNANCY REMAINS LOW RISK.

(3) PROTOCOLS FOR REFERRAL OF HIGH RISK PERSONS AND NEWBORNS TO APPROPRIATE PROVIDERS OF OBSTETRICAL AND NEWBORN CARE.

(C) BREASTFEEDING SUPPORTIVE PRACTICES.

(D) AVAILABILITY OR ACTUAL CONTACT WITH CLINICAL STAFF ON A 24 HOUR PER DAY, 7 DAYS PER WEEK BASIS.

15.3 PROVISION OF CARE

~~VIII.A.~~ (A) ~~All persons admitted to a birth center~~ THE FACILITY shall be under the direct care of a member of the ~~provider~~ CLINICAL staff and agree to remain at the ~~center~~ facility not less than four hours postpartum.

(B) ANTENATAL CARE

(1) THERE SHALL BE A PROGRAM OF EDUCATION INCLUDING PROVISION OF INFORMATION TO INCLUDE BUT NOT BE LIMITED TO:

(a) ANTICIPATED CHANGES DURING PREGNANCY.

(b) THE SIGNS OF PRETERM LABOR.

(c) PREPARATION FOR LABOR AND DELIVERY, INCLUDING PAIN MANAGEMENT AND OBSTETRICAL COMPLICATIONS AND PROCEDURES.

(d) FEEDING OPTIONS AND CARE OF THE NEWBORN, INCLUDING INFANT SAFE SLEEP PRACTICES.

(e) SIGNS OF DEPRESSION DURING PREGNANCY AND AFTER CHILDBIRTH.

(f) PREPARATION NEEDED FOR DISCHARGE OF THE CLIENT AND THE NEWBORN FOLLOWING DELIVERY, INCLUDING REFERRALS ASSOCIATED WITH ENSURING THE CONTINUITY OF CARE.

(2) EACH CLIENT SHALL HAVE A PLAN OF CARE DEVELOPED BY CLINICAL STAFF. THE PLAN SHALL IDENTIFY THE CARE TO BE PROVIDED AND THE NEED FOR POSTPARTUM SERVICES. THE CLIENT SHALL BE INVOLVED IN REASSESSMENTS AND REVISIONS OF THE PLAN THAT MAY BE REQUIRED.

(3) EACH CLIENT SHALL BE ASSESSED FOR IMMUNITY TO RUBELLA AND COUNSELLED ON ASSOCIATED RISKS.

(4) EACH CLIENT SHALL UNDERGO PRENATAL TESTING IN ACCORDANCE WITH PROFESSIONAL STANDARDS OF CARE.

(C) CARE DURING LABOR AND DELIVERY

(1) THE FACILITY SHALL PROVIDE REGULAR AND APPROPRIATE ASSESSMENT OF THE CLIENT AND FETUS THROUGHOUT LABOR.

(2) ANESTHESIA

(a) ONLY LOCAL ANESTHESIA FOR EPISIOTOMIES AND REPAIR OF LACERATIONS MAY BE PROVIDED.

(D) POSTPARTUM CARE. CARE DURING THE POSTPARTUM PERIOD SHALL INCLUDE BUT NOT BE LIMITED TO:

- (1) CLIENT
- (a) MATERNAL ASSESSMENTS AND FOLLOW UP CARE.
- (b) SCREENING AND REFERRAL FOR POSTPARTUM DEPRESSION.
- (2) NEWBORN
- (a) NEWBORN ASSESSMENTS AND FOLLOW UP CARE.
- (b) EYE PROPHYLAXIS IN ACCORDANCE WITH SECTION 25-4-301, C.R.S.
- (c) NEWBORN SCREENINGS BASED ON CURRENT STANDARDS OF PRACTICE AS WELL AS IN ACCORDANCE WITH SECTION 25-4-1001, ET SEQ., C.R.S. IF THE FACILITY DOES NOT PROVIDE NEWBORN HEARING SCREENING, IT SHALL PROVIDE INFORMATION REGARDING WHERE PARENTS MAY HAVE THEIR INFANTS' HEARING SCREENED AND THE IMPORTANCE OF SUCH SCREENING.
- (d) A NEWBORN IDENTIFIED WITH ABNORMALITIES SHALL BE REFERRED FOR APPROPRIATE FOLLOW-UP, IN ACCORDANCE WITH FACILITY POLICY. THE FACILITY SHALL COMMUNICATE WITH THE PEDIATRIC CARE PROVIDER AND TRANSFER BIRTH AND NEWBORN RECORDS TO THE PEDIATRIC CARE PROVIDER.

15.4 STAFFING

- (A) THERE SHALL BE SUFFICIENT STAFF TO MEET THE DEMANDS FOR SERVICES ROUTINELY PROVIDED AND COVERAGE DURING PERIODS OF HIGH DEMAND OR EMERGENCY. ~~VI. A. Nursing Personnel; There shall be sufficient registered professional nurses and auxiliary nursing personnel on duty to meet the total nursing needs of the patients. V.D.6. Additional and sufficient personnel shall be provided when more than one woman is in active labor~~
- (B) ~~IV.D.5. A physician or certified nurse mid-wife~~ CLINICAL STAFF shall be present at each birth and until the ~~woman~~ CLIENT and newborn are stable postpartum. AT A MINIMUM, THERE SHALL BE A second person in addition to the ~~above~~ CLINICAL STAFF, who is a registered nurse with adult and infant resuscitation skills, ~~shall be present during the delivery.~~
- (C) ~~IV.D.6. A certified nurse midwife~~ CLINICAL STAFF or registered nurse with adult and infant resuscitation skills shall be present at the ~~birthing center~~ FACILITY at all times when a ~~patient~~ CLIENT OR NEWBORN is present POSTPARTUM THROUGH DISCHARGE. Additional and sufficient personnel shall be provided when more than one ~~woman~~ CLIENT is in active labor.

SECTION 16- IX. EQUIPMENT AND SUPPLIES

16.1 EACH FACILITY SHALL BE EQUIPPED WITH THOSE ITEMS NEEDED TO PROVIDE LOW RISK MATERNITY CARE AND SHALL INCLUDE EQUIPMENT TO INITIATE EMERGENCY PROCEDURES. THE FACILITY SHALL HAVE READILY ACCESSIBLE EQUIPMENT AND SUPPLIES IN ORDER TO:

- (A) PERFORM INITIAL AND ONGOING ASSESSMENT OF THE CLIENT AND FETUS.
- (B) PROVIDE CARE DURING BIRTH, INCLUDING REPAIR OF LACERATIONS AND MANAGEMENT OF UTERINE ATONY.
- (C) PERFORM EVALUATION AND, IF NECESSARY, RESUSCITATION OF THE NEWBORN.

(D) PERFORM SCREENING AND ONGOING ASSESSMENT OF THE NEWBORN.

(E) PROVIDE OXYGEN SUPPLEMENTATION FOR THE ADULT CLIENT OR NEWBORN AS NEEDED.

(F) ESTABLISH AND PROVIDE INTRAVENOUS ACCESS AND FLUIDS, AS NEEDED.

16.2 THERE SHALL BE A READILY ACCESSIBLE EMERGENCY CART OR TRAY FOR THE ADULT CLIENT AND THE NEWBORN TO CARRY OUT THE EMERGENCY PROCEDURES OF THE FACILITY. THERE SHALL BE WRITTEN LOGS OF ROUTINE MAINTENANCE FOR READINESS.

16.3 THERE SHALL BE A SYSTEM TO MONITOR THE READINESS OF ALL EQUIPMENT, MEDICATIONS, INTRAVENOUS FLUIDS AND SUPPLIES.

(A) EQUIPMENT SHALL BE MAINTAINED AND TESTED IN ACCORDANCE WITH MANUFACTURER'S INSTRUCTIONS.

(B) THE INVENTORY OF SUPPLIES AND INTRAVENOUS FLUIDS SHALL BE SUFFICIENT TO CARE FOR THE NUMBER OF ADULT CLIENTS AND NEWBORNS REGISTERED FOR CARE.

16.4 SUPPLIES SUCH AS NEEDLES, SYRINGES AND PRESCRIPTION PADS SHALL BE APPROPRIATELY STORED TO AVOID PUBLIC ACCESS.

~~A. There shall be appropriate equipment and supplies maintained for the mother and newborn to include, but not be limited to:~~

~~1. a bed suitable for labor, birth and recovery;~~

~~2. oxygen with flow meters and masks or equivalent;~~

~~3. mechanical suction and bulb suction (immediately available);~~

~~4. resuscitation equipment to include resuscitation bags, endotracheal tubes and oral airways for the mother and newborn;~~

~~5. firm surfaces suitable for resuscitation;~~

~~6. emergency medications, intravenous fluids, and related supplies and equipment for both mother and newborn;~~

~~7. fetoscope and doptone for fetal monitoring;~~

~~8. a means for monitoring and maintaining the optimum body temperature of the newborn;~~

~~9. infant scale;~~

~~10. a clock with a sweep second hand;~~

~~11. sterile suturing equipment and supplies;~~

~~12. adjustable examination light;~~

~~13. containers for soiled linen and waste materials which shall be closed or covered;~~

~~14. autoclave;~~

~~15. log book, for registration of birth which shall contain at least the following:-~~

~~a. mother's name~~

~~b. mother's facility number~~

~~c. date of delivery~~

~~d. time of delivery~~

~~e. mother's age~~

~~f. Gravida, Para,~~

~~g. newborn weight~~

~~h. newborn sex~~

~~i. gestational age~~

~~j. transport:~~

~~(1) mother~~

~~(2) baby~~

~~(3) where~~

~~(4) when~~

~~(5) by whom~~

~~k. indication for hospital delivery~~

~~l. maternal outcome after transfer~~

~~m. indication for newborn transfer n. newborn outcome after transfer o. death:~~

~~(1) neonatal~~

~~(2) maternal~~

~~(3) stillbirth~~

~~p. type of delivery~~

~~q. condition of newborn at delivery/congenital anomalies~~

~~r. delivering person~~

~~s. Apgar~~

~~t. any required resuscitation.~~

SECTION 17 XII. – HOUSEKEEPING SERVICES

17.1 ~~A. Organization:~~ Each facility shall provide housekeeping services which ensure a pleasant, safe and sanitary environment. ~~The facility shall be kept clean and orderly.~~ IF THE FACILITY CONTRACTS WITH AN OUTSIDE VENDOR TO PROVIDE HOUSEKEEPING SERVICES, THERE SHALL BE A WRITTEN AGREEMENT REGARDING THE SERVICES AND THE FACILITY SHALL BE ULTIMATELY RESPONSIBLE FOR QUALITY CONTROL OF THE CONTRACTOR.

17.2 ~~B. Written Policies and Procedures:~~ Appropriate Written policies and procedures shall be established and followed which ensure adequate cleaning and/or disinfection of the ~~physical plant~~ FACILITY and equipment.

17.3 ~~C. Storage:~~ All cleaning materials, solutions, cleaning compounds and hazardous substances shall be properly identified and stored in ~~a safe place~~ ACCORDANCE WITH MANUFACTURER'S INSTRUCTIONS.

17.4 ~~D. Rubbish and Refuse Containers:~~ All ~~rubbish and refuse~~ WASTE containers in ~~treatment~~ CLIENT CARE areas shall be impervious, lined and clean.

17.5 ~~E. Handwashing:~~ All personnel shall wash their hands immediately after handling ~~refuse~~ WASTE.

SECTION 18 – ~~XIII.~~ LAUNDRY AND LINENS

18.1 THE FACILITY SHALL MAKE ARRANGEMENTS FOR THE CLEANING OF LINEN AND LAUNDRY EITHER ON THE PREMISES OR PER CONTRACTUAL ARRANGEMENT.

18.2 THE FACILITY SHALL DEVELOP AND IMPLEMENT WRITTEN POLICIES AND PROCEDURES FOR THE HANDLING, STORAGE AND TRANSPORTING OF CLEAN AND SOILED LINEN THAT PREVENTS CONTAMINATION.

18.3 LINEN SHALL BE CLEANED IN A MANNER THAT PREVENTS CONTAMINATION AND LAUNDRY CHEMICALS SHALL BE USED IN ACCORDANCE WITH MANUFACTURER'S INSTRUCTIONS. LINEN SHALL BE MAINTAINED IN GOOD REPAIR.

18.4 A FACILITY WITH LAUNDRY SERVICE ON THE PREMISES SHALL HAVE SPACE AND EQUIPMENT FOR THE SAFE AND EFFECTIVE OPERATION OF A LAUNDRY SERVICE. THERE SHALL BE DISTINCT AREAS FOR THE SEPARATE STORAGE AND HANDLING OF CLEAN AND SOILED LINENS.

~~Written provisions shall be made for the proper handling of linens and washable goods.~~

~~A. Outside Laundry: Laundry that is sent out shall be sent to a commercial or hospital laundry. A contract for laundry services performed by commercial laundries for birth centers shall include these standards.~~

~~B. Storage: If soiled linen is not processed on a daily basis, a separate, properly ventilated storage area shall be provided.~~

~~C. Processing: The laundry processing area shall be arranged to allow for an orderly progressive flow of work from the soiled to the clean area.~~

~~D. Washing Temperatures: The temperature of water during the washing process shall be controlled to provide a minimum temperature of 165° F. for 25 minutes or 130° F. if the soap/detergent supplier will verify that their products will work effectively at that lower temperature. A label indicating same shall be affixed to the laundry machine.~~

~~E. Packaging: The linens to be returned from the outside laundry to the facility shall be completely wrapped or covered to protect against contamination.~~

~~F. Soiled Linen Transportation: Soiled linen shall be enclosed in an impervious bag and removed from surgery units after each procedure.~~

~~G. Soiled Linen Carts: Carts, if used to transport soiled linen, shall be constructed of impervious materials, cleaned and disinfected after each use.~~

~~H. Clean Linen Storage: Adequate provisions shall be made for storage of clean linen.~~

~~I. Contaminated Linens: Contaminated linens shall be afforded appropriate special treatment by the laundry.~~

~~J. Procedures: Adequate procedures for the handling of all laundry and for the positive identification and proper packaging and storage of sterile linens must be developed and followed.~~

SECTION 19 – XIV. MAINTENANCE INTERIOR AND EXTERIOR ENVIRONMENT

~~19.1 A. Written Policies and Procedures : There shall be~~ THE FACILITY SHALL DEVELOP AND IMPLEMENT written policies and procedures for a preventive maintenance program which is implemented to keep the entire facility and equipment in good repair and to provide for the safety, welfare and comfort of the occupants of the building(s).

19.2 THE FACILITY SHALL ELIMINATE HAZARDS TO CLIENTS AND VISITORS. IN AREAS ACCESSIBLE TO CHILDREN, ELIMINATION OF HAZARDS SHALL INCLUDE BUT NOT BE LIMITED TO, UNCOVERED ELECTRICAL OUTLETS.

XV. PEST CONTROL

~~19.3 A. Pest Control : Adequate written policies and procedures shall be developed and implemented~~ THE FACILITY SHALL DEVELOP AND IMPLEMENT WRITTEN POLICIES AND PROCEDURES TO PROVIDE FOR EFFECTIVE CONTROL AND ERADICATION OF INSECTS AND RODENTS VERMIN. ~~B. Outer Air Openings : All openings to the outer air shall be effectively protected against the entrance of insects and rodents, etc.,~~ VERMIN by self-closing doors, closed windows, screens, controlled air currents or other effective means.

SECTION 20 – XVI. WASTE STORAGE AND DISPOSAL

~~A. Sewage and Sewer Systems : All sewage shall be discharged into a public sewer system, or if such is not available, shall be disposed of in a manner approved by the Colorado State Department of Health.~~

20.1 FACILITIES SHALL MANAGE, TRANSPORT, AND DISPOSE OF MEDICAL WASTE IN ACCORDANCE WITH THE STATE SOLID WASTE REGULATIONS, 6 CCR 1007-2, PART 1.

20.2 FACILITIES THAT GENERATE WASTE INCLUDING MEDICAL WASTE, SHALL CONDUCT A HAZARDOUS WASTE DETERMINATION IN ACCORDANCE WITH PART 261 OF THE STATE HAZARDOUS WASTE REGULATIONS (6 CCR 1007-3). IF THE FACILITY GENERATES HAZARDOUS WASTE, IT SHALL MANAGE, TRANSPORT, AND DISPOSE OF SUCH WASTE IN ACCORDANCE WITH 6 CCR 1007-3.

SECTION 21 XVII. – PHYSICAL PLANT STANDARDS

21.1 ~~Q.~~ Effective July 1, 2013, all birth centers shall be constructed in conformity with the standards adopted by the Director of the Division of Fire Prevention and Control (DFPC) at the Colorado Department of Public Safety. For construction initiated or systems installed on or after July 1,

2013, that affect patient health and safety and for which DFPC has no applicable standards, each facility shall conform to the relevant section(s) of the Guidelines for Design and Construction of Health Care Facilities, (2010 Edition), Facilities Guidelines Institute. The Guidelines for Design and Construction of Health Care Facilities, (2010 Edition), Facilities Guidelines Institute (FGI), is hereby incorporated by reference and excludes any later amendments to or editions of the Guidelines. The 2010 FGI Guidelines are available at no cost in a read only version at: <https://www.fgiguideelines.org/guidelines/2010-edition/read-only-copy/>.

~~A. Reserved~~

21.2 BIRTHING ROOM

(A) ~~B.~~ Each birthing room shall be maintained in a condition which is adequate and appropriate to provide for the equipment, staff, supplies and emergency procedures required for the physical and emotional care of a mother CLIENT, her support person(s) THE CLIENT'S DESIGNATED FAMILY MEMBER OR SUPPORT PERSON, and the newborn during birth, labor and the recovery period.

~~1. Birthing rooms shall have at least 120 square feet with a minimum room dimension of 10 feet.~~

(B) ~~2.~~ Birthing rooms shall be located to provide unimpeded, rapid access to an exit of the building which will accommodate emergency transportation vehicles and equipment.

(C) A WINDOW IN THE BIRTHING ROOM SHALL NOT BE REQUIRED SOLELY FOR THE PURPOSE OF NATURAL LIGHT.

~~C. Patient toilet and bathing facilities.~~

~~1. A toilet and lavatory shall be maintained in or adjacent to the vicinity of the birthing room.~~

~~2. A shower shall be available for mother's CLIENT'S use.~~

~~3. All wall, ceiling, floor surfaces, toilets, lavatories, tubs and showers shall be kept clean and in good repair.~~

21.3 DOORS

(A) ~~D.~~ Hallways and Doors providing entry/exit and access into the birthing center FACILITY and birth room(s) shall be of adequate width and/or configuration to accommodate maneuvering of ambulance stretchers and wheelchairs and other emergency equipment.

(B) ~~I.~~ Every bathroom door lock shall be designed to permit the opening of the locked door from the outside in an emergency. THE DOORS TO THE TOILETS IN LABOR, DELIVERY AND POSTPARTUM CARE AREAS FOR CLIENT USE SHALL HAVE HARDWARE THAT ALLOWS STAFF EMERGENCY ACCESS.

~~E. Water Supply: There shall be an adequate supply of hot and cold running water under pressure for human consumption and other purposes which shall be approved by the Colorado Department of Health as meeting the Colorado Primary Drinking Water Regulations, 1981.~~

~~F. Heating and Ventilation:~~

~~1. A safe and adequate source of heat capable of maintaining a room temperature of at least 72°F. shall be provided and maintained.~~

1 ~~2. Ventilation shall remove objectionable odors, excessive heat and condensations.~~

2 ~~3. Mechanically operated systems shall be used to supply air to and/or exhaust air from soiled~~
3 ~~workrooms or soiled holding rooms, janitor's closets, soiled storage areas, toilet rooms,~~
4 ~~and from spaces which are not provided with openable windows or outside doors. All fans~~
5 ~~serving exhaust systems shall be located at the discharge end of the system.~~

6 ~~G. Food Services:~~

7 ~~1. When birth center policy provides for allowing the preparation and/or storage of personal food~~
8 ~~brought in by the patient or families of patients for consumption of that family, there shall~~
9 ~~be an adequate electric or gas refrigerator and dishwashing facilities.~~

10 ~~H. Fire Safety and Accident Prevention:~~

11 ~~1. Emergency numbers shall be located near the telephone.~~

12 ~~2. There shall be a written evacuation and fire plan for the removal of patients in case of fire and~~
13 ~~other emergencies. The plan shall be posted in a conspicuous place in the building.~~

14 ~~3. A simulated drill shall be performed every quarter per work shift. A written record of each drill~~
15 ~~shall be kept on file.~~

16 ~~J. There shall be no pets on the premises.~~

17 ~~K. Each birthing room shall be equipped with a nurse call system.~~

18 ~~L. Grab bars and a nurse call system shall be installed in each patient bathing and toilet area.~~

19 ~~M. Automatic regulation of water supply temperature not to exceed 110 F. at shower, bathing and~~
20 ~~handwashing facilities. Control devices shall be inaccessible to unauthorized personnel.~~

21 ~~N. The birth center shall be maintained to provide a safe, clean sanitary environment.~~

22 **~~SPECIFIC STATUTORY AUTHORITY~~**

23 ~~These standards were developed under the statutory authority found at 25-1-107(1)(L)I and II and 25-3-~~
24 ~~101 which requires the Department of Health to annually license and to establish and enforce standards~~
25 ~~for the operation of hospitals and other institutions of a like nature.~~

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Notice of Public Rule-Making Hearing

July 19, 2017

ID #: 100

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: July 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 1011-1, Chapter 22, Birth Centers

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)

§25-1.5-103, C.R.S.

§25-3-101, 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:

Health Facilities and Emergency Medical Services Division, HFEMSD-C1, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-2800.

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, July 13, 2017.

Deborah Nelson, Board of Health Administrator

Date: 2017-05-23T11:39:32

Notice of Proposed Rulemaking

Tracking number

2017-00217

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1101-1

Rule title

RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND INDUSTRIAL RELATIONS ACT

Rulemaking Hearing**Date**

07/10/2017

Time

01:00 PM

Location

633 17th Street, Suite 600, Denver, CO 80202

Subjects and issues involved

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act, 7 C.C.R. 1101-1, to clarify and modernize the processes required under the Acts.

Statutory authority

C.R.S. § 8-1-107(2)(p), and § 8-3-105

Contact information**Name**

Elizabeth Funk

Title

Rules Administrator

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DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND INDUSTRIAL RELATIONS ACT

7 CCR 1101-1

Rule 1. DEFINITIONS

1.1 ___ “Executive Director” refers to the Director of the Colorado Department of Labor and Employment.

1.2 ___ “Director” refers to the head of the Division of Labor Standards and Statistics or his or her designee, unless otherwise specified in these rules.

1.3 ___ “Division” refers to the Colorado Division of Labor Standards and Statistics, created by C.R.S. § 24-1-121, C.R.S.

1.4 ___ “Accretion” refers to the merging of two or more bargaining units into one unit by virtue of the involved employer and labor organization's agreement or by a certification by the National Labor Relations Board (NLRB) as one unit merged by reasons of accretion. The collective bargaining agreement and all its supplements of the unit absorbing the other unit(s) will be covered by the terms and conditions of such agreement.

1.5 ___ “Mail” refers to first class mail, postage prepaid.

1.6 ___ “Email” refers to electronic transmission of documents via the internet.

1.76 ___ “Successor Agreements” means an agreement which succeeds the initial agreement between original parties, consisting of a labor organization recognized as the exclusive bargaining representative of the employees in a collective bargaining unit and their employer or successor employers. A successor agreement exists where the employer and labor organization negotiates or adopts a predecessor's agreement, or where there is a substantial continuity in the identity of the business, enterprise, work force, or bargaining relationship.

1.78 ___ In computing any period of time prescribed or allowed by these rules, consistent with Rules 6(a) and 6(e) of the Colorado Rules of Civil Procedure, shall be calculated as set forth below:

1.78.A-1 ___ The last day of the period so-computed shall be included, unless it is a Saturday, a-Sunday, or a-legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a-legal holiday.

1.78.B-2 ___ If the notice or paper is served upon him or her by mail, three days shall be added to the prescribed period.

1.9 ___ All-Union Agreement (AUA) has the meaning as defined by C.R.S. § 8-3-104.

1.10 ___ Collective Bargaining Agreement (CBU) has the meaning as defined by C.R.S. § 8-3-104.

Rule 2. NOTICES BY EMPLOYERS

- 2.1 _____ Whenever notice is required to be given to employees by these ~~R~~rules, notice shall mean the posting of required information at those places customarily used in and about the employer's premises for the posting of notices of information. If such places are not customarily used, posting shall be in such places and at such times as will reasonably give all affected employees the required notice.
- 2.2 _____ In all employment situations where employees are engaged in their duties away from the employer's principal or permanent place of business, notice shall be given in writing by such methods as shall reasonably be calculated to apprise all employees of that notice. This shall include posting of the notice at remote sites, such as on constructions sites.
- 2.3 _____ If posting in the manner set forth in ~~sections~~rules ~~A2.1-~~ and ~~B-2.2~~ cannot reasonably be effectuated, the Director may order any other reasonable manner of giving notice, ~~including mailing to each affected employee.~~

Rule 3. SERVICE

- 3.1 _____ Except as otherwise provided by these rules, whenever service of a document is required by these rules, service shall be made by delivering a copy to the party or by mailing it to him or her at his or her address as listed in the files of the Division ~~of Labor~~ or at his or her last known address. If none is listed in the files of the Division ~~of Labor~~, delivery of a copy within the meaning of this rule shall mean: handing it to the party; leaving it at his or her office with his or her clerk or other person in charge thereof; ~~or~~ if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed, or if the person to be served has no office, leaving it at his or her place of residence-dwelling-house or usual place of abode with some member of his or her family over the age of eighteen years then residing therein.
- 3.2 _____ All documents shall be filed by either personal delivery or mail and shall be deemed filed upon receipt by the Division.
- 3.3 _____ The originals of all pleadings and other documents shall be filed with the Division at the office of the Director.
- 3.4 _____ ~~A party may file a document with the Director by sending it via facsimile transmission to a facsimile number to the Director, providing~~When a party has the technical capability, a party shall file document(s) with the Director and all opposing parties by sending via facsimile transmission, email, or other electronic methods available to the Division at the time of filing provided however, that the Director shall be furnished the original document(s) within five (5) working days of such ~~facsimile~~ transmission.

Rule 4. RATIFICATION AND CERTIFICATION OF ALL-UNION AGREEMENTS IN CONSTRUCTION INDUSTRY

4.1 RATIFICATION AND CERTIFICATION IN THE CONSTRUCTION INDUSTRY

- 4.1.A _____ A request to certify that an agreement, entered into by an employer and a labor organization which is limited in its coverage to employees who, upon their employment subsequent to the entering into the agreement, will be engaged in the building and construction industry, and complies with the provisions of C.R.S. ~~1973~~, § 8-3-104(1) and § 8-3-109 shall:
- 4.1.1A(1) _____ –Attach a copy of the signed agreement, or, if such signed copy is not available, an unsigned copy shall be submitted with a notarized statement that the agreement has in fact been duly executed by the parties.

- 4.1.A(2)–In the case of an agreement which invoices multi-employer groups or associations the request for certification shall include a list of the members of the group or association which have delegated their bargaining rights and/or the names of the employers who, although they have not delegated bargaining rights to a group or association, have individually signed such agreements, together with the addresses of such employers.
- 4.1.A(3)–Any request for certification shall include a statement of authority by the party submitting the request establishing that he or she is acting in an official capacity on behalf of an employer, employee or employee organization, and includes his or her title, if any, relationship, and address.
- 4.1.A(4)–The Director shall cause a copy of the document, indicating certification, be mailed to the requesting party as well as all employers who are listed as signatories to the agreement on the date that such certification is executed, and to all other parties of interest. The original of the document showing certification shall be retained on file as a public record in the offices of the Division of Labor.
- 4.1.A(5)–In the event that the Director does not certify the agreement, he or she shall either give written notice to the signatory parties stating his or her reasons for not certifying said agreement, or set the matter for hearing prior to issuing such determination.
- 4.1.A(6)–Within two (2) weeks of the date of certification by the Director, the employer, or in the case of multi-employer associations, each member or signatory employer, shall post or give written notice to all of its employees covered by the certified all-union agreement, that the agreement has been ratified and certified pursuant to the provisions of the Labor Peace Act, and that those employees have the right to demand an election by filing a petition in accordance with C.R.S. § 8-3-108(1) (c) (II) (D). The rights set forth in C.R.S. § 8-3-108(1) (c) (II) (D) shall be stated explicitly in the notice. Proof of giving of this notice shall be filed with the Director within twenty (20) days after the date of certification by the Director of the all-union agreement.

Rule 5. TYPES OF ELECTIONS

5.1 TYPES OF ELECTIONS

5.1 Pursuant to these Rules there are four types of elections. They are:

5.1.A1 Collective Bargaining Unit Election. COLLECTIVE BARGAINING UNIT ELECTION.

This is aAn election to determine whether a labor organization shall be the representative of a group of employees of an employer or employers in a craft, division, department, plant or other subdivision.

5.1.2 Election for Approval of an All-Union Agreement.

5.1.B ELECTION FOR APPROVAL OF AN ALL-UNION AGREEMENT

An election to authorize an all-union agreement.

5.1.C3 Election to Ratify an All-Union Agreement. ELECTION TO APPROVE THE RATIFICATION OF AN ALL-UNION AGREEMENT.

An election to approve the ratification of an all-union agreement in existence on Junely 29, 1977, and in continuous effect between an employer or a multi-employer association and a labor organization. These elections may occur, if twenty (20) percent of the covered

employees file a petition within forty-five (45) days of the ratification requesting such election, or to the ratification of an all-union agreement in the construction industry.

5.1.4 Revocation of an All-Union Agreement ~~D~~ **REVOCATION OF AN ALL-UNION- AGREEMENT ELECTION:**

~~This is a~~ An election held to determine whether employees subject to an all-union agreement desire to revoke the authority of the employer and the labor organization to ~~enter into~~ remain in an all-union agreement.

5.2 Collective Bargaining Unit Elections ~~COLLECTIVE BARGAINING UNIT ELECTIONS:~~

~~5.2.1A~~ Petitions for the selection of a collective bargaining unit shall be filed with the Division ~~of Labor~~ on forms specified by the Division. Such petitions may be filed by a single employee, a group of employees, an employer, or the representative of either the employer or employees.

~~5.2.2B~~ When a petition for collective bargaining unit election is filed with the Division the Director shall determine the unit or units of employees in which representation is being sought and shall include on any ballot the names or suitable descriptions of each labor organization seeking representation.

~~5.2.3~~ Upon receipt of a petition for a collective bargaining unit election, the Division shall provide a preliminary notice to the employer for posting in prominent places in and about each plant or operational area of the employer.

~~5.2.4~~ Requests for a separate unit or to show separately the wishes of employees in a craft, division, department or plant as to the selection of a labor organization shall be submitted to the Division within ten (10) days of the date of the notice.

~~5.2.C~~ Requests for an election to select a bargaining unit subsequent to that requested in the original petition must be submitted to the Director no later than ten (10) days prior to the election.

~~5.2.D~~ Requests to show separately the wishes of employees in a craft, division, department or plant as to the selection of a labor organization shall be submitted no later than ten (10) days prior to the election.

~~5.2.E~~ Requests to have the polling list prepared in such a manner so as to show which employees are entitled to vote separately for craft representation or representation of any one of several plants of a common employer shall be submitted to the Director no less than ten (10) days prior to the election, unless a request for a separate unit is submitted as set forth above.

5.3 Approval of an All-Union Agreement Election ~~APPROVAL OF AN ALL-UNION-AGREEMENT- ELECTIONS:~~

~~5.3.1~~ Petitions for the approval of an all-union agreement shall be filed with the Division ~~of Labor~~ on forms specified by the Division. Such petitions may be filed by a single employee, a group of employees, an employer, or the representative of either of them. The collective bargaining unit shall have been certified by the NLRB National Labor Relations Board or the Division, or written evidence of self-certification and such certification must be attached to the petition.

~~5.3.B2~~ The agreements referred to in ~~ruleSections 5.1.2B; 5.1.C; and 5.1.D above~~, shall be approved if at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, cast affirmative votes in

favor of the agreement in a secret-ballot election held under the supervision of the Director.

~~5.3.C Upon filing of an employees' petition, the Director, based upon his investigation, shall verify the employment status, and eligibility of the petitioning employees and shall determine whether such petitions have been properly signed by at least twenty (20) percent of the employees covered by such agreement on the date of the filing of the petition.~~

~~5.4 APPROVAL OF THE RATIFICATION OF AN ALL-UNION AGREEMENT ELECTION:~~

~~5.4.A Petitions for the approval of the ratification of an all-union agreement election shall be filed with the Director of Labor on forms specified by the Division. Such petitions must be filed by at least twenty percent of the employees covered by such agreement.~~

~~5.4.B The petitions for the approval of a ratification election must be filed within forty-five (45) days after the certification of the agreement by the Director.~~

~~5.4.C The agreement shall be conclusively deemed ratified if at least a majority of all the employees eligible to vote or three-quarters or more of the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, cast affirmative votes in favor of approving the ratification.~~

~~5.4.D The Director shall hold such an election as promptly as practical following the filing of the petition.~~

~~5.4.E In the event that a certified contract expires or is terminated prior to the conduction of such an election, such certification shall be applicable to any subsequent agreement between the same parties until such election shall be held.~~

~~5.4.F Upon the filing of an employee's petition the Director, based upon his investigation, shall verify the employment status and eligibility of the petitioning employees and shall determine whether such petitions have been properly signed by at least twenty (20) percent of the employees covered by such agreement on the date of the filing of the petition.~~

5.54 Revocation of an All-Union Agreement Election~~REVOCATION OF AN ALL-UNION AGREEMENT ELECTION:~~

5.54.1A _____ Petitions for the revocation of an all-union agreement shall be filed with the Director of the Division ~~of Labor~~ on forms specified by the Division. Such petitions may be filed by the employer or by twenty (20) percent of the employees covered by such agreement.

5.54.2B _____ The petition for revocation may only be filed within a time period between one hundred twenty (120) and one hundred five (105) days prior to the end of the collective bargaining agreement or prior to a triennial anniversary of the date of such agreement.

5.54.3C _____ The Division must complete the election within sixty (60) days prior to the termination of the agreement or the triennial anniversary of the agreement.

5.54.D4 _____ The Director may conduct an election for revocation within a collective bargaining unit no more often than once during the term of any collective bargaining unit or once every three (3) years in the case of agreements for a period longer than three (3) years.

5.54.5E _____ The Director shall declare an all-union agreement terminated if, pursuant to the petition filed in accordance with ruleSection 5.4.A1 above, there is ~~not~~ an affirmative vote of at least a majority of all the employees eligible to vote or three-quarters or more of the

employees who actually voted, which-ever is greater in the election conducted under the supervision of the Director.

5.54.F6 Upon the filing of an employee's petition, the Director, based upon his or her investigation, shall verify the employment status and eligibility of the petitioning employees and shall determine whether such petitions have been properly signed by at least twenty (20) percent of the employees covered by such agreement on the date of the filing of the petition.

5.65 ELIGIBILITY TO VOTE IN ALL-UNION AGREEMENT ELECTION

Whenever an election is held involving an all-union agreement, all employees covered by the agreement shall be eligible to vote. The Director shall determine whether the employers have signed as part of an association or multi-employer bargaining unit or have signed individually.

5.76 SCOPE OF APPROVAL OR REVOCATION

When an election is held to approve or revoke an all-union agreement, the results of said election shall be construed as granting or denying authorization to the employer and the labor organization to enter into any form of all-union agreement. Such election shall not be construed as approving or revoking only the specific contract terms proposed or agreed upon.

5.87 CONFIDENTIALITY OF PETITIONS FILED BY EMPLOYEES IN ALL-UNION ELECTIONS

Any petitions filed by employees seeking an election to approve or revoke an all-union agreement shall remain confidential and shall not be available to any person or party.

Rule 6. ELECTIONS PROCEDURES

6.1 PROCEDURES

6.1.A1 Upon the filing of a petition for an election, the Director shall verify the employment status and eligibility of the employees to vote, based upon an investigation and subsequent findings. Such investigation shall include seeking data relative to whether the unit is the result of an accretion of a unit or whether the agreement is the result of a successor agreement.

6.1.2B The Director shall then request a list of employees from the employer who shall within seven (7) days submit such a list. Said list shall contain the names of all employees in the collective bargaining unit employed by said employer as of the date of the request, which date shall be determinative of eligibility to vote. In the event the employer fails or refuses to furnish a list of employees, the Director will accept as a tentative polling list any such a list as the petitioner may be able to supply or the Director may prepare such a list based on his or hiser own investigation.

6.1.3C Within twenty (20) days after receipt of a petition, the Director shall meet with the parties in a conference to set the date of the election. The Director, at his or her discretion, may allow for such conference to be conducted by telephone. In the event that the parties are unable to agree and set such a date, the Director shall set a date for the election as soon as is practicable following receipt of a petition.

6.1.D4 Having obtained or prepared a tentative polling list and established a date, the Director shall direct the service upon the employer and labor organization that a Notice of Election

and copies of the tentative polling list that must be displayed or posted in prominent places in and about each plant or operational area of the employer or by an alternative method approved by the Director if posting is not practicable.

~~6.1.E The Director shall cause a copy of the Notice of Election and tentative polling list to be served by mailing first-class postage prepaid, to all interested parties.~~

6.1.~~FE~~5 _____ The Notice of Election shall specify the time or times and place or places when and where a secret ballot election, according to the purpose of the petition, shall be conducted and shall specify the source of the request for the election except, in the case of an election called by employee petition for ratification or revocation of an all-union agreement, the notice shall simply indicate the request was by employee petition.

6.1.~~GF~~6 _____ –In the case of a collective bargaining unit election, the notice of election shall include a description of the unit or units to be formed including classification, crafts and work locations.

6.1.~~HG~~7 _____ –Any party may file written objections to an election or the tentative polling list subsequent to the filing of the petition for an election, but not later than seven (7) days after being served the Notice of Election. Within seven (7) days after service of the objections, any interested party may file and serve upon the other parties a written response to the objections.

6.1.~~I~~8 ~~H~~ _____ The Director shall investigate the objections and issue a determination based on the facts. The Director shall, as promptly as practicable, determine whether a petition for an election is proper. The Director shall forthwith cause copies of his or her determination to be served on all parties. If the Director is unable to decide upon the objections prior to the scheduled election, the election will be cancelled and rescheduled following resolution of the objections.

6.1.~~J~~9~~I~~ _____ The Division ~~of Labor~~ will not consider any petition for a collective bargaining unit election, election for approval of an all-union agreement, or election to approve the ratification of an all-union agreement more often than once in any twelve (12) month period.

6.1.~~K~~10~~J~~ _____ After resolution of any objections to the tentative polling list or the conducting of an election or in the absence of any objections, the Director shall certify a poll list of qualified voters not later than twenty-four (24) nor earlier than forty-eight (48) hours preceding the time of balloting. The certified poll list shall be available in the office of the Director and to any interested party, ~~and the Director shall cause it to be posted at those places where the Notice(s) of Election were posted.~~

~~6.1.L At any time prior to ten (10) days before the commencement of balloting for the selection of a collective bargaining unit, other petitions may be filed with the Director for any other organizations as representative of the employees or for the designation of a separate unit from that or those specified in the Notice of Election.~~

6.2 Conduct of Elections CONDUCT OF ELECTIONS

6.2.~~A~~1 _____ For each election the Director shall cause suitable ballots to be prepared. The Director shall appoint such agents as are necessary to conduct or aid in conducting the election. In situations where the Director shall deem it appropriate, he or she shall have the discretion to prepare bilingual ballots.

6.2.2 ~~B~~—In his or her discretion, the Director may establish more than one suitable polling place for the same election, and may either provide a separate suitable ballot box and election officials for each place, or establish different times for the reception of ballots by the same officials at different places. In either event, the notice posted at each polling place shall specify that day and hours during which ballots may be cast at that place, and that a voter's ballot shall not be received at a place other than that at which his or her name is so listed, unless the Notice of Election shall specifically authorize voters to vote at other polling places.

6.2.3 Each eligible organization requesting recognition as a collective bargaining unit or the union involved in an all-union election, the employer and the employees may designate an individual, who is not a supervisor or administrator and who is not a paid union official, for each polling place who shall be allowed to inspect the poll list and observe the casting of the ballots. No others than the Director and his or her agents shall be allowed to do so, nor shall others remain at the polling place. Any employer, supervisor, administrator or paid union official may be present for the counting of the ballots.

6.2.4 ~~D~~ Copies of the certified poll list shall be in the possession of the Director or his or her agents during the balloting.

6.2.5 Only those persons whose names are on the poll list shall be entitled to vote at the election. Any employee whose name appears on the list of persons eligible to vote, and who has not been lawfully and contractually terminated before the election occurs but ~~has~~ had his or her name ~~removed-omitted~~ from the polling list shall be allowed to vote, and his or her ballot shall be received by the Director as a challenged ballot.

6.2.6 The individuals selected according to ~~r~~Rule 6.2.3 ~~supra~~, may challenge the right of any person to vote upon the grounds of identity. If the challenged person is unable to provide adequate proof of identity, the Director shall receive the ballot as a challenged ballot.

6.2.7 If any employee is unable to prepare his or her ballot by reason of illiteracy, or unfamiliarity with the English language, or for any other reason, he or she may be assisted in preparing his or her ballot by the Director or his or her agents.

6.2.8 Solicitation of votes and electioneering shall not be permitted within fifty ~~(50)~~ feet of the polling place.

6.2.9 ~~I~~—At the time specified in the Notice of Election for the closing of balloting, the Director or his or her agents shall receive the ballots of those employees present at the polling place, and no others.

6.2.10 Elections may be conducted by mail ~~at~~in the discretion of the Director.

6.3 Counting of Ballots and Certification of Results ~~COUNTING OF BALLOTS AND CERTIFICATION OF RESULTS~~

6.3.1 At the conclusion of the balloting the Director or his or her agents shall fix and state a time and the place at which the ballots will be counted, taking whatever measures are necessary to ensure secrecy for the election process and the ballots, and to protect the identity of all voters participating in such election. Each party shall be entitled to have one watcher present at the counting of the ballots.

6.3.2 ~~B~~—If any ballot shall be found to have conflicting marks, ~~and/or~~, if in the opinion of the Director or his or her agents, any ballot is spurious, such ballot shall be disregarded and not counted, and shall be recorded as a spoiled ballot.

6.3.3 ~~C~~ Any ballot challenged under ~~r~~Rules 6.2.E5 and/or 6.2.F6 will be noted and the challenged ballot will be retained by the Director or his or her designee in a sealed envelope and after having impounded all ballots to protect the identity of the voters, shall receive evidence pertaining to eligibility from the parties and attempt to resolve any challenges. If there is not sufficient evidence presented at that time to make a decision all ballots cast will be sealed in the ballot box and impounded by the Director. The parties will have five (5) days to submit any additional evidence which may assist the Director in reaching a decision. In the event that no decision is reached, the Director shall cause the matter to be heard at a hearing for resolution and decision. Any challenged ballot determined to be invalid shall be declared void and impounded. Those challenged ballots declared to be valid shall be mixed with the unchallenged ballots and counted at a time and place to be fixed by the Director.

6.3.4 ~~D~~ If there are no challenged ballots the Director or his or her designee shall proceed to count the ballots at such time and place as fixed at the conclusion of the balloting.

6.3.5 ~~E~~ The Director or his or her agents shall prepare and certify over their signatures, on a form furnished by the Director, a ~~C~~certificate containing a tabulation of the ballots cast, and shall immediately file such ~~C~~certificate and shall deposit all ballots in a sealed container, with the Director.

6.3.6 ~~F~~ Within five (5) days after the filing and certification of the results of an election, any party may file an appeal in writing with the Director to review the certificate based on error or fraud to the results certified therein. The Director will cause a copy to be served to all interested parties giving each seven (7) days to file and serve written responses. The Director may cause an investigation to be undertaken, or may set the matter for hearing. ~~in accordance with the procedures for hearing unfair labor practices under these rules.~~

Rule 7. UNFAIR LABOR PRACTICES

7.1 Parties and Pleading PARTIES AND PLEADINGS

7.1.1 ~~A~~ The party filing a complaint shall be designated the plaintiff. Complaints shall be filed on forms provided by the Division and shall clearly set forth the names and addresses and phone numbers of all parties, the plaintiff's interest, the sections of the Act violated and a clear and concise statement of the facts constituting the unfair labor practice. Upon receipt of a complaint, the Division shall mail a copy of the complaint to the person or parties charged.

7.1.2 ~~B~~ The party against whom a complaint is filed shall be designated the respondent. Any respondent has a right to file an answer to the complaint within ten (10) days of service of the complaint. ~~days from the date of mailing by the Division. If the hearing is to be held on the merits of the complaint within 15 days of the filing of the complaint, complainant shall use such means of service so as to preserve a 10-day period in which respondent may file his answer.~~

7.1.3 ~~C~~ The Director may, in his or her discretion, shorten the ten (10)-day period for response to the complaint for good cause. In such cases, the respondent must be notified of the hearing date, the period in which they may respond, and, must be served with a copy of the complaint in as short a period of time as possible by service by an agent of the Division ~~of Labor~~.

7.1.4 ~~D~~ Other persons who shall be made parties shall be designated as intervenors or shall be joined as plaintiffs or respondents, as the Director may decide based upon their application.

7.2 Notice of Hearing NOTICE OF HEARING

7.2.A1 Upon receipt of the answer or in default of an answer, the Director shall docket the case for hearing, giving written notice to the parties in interest by mailing the same to the Post Office addresses given in the pleadings, or as otherwise provided by statute. The hearing date shall be fixed not less than ten (10) days nor more than forty (40) days following the date of filing of the complaint.

7.2.2 B Hearings may be conducted by the Director or by a deputy or a hearing officer designated by the Director. Such hearing may be held at such times and places as the Director designates and may be adjourned from time to time at the discretion of the Director or his or her agents. Hearings may be held via video or teleconferencing, including taking of witness testimony as determined by the Director or his or her agents.

7.2.3 C The burden of proof of establishing an unfair labor practice is upon the party plaintiff and he or she shall present his or her evidence first.

7.2.4 D Upon conclusion of a hearing the Director or the deputy or hearing officer in charge of the case shall prepare written findings of fact and conclusions and enter his or her order or recommendation therein. If within thirty (30) twenty (20) days after receipt of the recommendation by a hearing officer or deputy, the Director has taken no action, the findings of fact, and conclusions and order of the deputy or hearing officer shall be deemed to be those of the Director.

7.2.E5 —The Director may remove any matter to himself or herself or may conduct such further proceedings as appear appropriate in his or her discretion. Copies of the findings of fact and the order shall be furnished to the parties in the manner prescribed for serving notice of hearings and shall constitute the final agency action.

7.2.6 F In cases where it shall conclusively appear to the Director that an emergency exists and that temporary relief must be granted pending the filing of an answer or pending final hearing, the Director may hold a preliminary hearing and at the conclusion thereof enter an interlocutory order which shall remain in effect pending the final hearing and order of the Director.

7.3 PROCEDURE

Any hearings hereunder will be conducted pursuant to the provisions of the Administrative Procedure Act, specifically C.R.S. 1973, § 24-4-105, as amended.

Rule 7.4 PETITION FOR REVIEW

Any party in interest who is dissatisfied with the findings or order of the Director may file a petition for review of the findings and order based upon newly discovered evidence, mistake or error within five (5) days from the date such order is entered.

8. NOTICE OF INTENT TO STRIKE

8.1 8.1 NOTICE OF INTENT TO STRIKE IN UNITS COVERED BY National Labor Relations Act (NLRA)

Those bargaining units recognized by the National Labor Relations Act NLRANational Labor Relations Act and subject to the notification provisions of said Act may submit the Federal Mediation and Conciliation Service form in lieu of the Notice of Intent to Strike form within the time limits established in SectionRule 8.2.

8.2 Notice of Intent to Strike Employers Other Than Authorities~~NOTICE OF INTENT TO STRIKE EMPLOYERS OTHER THAN AUTHORITIES.~~

8.2.1A Where the exercise of the right to strike by the employees of an employer engaged in the State of Colorado in the production, harvesting, or initial processing (the latter after having left the farm) of any farm or dairy product produced in this state would tend to cause the destruction or serious deterioration of such product, such employees shall file with the Division a written Notice ~~o~~^of Intent ~~t~~^to Strike no less than thirty (30) days prior to the date contemplated for such strike.

8.2.2B Employees of other industries or occupations, excluding authorities, shall file with the Division a written Notice ~~o~~^of Intent ~~t~~^to Strike no less than twenty (20) days prior to the date contemplated for such strike.

8.2.3 ~~C~~³—All Notices ~~o~~^of Intent ~~t~~^to Strike shall be filed with the Division in writing and served upon all other parties by certified mail, and shall specify: the exact nature of the dispute; the names, addresses and telephone numbers of the parties and their representatives, if any; the date of the last conference between the parties; and contain a Certificate ~~o~~^of Service upon the other party. The Director may request the employer and the employees to meet with him ~~or her~~ to discuss the dispute. In the event that the parties do not resolve the dispute, the Director may recommend mediation.

8.2.4 ~~D~~⁴—If the parties consent to mediating the dispute the parties shall file with the ~~Division~~ Director a written status of the ongoing mediation every thirty (30) days from the filing of the Consent to Mediate, or such other period of time as the Director may order until mediation is concluded.

8.2.5 ~~E~~—Either party may notify the Division in writing of any impasse or of the failure of mediation to resolve the dispute. Upon filing of the written notice of impasse or failure of mediation, the Director may meet with the parties to discuss voluntary arbitration of the dispute. If the parties consent to arbitration, the parties shall file with the Division a written agreement to arbitrate the dispute signed by both parties or their representatives. The agreement to arbitrate shall include a request that the Director either conduct the arbitration of the dispute or appoint an arbitrator.

8.3 Notice of Intent to Strike Employers Who Are Authority~~NOTICE OF INTENT TO STRIKE EMPLOYERS WHO ARE AUTHORITY~~

~~8.3.1~~ ~~8.3.A~~ Employees of Authorities shall file with the Division a written Notice of Intent to Strike no less than forty (40) days prior to the date contemplated for such strike.

Rule 9. INDUSTRIAL RELATIONS ACT — TITLE 8, ARTICLE 1 C.R.S. — REQUEST FOR INTERVENTION (INDUSTRIAL RELATIONS ACT, C.R.S. TITLE 8, ARTICLE 1)

9.1 Intervention by the Director~~INTERVENTION BY THE DIRECTOR.~~

9.1.1A ———The Director may intervene in a dispute affecting conditions of employment or concerning wages or hours, when both parties to a dispute request his or her intervention, or when the Executive Director determines that the dispute affects the public interest.

9.1.2B ———Requests for the intervention of the Director in a dispute shall be filed with the Division on forms provided by the Division.

9.1.3 ———In the event that the Division receives a request for intervention by only one party to a dispute, the Director shall advise the other party of the filing of the request and they shall have ten (10) days from the date of notice of the request to file a corresponding request for intervention or other suitable reply.

9.1.4 ———A joint request for intervention of the Director shall set forth the facts, issues, or demands involved in the controversy or dispute, and each party to the dispute shall furnish such information as requested by the Director. Upon receipt of such joint request the Director shall cause a meeting with the parties and discuss with them the use of facilitation, conciliation, mediation, or voluntary arbitration to assist in resolving the dispute.

9.1.5 ———In the event the Director elects to exercise jurisdiction over a dispute, the parties shall be advised in writing of such decision. —The notice shall also advise the parties that the relation of the employer and employee shall continue uninterrupted by the dispute or anything arising out of the dispute until the final determination thereof by said director. The director shall issue his or her final award or order terminating jurisdiction within one hundred eighty (180) days from the date of his or her notice of election to exercise jurisdiction. —Neither the employer nor any employee affected by any such dispute shall alter the conditions of employment with respect to wages or hours or any other condition of said employment; neither shall they on account of such dispute, do or be concerned in doing directly or indirectly anything in the nature of a lockout, strike, or suspension or discontinuation of work or employment. If the Director elects to decline jurisdiction over a dispute, the parties shall be advised in writing of such decision.

9.2 Hearing and Final Awards ——— HEARING AND FINAL AWARDS

9.2.1A ———The Director or his designee may conduct a hearing regarding the dispute and issue his final award in writing as soon as administratively practicable after receipt of the mutual request of the employer and employees or as soon as administratively practicable after notification of the parties where the dispute affects the public interest.

9.2.2B ———The Director may conduct an investigation, hold hearings in the interim, and issue temporary orders which may authorize and encourage facilitation, conciliation, mediation, or voluntary arbitration prior to his issuing a final order.

9.2.3 ———Any final hearing required to be held by the Director shall be conducted in accordance with the C.R.S. § 24-4-106, C.R.S., and the final award shall be in writing.

9.3 Relinquishment of Jurisdiction ——— RELINQUISHMENT OF JURISDICTION

9.3.1A ———If, after intervening in a dispute which may affects the public interest, the Director after investigating the facts determines that the dispute does not affect the public interest, he or she shall notify the parties in writing within ten (10) days of his or her decision that he or she is declining to assert jurisdiction in the matter.

Editor's Notes

HistoryAnnotations

Trujillo v. Industrial Commission, No. 81CA1217, Colorado Court of Appeals, April 22, 1982, held claimant's attorney's neglect constituted "good cause" for claimant's failure to appear at hearing.

**COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF LABOR STANDARDS AND STATISTICS**

**NOTICE OF PUBLIC HEARING CONCERNING
FIVE PROPOSED SETS OF RULES:**

**RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND
INDUSTRIAL RELATIONS ACT
EMPLOYMENT OPPORTUNITY ACT RULES
SOCIAL MEDIA AND THE WORKPLACE LAW RULES
KEEP JOBS IN COLORADO ACT RULES
WAGE PROTECTION ACT RULES**

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to the adoption of the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act: 7 C.C.R. 1101-1, the Employment Opportunity Act Rules: 7 C.C.R. 1103-4, the Social Media and the Workplace Law Rules: 7 C.C.R. 1103-5, the Keep Jobs in Colorado Act Rules: 7 C.C.R. 1103-6, and the Wage Protection Act Rules: 7 C.C.R. 1103-7 under the authority granted the Division of Labor Standards and Statistics in C.R.S. § 8-1-107(2)(p), § 8-1-103(3), § 8-1-111, § 8-3-105, § 8-2-126(6), § 8-2-127(5), § 8-17-101 et. seq., § 8-4-111(1)(b), § 8-4-111(2)(a)(i), and § 8-4-111.5(1) (2016).

Date and Time of Hearing: **Monday, July 10, 2017, at 1:00 p.m.**

Place of Hearing: **Colorado Division of Labor Standards and Statistics
633 17th Street, Sixth Floor
Denver, CO 80202**

This hearing will be held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101, et seq. (2017), to receive any testimony, written data, views, or arguments that interested parties may wish to submit regarding the proposed rules.

Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act, 7 C.C.R. 1101-1, to clarify and modernize the processes required under the Acts.

The proposed rules differ from the current 7 C.C.R. 1101-1 in the petition process for union elections required under the Act and in the Division's name pursuant to House Bill 16-1323.

Employment Opportunity Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Employment Opportunity Act Rules, 7 C.C.R. 1103-4, to clarify the hearing procedures under C.R.S. § 8-2-126.

The proposed rules differ from the current 7 C.C.R. 1103-4 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Social Media and the Workplace Law Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendment to the Colorado Social Media and the Workplace Law Rules, 7 CCR 1103-5, to clarify the hearing procedures under C.R.S. § 8-2-127.

The proposed rules differ from the current 7 C.C.R. 1103-5 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Keep Jobs in Colorado Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt amendments to the Keep Jobs in Colorado Act Rules, 7 C.C.R. 1103-6, to clarify the hearing procedures under C.R.S. § 8-17-101, et seq.

The proposed rules differ from the current 7 C.C.R. 1103-6 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Wage Protection Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Wage Protection Act Rules, 7 C.C.R. 1103-7, to supplement and clarify the statutory language and to provide a step-by-step guide to the Division's wage complaint process. The proposed rules completely revise the current 7 C.C.R. 1103-7.

Copies of the proposed sets of rules shall be available at least five days before the hearing at www.coloradolaborlaw.gov or:

Colorado Division of Labor Standards and Statistics
633 17th Street, Suite 600
Denver, Colorado 80202

To ensure sufficient time for consideration prior to adopting final rules, comments must be provided to the Division by 5:00 pm on Monday, July 10, 2017. Comments will be accepted at any time prior to the hearing.

Comments may be delivered by mail, faxed to 303-318-8400, or emailed to elizabeth.funk@state.co.us.

Comment Deadline: Monday, July 10, 2017 at 5:00 pm

**STATEMENT OF BASIS AND PURPOSE
FOR
PROPOSED AMENDMENTS TO
RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND
INDUSTRIAL RELATIONS ACT
7 C.C.R. 1101-1**

BASIS: C.R.S. § 8-1-107(2)(p), and § 8-3-105 provide the Director of the Division of Labor Standards and Statistics with the authority to adopt rules and regulations pertaining to the Industrial Relations Act and the Labor Peace Act.

PURPOSE: The purpose of the amendments to the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act is to provide administrative rules pertaining to employee and employer relationships, collective bargaining, and unfair labor practices.

Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds that: 1) there is a demonstrated need for the rules; 2) the proper statutory authority exists for the rules; 3) to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply with the rules; 4) the rules do not conflict with other provisions of law; and 5) the duplicating or overlapping of the rules is explained by the agency proposing the rules.

Notice of Proposed Rulemaking

Tracking number

2017-00212

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-4

Rule title

EMPLOYMENT OPPORTUNITY ACT RULES

Rulemaking Hearing

Date

07/10/2017

Time

01:00 PM

Location

633 17th Street, Suite 600, Denver, CO 80202

Subjects and issues involved

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Employment Opportunity Act Rules, 7 C.C.R. 1103-4, to clarify the hearing procedures under C.R.S. § 8-2-126.

Statutory authority

C.R.S. § 8-1-107(2)(p) and § 8-2-126

Contact information

Name

Elizabeth Funk

Title

Rules Administrator

Telephone

303-318-8459

Email

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DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

EMPLOYMENT OPPORTUNITY ACT RULES

7 CCR 1103-4

Rule 1. Statement of Purpose

- 1.1** The general purpose of these Employment Opportunity Act Rules is to implement the provisions of C.R.S. § 8-2-126, ~~C.R.S.~~ These rules are adopted pursuant to the Division of Labor Standards and Statistics authority in C.R.S. § 8-1-107(2)(p), ~~C.R.S., § 8-1-103(3), C.R.S., § 8-1-111, C.R.S., and § 8-2-126, C.R.S.~~

Rule 2. Definitions

2.1 "Adverse action" means:

- (I) For an applicant for employment, denial of employment; and
- (II) For an employee, demotion, reassignment to a lower-ranked position or to a position with a lower level of compensation, decrease in compensation level, denial of promotion, or termination of employment; or
- (III) Any other decision for employment purposes that adversely affects an employee or applicant.

- 2.2** "Consumer credit information" means a written, oral, or other communication of information bearing on a consumer's creditworthiness, credit standing, credit capacity, or credit history. "Consumer credit information" includes a credit score but does not include the address, name, or date of birth of an employee associated with a social security number. "Consumer credit information" does not include income or work history verification.

- 2.3** "Credit score" means an attempted numerical quantification of a person's creditworthiness or credit history.

- 2.4** "Division" means the division of labor standards and statistics within the department of labor and employment.

- 2.5** "Employee" means every person who may be permitted, required, or directed by any employer in consideration of direct or indirect gain or profit, to engage in any employment and includes an applicant for employment.

- 2.6** "Employer" has the meaning as set forth in C.R.S. § 8-1-101, ~~C.R.S.~~ and includes a prospective employer; except that "employer" does not include any state or local law enforcement agency.

- 2.7** "Employment purposes" means evaluating a person for employment, hiring, promotion, demotion, reassignment, adjustment in compensation level, or retention as an employee.

- 2.8** "Prevailing party" means the employee who successfully brings, or the employer who successfully defends, the complaint.

2.9 "Substantially related to the employee's current or potential job" means the information contained in a credit report is related to the position for which the employee who is the subject of the report is being evaluated because the position:

(I) Constitutes executive or management personnel or officers or employees who constitute professional staff to executive and management personnel,

And the position involves one or more of the following:

(A) Setting the direction or control of a business, division, unit, or an agency of a business;

(B) A fiduciary responsibility to the employer;

(C) Access to customers', employees', or the employer's personal or financial information other than information customarily provided in a retail transaction; or

(D) The authority to issue payments, collect debts, or enter into contracts;

(II) Involves contracts with defense, intelligence, national security, or space agencies of the federal government; or

(III) Is with a bank or financial institution.

Rule 3. Use of Consumer Credit Information for Employment Purposes

3.1 An employer shall not use consumer credit information for employment purposes unless the information is substantially related to the employee's current or potential job. An employer or employer's agent, representative, or designee shall not require an employee to consent to a request for a credit report that contains information about the employee's credit score, credit account balances, payment history, savings or checking account balances, or savings or checking account numbers as a condition of employment unless:

(I) The employer is a bank or financial institution;

(II) The report is required by law; or

(III) The report is substantially related to the employee's current or potential job and the employer has a bona fide purpose for requesting or using information in the credit report that is substantially related to the employee's current or potential job and is disclosed in writing to the employee.

Rule 4. Opportunity for the Employee to Explain Consumer Credit Information

4.1 When consumer credit information is substantially related to the employee's current or potential job, an employer may (but is not required to) inquire further of the employee to give him or her the opportunity to explain any unusual or mitigating circumstances where the consumer credit information may not reflect money management skills but is rather attributable to some other factor, including a layoff, error in the credit information, act of identity theft, medical expense, military separation, death, divorce, or separation in the employee's family, student debt, or a lack of credit history.

Rule 5. Adverse Action and Disclosure to the Employee

- 5.1** If an employer relies, in whole or in part, on consumer credit information to take adverse action regarding the employee whose information was obtained, the employer shall disclose that fact, and the particular information upon which the employer relies, to the employee. The employer shall make the disclosure to an employee in writing or to an applicant using the same medium in which the application was made.

Rule 6. Complaints

- 6.1** A person who is injured by a violation of this law may file a complaint with the division.
- 6.1.1** Anonymous complaints are not accepted by the division.
- 6.1.2** Complaints shall be filed using the division-approved form.
- 6.1.3** The complaint may only be filed by the individual (or the individual's representative) who has been directly affected by the employer's prohibited consumer credit practices; the complainant must be the specific employee or applicant whose consumer credit information was involved.
- 6.1.4** The complaint shall include the complainant's signature, contact information, and basis for the complaint. Failure to include this information on the complaint form may result in administrative dismissal of the complaint.
- 6.1.5** An employer who is subject to a complaint shall be notified in writing of the complaint by the division via U.S. postal mail. In the event that the employer cannot be contacted via U.S. postal mail, or other circumstances exist which warrant the use of other contact methods, the division shall utilize other methods to contact the employer.

Rule 7. Investigations

- 7.1** Complaints shall be assigned to division investigators. Investigatory methods utilized by the division may include, but are not limited to:
- 7.1.1** Interviews of the employer, employee, and other parties;
- 7.1.2** Information gathering, fact-finding, and reviews of written submissions;
- 7.1.3** Any other techniques which enable the division to assess the employer's compliance with the law.

Rule 8. ~~Initial Decisions~~ Determinations and Civil Penalties

- 8.1** After investigating the complaint and assessing the employer's compliance, the division investigator will issue an ~~initial decision~~determination in writing.
- 8.1.1** The ~~initial decision~~determination will be provided to the employer and complainant in writing.
- 8.1.2** The ~~initial decision~~determination will contain information on the extent of the employer's compliance with the law, and will describe what provisions of the law were adhered to and/or violated.

8.1.3 The ~~initial decision~~determination issued by the division investigator may award civil penalties not to exceed two thousand five hundred dollars to a prevailing party.

8.1.4 The ~~initial decision~~determination will contain information on appeal rights and appeal procedures.

Rule 9. Appeals and Hearings

9.1 The ~~initial decision~~determination issued by the investigator may be appealed to the division.

9.2 ~~A Parties-party to the claim~~ who appeals the ~~initial decision~~determination ~~are-is~~ entitled to an appeals hearing and final agency decision in conformity with the Colorado Administrative Procedure Act, C.R.S. § 24-4-105, ~~C.R.S.~~

9.3 A division hearing officer will preside over the hearing.

9.4 The decision issued by the hearing officer is ~~considered the final agency decision. This decision may be appealed to district court~~the initial decision.

9.5 ~~Any party to the claim may appeal the hearing officer's initial decision by filing written exceptions with the director of the division within thirty calendar days of the initial decision in accordance with C.R.S. § 24-4-105(14)(a)(II).~~

9.5.1 ~~A party may file written exceptions with the director of the division via email (cdle_LS_appeals@state.co.us), fax (303-318-8400), or mail/delivery (633 17th Street, Suite 600, Denver, CO 80202).~~

9.5.2 ~~If no party files written exceptions with the director of the division within thirty calendar days of the initial decision, the initial decision shall become the final agency decision.~~

9.6 ~~The record on appeal to the director is the division's record of its investigation unless the appealing party files a designation of the record with the division within twenty calendar days of the initial decision in accordance with C.R.S. § 24-4-105(15)(a).~~

9.7 ~~The director's decision upon review of any exceptions is the final agency decision. Any part to the claim may seek judicial review of this decision in accordance with C.R.S. § 24-4-106.~~

9.8 ~~Failure to file exceptions in accordance with rule 9.5 shall result in a waiver of the right to judicial review of the final agency decision in accordance with C.R.S. § 24-4-105(14)(c).~~

Rule 10. Enforcement

10.1 ~~The director of the division of labor in the department of labor and employment shall enforce the Employment Opportunity Act and these rules.~~

Rule 101. Liability

101.1 Nothing in the Employment Opportunity Act or these rules imposes any liability on a person, including a consumer reporting agency, as that term is defined in C.R.S. § 12-14.3-102(4), ~~C.R.S.~~, for providing an employer with consumer credit information.

Rule 121. Severability

- | **11.1** If any provision of these rules or their application to any person or circumstance is held illegal, invalid, or unenforceable, no other provisions or applications of the rules shall be affected that can be given effect without the illegal, invalid, or unenforceable provision or application, and to this end the provisions of these rules are severable.

**COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF LABOR STANDARDS AND STATISTICS**

**NOTICE OF PUBLIC HEARING CONCERNING
FIVE PROPOSED SETS OF RULES:**

**RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND
INDUSTRIAL RELATIONS ACT
EMPLOYMENT OPPORTUNITY ACT RULES
SOCIAL MEDIA AND THE WORKPLACE LAW RULES
KEEP JOBS IN COLORADO ACT RULES
WAGE PROTECTION ACT RULES**

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to the adoption of the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act: 7 C.C.R. 1101-1, the Employment Opportunity Act Rules: 7 C.C.R. 1103-4, the Social Media and the Workplace Law Rules: 7 C.C.R. 1103-5, the Keep Jobs in Colorado Act Rules: 7 C.C.R. 1103-6, and the Wage Protection Act Rules: 7 C.C.R. 1103-7 under the authority granted the Division of Labor Standards and Statistics in C.R.S. § 8-1-107(2)(p), § 8-1-103(3), § 8-1-111, § 8-3-105, § 8-2-126(6), § 8-2-127(5), § 8-17-101 et. seq., § 8-4-111(1)(b), § 8-4-111(2)(a)(i), and § 8-4-111.5(1) (2016).

Date and Time of Hearing: **Monday, July 10, 2017, at 1:00 p.m.**

Place of Hearing: **Colorado Division of Labor Standards and Statistics
633 17th Street, Sixth Floor
Denver, CO 80202**

This hearing will be held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101, et seq. (2017), to receive any testimony, written data, views, or arguments that interested parties may wish to submit regarding the proposed rules.

Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act, 7 C.C.R. 1101-1, to clarify and modernize the processes required under the Acts.

The proposed rules differ from the current 7 C.C.R. 1101-1 in the petition process for union elections required under the Act and in the Division's name pursuant to House Bill 16-1323.

Employment Opportunity Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Employment Opportunity Act Rules, 7 C.C.R. 1103-4, to clarify the hearing procedures under C.R.S. § 8-2-126.

The proposed rules differ from the current 7 C.C.R. 1103-4 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Social Media and the Workplace Law Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendment to the Colorado Social Media and the Workplace Law Rules, 7 CCR 1103-5, to clarify the hearing procedures under C.R.S. § 8-2-127.

The proposed rules differ from the current 7 C.C.R. 1103-5 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Keep Jobs in Colorado Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt amendments to the Keep Jobs in Colorado Act Rules, 7 C.C.R. 1103-6, to clarify the hearing procedures under C.R.S. § 8-17-101, et seq.

The proposed rules differ from the current 7 C.C.R. 1103-6 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Wage Protection Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Wage Protection Act Rules, 7 C.C.R. 1103-7, to supplement and clarify the statutory language and to provide a step-by-step guide to the Division's wage complaint process. The proposed rules completely revise the current 7 C.C.R. 1103-7.

Copies of the proposed sets of rules shall be available at least five days before the hearing at www.coloradolaborlaw.gov or:

Colorado Division of Labor Standards and Statistics
633 17th Street, Suite 600
Denver, Colorado 80202

To ensure sufficient time for consideration prior to adopting final rules, comments must be provided to the Division by 5:00 pm on Monday, July 10, 2017. Comments will be accepted at any time prior to the hearing.

Comments may be delivered by mail, faxed to 303-318-8400, or emailed to elizabeth.funk@state.co.us.

Comment Deadline: Monday, July 10, 2017 at 5:00 pm

**STATEMENT OF BASIS AND PURPOSE
FOR
PROPOSED AMENDMENTS TO
COLORADO EMPLOYMENT OPPORTUNITY ACT RULES
7 C.C.R. 1103-4**

BASIS: C.R.S. § 8-1-107(2)(p) and § 8-2-126 (2017) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt and amend rules and regulations pertaining to the implementation of the Colorado Employment Opportunity Act.

PURPOSE: The purpose of the proposed amendments to the Colorado Employment Opportunity Act Rules is to clarify the hearing procedures under C.R.S. § 8-2-126, and to change the Division's name pursuant to House Bill 16-1323.

Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds that: 1) there is a demonstrated need for the rules; 2) the proper statutory authority exists for the rules; 3) to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply with the rules; 4) the rules do not conflict with other provisions of law; and 5) the duplicating or overlapping of the rules is explained by the agency proposing the rules.

Notice of Proposed Rulemaking

Tracking number

2017-00209

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-5

Rule title

SOCIAL MEDIA AND THE WORKPLACE LAW RULES

Rulemaking Hearing**Date**

07/10/2017

Time

01:00 PM

Location

633 17th Street, Suite 600, Denver, CO 80202

Subjects and issues involved

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendment to the Colorado Social Media and the Workplace Law Rules, 7 CCR 1103-5, to clarify the hearing procedures under C.R.S. § 8-2-127.

Statutory authority

C.R.S. § 8-1-107(2)(p) and § 8-2-127

Contact information**Name**

Elizabeth Funk

Title

Rules Administrator

Telephone

303-318-8459

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elizabeth.funk@state.co.us

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

SOCIAL MEDIA AND THE WORKPLACE LAW RULES

7 CCR 1103-5

Rule 1. General Statement of Purpose

- 1.1** The general purpose of these Social Media and the Workplace Law rules is to implement the provisions of C.R.S. § 8-2-127, ~~C.R.S.~~ These rules are adopted pursuant to the Division of Labor Standards and Statistics's authority in C.R.S. § 8-1-107(2)(p), ~~C.R.S., § 8-1-103(3), C.R.S., § 8-1-111, C.R.S., and § 8-2-127, C.R.S.~~

Rule 2. Definitions

- 2.1** "Applicant" means an applicant for employment.
- 2.2** "Electronic communications device" means a device that uses electronic signals to create, transmit, and receive information, including computers, telephones, personal digital assistants, and other similar devices.
- 2.3** "Employer" means a person engaged in a business, industry, profession, trade, or other enterprise in the state or a unit of state or local government. "Employer" includes an agent, a representative, or a designee of the employer. "Employer" does not include:
1. the department of corrections,
 2. county corrections departments, or
 3. any state or local law enforcement agency.
- 2.4** "Division" means the division of labor standards and statistics within the department of labor and employment.

Rule 3. Prohibited Access to Social Media Information

- 3.1** An employer may not suggest, request, or require that an employee or applicant disclose, or cause an employee or applicant to disclose, any user name, password, or other means for accessing the employee's or applicant's personal account or service through the employee's or applicant's personal electronic communications device.
- 3.2** An employer shall not compel an employee or applicant to add anyone, including the employer or his or her agent, to the employee's or applicant's list of contacts associated with a social media account.
- 3.3** An employer shall not require, request, suggest, or cause an employee or applicant to change privacy settings associated with a social networking account.

Rule 4. Adverse Actions by Employers

- 4.1** An employer shall not discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or otherwise penalize an employee for an employee's:

1. refusal to disclose any information specified in Rule 3; or
2. refusal to add the employer to the list of the employee's contacts; or
3. refusal to change the privacy settings associated with a social media account.

4.2 An employer shall not fail or refuse to hire an applicant because:

1. the applicant refuses to disclose any information specified in Rule 3; or
2. the applicant refuses to add the employer to the applicant's list of contacts; or
3. the applicant refuses to change the privacy settings associated with a social media account.

Rule 5. Exceptions to Employer Prohibitions

5.1 An employer may access information about employees and applicants that is publicly available online.

5.2 The social media and the workplace law and these rules do not prohibit an employer from requiring an employee to disclose any user name, password, or other means for accessing nonpersonal accounts or services that provide access to the employer's internal computer or information systems.

5.3 The social media and the workplace law and these rules do not prevent an employer from:

- a) Conducting an investigation to ensure compliance with applicable securities or financial law or regulatory requirements based on the receipt of information about the use of a personal web site, internet web site, web-based account, or similar account by an employee for business purposes; or
- b) Investigating an employee's electronic communications based on the receipt of information about the unauthorized downloading of an employer's proprietary information or financial data to a personal web site, internet web site, web-based account, or similar account by an employee.

5.4 The social media and the workplace law and these rules do not prohibit an employer from enforcing existing personnel policies that do not conflict with these rules.

Rule 6. Employee Disclosure of Confidential Information

6.1 The social media and the workplace law and these rules do not permit an employee to disclose information that is confidential under federal or state law or pursuant to a contract agreement between the employer and the employee.

Rule 7. Complaints

7.1 A person who is injured by a violation of this law may file a complaint with the division.

7.1.1 Anonymous complaints are not accepted by the division.

7.1.2 Complaints shall be filed using the division-approved form.

7.1.3 The complaint may only be filed by the individual (or the individual's representative) who has been directly affected by the employer's prohibited social media practices; the complainant must be the specific employee or applicant whose social media information was involved.

7.1.4 The complaint shall include the complainant's signature, contact information, and basis for the complaint. Failure to include this information on the complaint form may result in administrative dismissal of the complaint.

7.1.5 An employer who is subject to a complaint shall be notified in writing of the complaint by the division via U.S. postal mail. In the event that the employer cannot be contacted via U.S. postal mail, or other circumstances exist which warrant the use of other contact methods, the division shall utilize other methods to contact the employer.

Rule 8. Investigations

8.1 Complaints shall be assigned to division investigators. Investigatory methods utilized by the division may include, but are not limited to:

8.1.1 Interviews of the employer, applicant, employee, and other parties;

8.1.2 Information gathering, fact-finding, and reviews of written submissions;

8.1.3 Any other techniques which enable the division to assess the employer's compliance with the law.

Rule 9. ~~Initial Decisions~~Determinations and Fines

9.1 After investigating the complaint and assessing the employer's compliance, the division investigator will issue ~~an initial decision~~a determination in writing.

9.1.1 The ~~initial decision~~determination will be provided to the employer and complainant in writing.

9.1.2 The ~~initial decision~~determination will contain information on the extent of the employer's compliance with the law, and will describe what provisions of the law were adhered to and/or violated.

9.1.3 The ~~initial decision~~determination issued by the division investigator may levy a fine not to exceed one thousand dollars for the first offense and a fine not to exceed five thousand dollars for each subsequent offense.

9.1.4 The ~~initial decision~~determination will contain information on appeal rights and procedures.

Rule 10. Appeals and Hearings

10.1 The ~~initial decision~~determination issued by the investigator may be appealed to the division.

10.2 ~~A p~~Parties ~~to the claim~~ who appeals the ~~initial decision~~determination ~~is~~are entitled to an appeals hearing and final agency decision in conformity with the Colorado Administrative Procedure Act, C.R.S. § 24-4-105, ~~C.R.S.~~

10.3 A division hearing officer will preside over the hearing.

- 10.4** The decision by the hearing officer is ~~considered the final agency decision. This decision may be appealed to district court~~the initial decision.
- 10.5** Any party to the claim may appeal the hearing officer's initial decision by filing written exceptions with the director of the division within thirty calendar days of the initial decision in accordance with C.R.S. § 24-4-105(14)(a)(II).
- 10.5.1** A party may file written exceptions with the director of the division via email (cdle_LS_appeals@state.co.us), fax (303-318-8400), or mail/delivery (633 17th Street, Suite 600, Denver, CO 80202).
- 10.5.2** If no party files written exceptions with the director of the division within thirty calendar days of the initial decision, the initial decision shall become the final agency decision.
- 10.6** The record on appeal to the director is the division's record of its investigation unless the appealing party files a designation of the record with the division within twenty calendar days of the initial decision in accordance with C.R.S. § 24-4-105(15)(a).
- 10.7** The director's decision upon review of any exceptions is the final agency decision. Any party of the complaint may seek judicial review of this decision in accordance with C.R.S. § 24-4-106.
- 10.8** Failure to file exceptions in accordance with rule 10.5 shall result in a waiver of the right to judicial review of the final agency decision in accordance with C.R.S. § 24-4-105(14)(c).

Rule 11. Deposit of Fines

- 11.1** Fines shall be transmitted and credited to the general fund of the state.

Rule 12. Severability

- 12.1** If any provision of these rules or their application to any person or circumstance is held illegal, invalid, or unenforceable, no other provisions or applications of the rules shall be affected that can be given effect without the illegal, invalid, or unenforceable provision or application, and to this end the provisions of these rules are severable.

**COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF LABOR STANDARDS AND STATISTICS**

**NOTICE OF PUBLIC HEARING CONCERNING
FIVE PROPOSED SETS OF RULES:**

**RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND
INDUSTRIAL RELATIONS ACT
EMPLOYMENT OPPORTUNITY ACT RULES
SOCIAL MEDIA AND THE WORKPLACE LAW RULES
KEEP JOBS IN COLORADO ACT RULES
WAGE PROTECTION ACT RULES**

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to the adoption of the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act: 7 C.C.R. 1101-1, the Employment Opportunity Act Rules: 7 C.C.R. 1103-4, the Social Media and the Workplace Law Rules: 7 C.C.R. 1103-5, the Keep Jobs in Colorado Act Rules: 7 C.C.R. 1103-6, and the Wage Protection Act Rules: 7 C.C.R. 1103-7 under the authority granted the Division of Labor Standards and Statistics in C.R.S. § 8-1-107(2)(p), § 8-1-103(3), § 8-1-111, § 8-3-105, § 8-2-126(6), § 8-2-127(5), § 8-17-101 et. seq., § 8-4-111(1)(b), § 8-4-111(2)(a)(i), and § 8-4-111.5(1) (2016).

Date and Time of Hearing: **Monday, July 10, 2017, at 1:00 p.m.**

Place of Hearing: **Colorado Division of Labor Standards and Statistics
633 17th Street, Sixth Floor
Denver, CO 80202**

This hearing will be held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101, et seq. (2017), to receive any testimony, written data, views, or arguments that interested parties may wish to submit regarding the proposed rules.

Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act, 7 C.C.R. 1101-1, to clarify and modernize the processes required under the Acts.

The proposed rules differ from the current 7 C.C.R. 1101-1 in the petition process for union elections required under the Act and in the Division's name pursuant to House Bill 16-1323.

Employment Opportunity Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Employment Opportunity Act Rules, 7 C.C.R. 1103-4, to clarify the hearing procedures under C.R.S. § 8-2-126.

The proposed rules differ from the current 7 C.C.R. 1103-4 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Social Media and the Workplace Law Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendment to the Colorado Social Media and the Workplace Law Rules, 7 CCR 1103-5, to clarify the hearing procedures under C.R.S. § 8-2-127.

The proposed rules differ from the current 7 C.C.R. 1103-5 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Keep Jobs in Colorado Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt amendments to the Keep Jobs in Colorado Act Rules, 7 C.C.R. 1103-6, to clarify the hearing procedures under C.R.S. § 8-17-101, et seq.

The proposed rules differ from the current 7 C.C.R. 1103-6 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Wage Protection Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Wage Protection Act Rules, 7 C.C.R. 1103-7, to supplement and clarify the statutory language and to provide a step-by-step guide to the Division's wage complaint process. The proposed rules completely revise the current 7 C.C.R. 1103-7.

Copies of the proposed sets of rules shall be available at least five days before the hearing at www.coloradolaborlaw.gov or:

Colorado Division of Labor Standards and Statistics
633 17th Street, Suite 600
Denver, Colorado 80202

To ensure sufficient time for consideration prior to adopting final rules, comments must be provided to the Division by 5:00 pm on Monday, July 10, 2017. Comments will be accepted at any time prior to the hearing.

Comments may be delivered by mail, faxed to 303-318-8400, or emailed to elizabeth.funk@state.co.us.

Comment Deadline: Monday, July 10, 2017 at 5:00 pm

**STATEMENT OF BASIS AND PURPOSE
FOR
PROPOSED AMENDMENTS TO
COLORADO SOCIAL MEDIA AND THE WORKPLACE LAW RULES
7 C.C.R. 1103-5**

BASIS: C.R.S. § 8-1-107(2)(p) and § 8-2-127 (2017) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt and amend rules and regulations pertaining to the implementation of the Colorado Social Media and the Workplace Law.

PURPOSE: The purpose of the proposed amendments to the Colorado Social Media and the Workplace Law Rules is to clarify the hearing procedures under C.R.S. § 8-2-127, and to change the Division's name pursuant to House Bill 16-1323.

Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds that: 1) there is a demonstrated need for the rules; 2) the proper statutory authority exists for the rules; 3) to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply with the rules; 4) the rules do not conflict with other provisions of law; and 5) the duplicating or overlapping of the rules is explained by the agency proposing the rules.

Notice of Proposed Rulemaking

Tracking number

2017-00210

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-6

Rule title

KEEP JOBS IN COLORADO ACT RULES

Rulemaking Hearing**Date**

07/10/2017

Time

01:00 PM

Location

633 17th Street, Suite 600, Denver, CO 80202

Subjects and issues involved

It is proposed that the Director of the Division of Labor Standards and Statistics adopt amendments to the Keep Jobs in Colorado Act Rules, 7 C.C.R. 1103-6, to clarify the hearing procedures under C.R.S. § 8-17-101, et seq.

Statutory authority

C.R.S. § 8-1-107(2)(p) and § 8-17-101, et seq.

Contact information**Name**

Elizabeth Funk

Title

Rules Administrator

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DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

KEEP JOBS IN COLORADO ACT RULES

7 CCR 1103-6

Rule 1. Statement of Purpose

- 1.1** The general purpose of the Keep Jobs in Colorado Act Rules is to implement the provisions of C.R.S. § 8-17-101 et. seq., ~~C.R.S.~~ These rules are adopted pursuant to the Division of Labor Standards and Statistics's authority in C.R.S. § 8-1-107(2)(p), ~~C.R.S.~~, § 8-1-103(3), ~~C.R.S.~~, § 8-1-111, ~~C.R.S.~~, and § 8-17-101, et. seq., ~~C.R.S.~~

Rule 2. Definitions

- 2.1** Any reference made to "the law" means the Keep Jobs in Colorado Act, C.R.S. § 8-17-101, et. seq., ~~C.R.S.~~
- 2.2** "Colorado labor" means any person who is a resident of the state of Colorado, at the time of the public works project, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification.
- 2.2.1** A resident of the state of Colorado is a person who can provide a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last thirty days.
- 2.3** "Davis Bacon Act" refers to Davis-Bacon and Related Acts (DBRA), 40 U.S.C. § 3141 et seq., 29 C.F.R. §§ 1, 3, 5, 6, 7, and any related regulations.
- 2.4** "Director" means the director of the Colorado division of labor standards and statistics, or his or her designee.
- 2.5** "Division" means the division of labor standards and statistics within the Colorado department of labor and employment.
- 2.6** "Fringe benefit" is defined pursuant to the Davis Bacon Act, 29 C.F.R. § 5.23. Fringe benefit includes the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workers affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits.
- 2.7** "Public works project" shall have the same meaning as "public project" as defined in C.R.S. § 8-19-102(2), ~~C.R.S.~~
- i. In accordance with C.R.S. § 8-19-102(2), ~~C.R.S.~~, and C.R.S. § 24-92-102(8), ~~C.R.S.~~, "public works project" is defined as:

- a) any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety and any maintenance programs for the upkeep of such projects, including any such project awarded by any county, including any home rule county, municipality, as defined in C.R.S. § 31-1-101(6), ~~C.R.S.~~ school district, special district, or other political subdivision of the state;
- i. Public works project under rule 2.7(i)(a) does not include any project for which appropriation or expenditure of moneys may be reasonably expected not to exceed five hundred thousand dollars in the aggregate for any fiscal year.
- ii. Public works project under rule 2.7(i)(a) does not include any project under the supervision of the department of transportation for which appropriation or expenditure of funds may be reasonably expected not to exceed one hundred fifty thousand dollars in the aggregate of any fiscal year.
- b) any publicly funded contract for construction entered into by a governmental body of the executive branch of this state which is subject to the "Procurement Code", articles 101 to 112 of title 24, C.R.S.; and
- c) any highway or bridge construction, whether undertaken by the department of transportation or by any political subdivision of this state, in which the expenditure of funds may be reasonably expected to exceed fifty thousand dollars.

2.8 "Site of the project" is defined pursuant to the Davis Bacon Act, 29 C.F.R. § 5.2. Site of the project is the physical place or places where the building or work called for in the contract will remain; and any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project.

2.8.1 Not included in the site of the project are permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular public works contract or project.

2.9 "Worker" is defined pursuant to the Davis Bacon Act, 29 C.F.R. § 5.2. Workers are those whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual.

Rule 3. Eighty Percent Colorado Labor Requirement and Contractor Obligations

3.1 Whenever any public works project financed in whole or in part by funds of the state, counties, school districts, or municipalities of the state of Colorado are undertaken in this state, Colorado labor shall be employed to perform at least eighty percent of the work.

3.2 The contractor shall obtain and maintain the records required pursuant to the law.

3.2.1 The following documentation must be provided by the contractor to the division in the event of an investigation:

- i. taxable wages and fringe benefits for each covered worker on the public works project;
- and
- ii. the required residency documentation for each covered worker on the public works project.

3.3 Each contractor shall retain the documentation required under the law for at least ninety days after the completion of the project.

Rule 4. Waivers of the Eighty Percent Colorado Labor Requirement

4.1 The governmental body financing a public works project shall waive the eighty percent requirement if there is reasonable evidence to demonstrate insufficient Colorado labor to perform the work of the project and if compliance with the law would create an undue burden that would substantially prevent a project from proceeding to completion.

4.1.1 A governmental body that allows a waiver shall post notice of the waiver and a justification for the waiver on its website.

4.1.2 A governmental body shall not impose contractual damages on a contractor for a delay in work due to the waiver process.

Rule 5. Contracts to Provide for Preference of Colorado Labor

5.1 All contracts let for public works financed in whole or in part by funds of the state, counties, school districts, or municipalities of the state of Colorado shall contain provisions for the preference in employment of Colorado labor.

Rule 6. Compliance Standard

6.1 Compliance with the requirements of the law shall be calculated on the total taxable wages and fringe benefits, minus any per diem payments, paid to workers employed directly on the site of the project and who satisfy the definition of Colorado labor.

6.2 In order for a contractor to be found in compliance, eighty percent of total taxable wages plus fringe benefits must be paid to workers who satisfy the definition of Colorado labor and are employed directly on the site of the public works project.

Rule 7. Residency Documentation

7.1 In order for a worker to satisfy the residency requirement, the worker must provide a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last thirty days prior to his or her first date of work on the public works project.

7.1.1 Workers who establish residency during the course of the project may also qualify pursuant to the director's determination.

7.2 The division assesses the acceptability and validity of residency documentation on a case by case basis. The division examines the totality of the circumstances and the evidence provided for each covered worker in the review of residency documentation.

7.2.1 Examples of acceptable residency documentation include:

- i. a valid Colorado driver's license, or
- ii. a valid Colorado state-issued photo identification.

7.2.2 Examples of potentially acceptable residency documentation may include, but are not limited to:

- i. Colorado voter registration;
- ii. utility bill;
- iii. rental lease;
- iv. state income tax returns;
- v. ownership of residential real property in Colorado; and/or
- vi. additional documentation which establishes proof of residency in the State of Colorado.

Rule 8. Complaints

8.1 A person who alleges a potential violation of the law may file a complaint with the division.

8.1.1 Anonymous complaints are not accepted by the division.

8.1.2 Complaints shall be filed using the division-approved form.

8.1.3 The complaint shall include the complainant's signature, contact information, and basis for the complaint. Failure to include this information on the complaint form may result in administrative dismissal of the complaint.

8.2 Upon the receipt of a complaint, the division shall notify the contractor of the complaint in writing via U.S. mail. In the event that the contractor cannot be contacted via U.S. mail, or other circumstances exist which warrant the use of other contact methods, the division shall utilize other methods to contact the contractor.

8.3 The division shall commence the investigation only at the completion of the project.

8.4 The division shall complete any investigation in response to a complaint within ninety days of the date that the division began the investigation.

8.5 Compliance shall be measured over the entirety of the completed project.

8.6 The division shall not investigate or take any other action regarding a complaint filed more than ninety days after the project has been completed.

Rule 9. Investigation Process

9.1 Complaints shall be assigned to division investigators. Investigatory methods utilized by the division may include, but are not limited to:

- i. interviews of the contractor, subcontractor, complainant, workers, and any other relevant parties;
- ii. information gathering, fact-finding, and reviews of written submissions; and

- iii. any other techniques which enable the division to assess the contractor's compliance with the law.

Rule 10. Compliance Determination and Penalties

10.1 After investigating the complaint and assessing the contractor's compliance, the division investigator will issue a determination in writing.

10.1.1 The determination will be provided to the contractor in writing.

10.1.2 The determination will contain information on the extent of the contractor's compliance with the law, and will describe what provisions of the law were adhered to and/or violated.

10.1.3 The determination will contain information on appeal rights and appeal procedures.

10.2 After conducting an investigation of a complaint alleging a violation of the law, if the division determines that a contractor has knowingly violated the requirements by importing labor in excess of that permitted pursuant to the law, the division shall impose a fine on such contractor as follows:

- i. for the first violation, five thousand dollars or an amount equal to one percent of the cost of the contract, whichever is less;
- ii. for the second violation, ten thousand dollars or an amount equal to one percent of the cost of the contract, whichever is less; or
- iii. for the third violation and any violation thereafter, twenty-five thousand dollars or an amount equal to one percent of the cost of the contract, whichever is less.

10.3 If the division has imposed three fines on a contractor pursuant to the law within five years and finds the violations to be egregious, the division may initiate the process to debar the contractor pursuant to C.R.S. § 24-109-105, ~~C.R.S.~~

10.4 The division may dismiss a complaint in its discretion if, after conducting an investigation, the division determines that the circumstances that led to the complaint were the result of a minor paperwork violation.

Rule 11. Appeals and Hearings

11.1 ~~A~~The determination issued by the investigator may be appealed to the division. A contractor who is found to be in violation of the law may appeal such findings to the division.

11.2 A party to the claim who appeals the determination is entitled to an appeals hearing and final agency decision in conformity with the ~~The division shall hold a hearing to review such notice or order and take final action in accordance with the~~ Colorado Administrative Procedure Act, C.R.S. § 24-4-105, ~~C.R.S.~~

11.3 A division hearing officer will preside over the hearing.

11.4 The decision issued by the hearing officer is considered the ~~final agency action~~initial decision. ~~Final agency action is subject to judicial review pursuant to article 4 of title 24, C.R.S. and may be appealed to district court.~~

11.5 Any party to the claim may appeal the hearing officer's initial decision by filing written exceptions with the director of the division within thirty calendar days of the initial decision in accordance with C.R.S. § 24-4-105(14)(a)(II).

11.5.1 A party may file written exceptions with the director of the division via email (cdle_LS_appeals@state.co.us), fax (303-318-8400), or mail/delivery (633 17th Street, Suite 600, Denver, CO 80202).

11.5.2 If no party files written exceptions with the director of the division within thirty calendar days of the initial decision, the initial decision shall become the final agency decision.

11.6 The record on appeal to the director is the division's record of its investigation unless the appealing party files a designation of the record with the division within twenty calendar days of the initial decision in accordance with C.R.S. § 24-4-105(15)(a).

11.7 The director's decision upon review of any exceptions is the final agency decision. Any party to the claim may seek judicial review of this decision in accordance with C.R.S. § 24-4-106.

11.8 Failure to file exceptions in accordance with rule 11.5 shall result in a waiver of the right to judicial review of the final agency decision in accordance with C.R.S. § 24-4-105(14)(c).

Rule 12. Enforcement

12.1 The division shall enforce the requirements of the law in the event of a complaint alleging a potential violation of the requirements of the law.

12.2 The requirements of the law may not be enforced through a private right of action.

Rule 13. Revenue Collected From Fines

13.1 The revenue collected from the fines imposed pursuant to C.R.S. § 8-17-104(2), ~~C.R.S.~~ shall be transmitted to the state treasurer, who shall credit the same to the Colorado labor enforcement cash fund, which is hereby created. The general assembly shall make appropriations from the fund as necessary to cover the direct and indirect costs of the division in connection with the requirements of this law. All moneys not expended or encumbered and all interest earned on the investment or deposit of moneys in the fund remains in the fund and does not revert to the general fund or any other fund at the end of any fiscal year.

Rule 14. Severability

14.1 If any provision of these rules or their application to any person or circumstance is held illegal, invalid, or unenforceable, no other provisions or applications of the rules shall be affected that can be given effect without the illegal, invalid, or unenforceable provision or application, and to this end the provisions of these rules are severable.

Rule 15. Federal and State Law

15.1 Nothing in the law applies to any project that receives federal moneys. If the public works project is financed with any amount of federal money, the public works project is not covered by the provisions of the law.

15.2 Nothing in the law contravenes any existing treaty, law, agreement, or regulation of the United States. Contracts entered into in accordance with any treaty, law, agreement, or regulation of the United States do not violate this article to the extent of that accordance.

15.2.1 The requirements of this law are suspended if such requirement would contravene any treaty, law, agreement, or regulation of the United States, or would cause denial of federal moneys or preclude the ability to access federal moneys that would otherwise be available.

**COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF LABOR STANDARDS AND STATISTICS**

**NOTICE OF PUBLIC HEARING CONCERNING
FIVE PROPOSED SETS OF RULES:**

**RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND
INDUSTRIAL RELATIONS ACT
EMPLOYMENT OPPORTUNITY ACT RULES
SOCIAL MEDIA AND THE WORKPLACE LAW RULES
KEEP JOBS IN COLORADO ACT RULES
WAGE PROTECTION ACT RULES**

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to the adoption of the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act: 7 C.C.R. 1101-1, the Employment Opportunity Act Rules: 7 C.C.R. 1103-4, the Social Media and the Workplace Law Rules: 7 C.C.R. 1103-5, the Keep Jobs in Colorado Act Rules: 7 C.C.R. 1103-6, and the Wage Protection Act Rules: 7 C.C.R. 1103-7 under the authority granted the Division of Labor Standards and Statistics in C.R.S. § 8-1-107(2)(p), § 8-1-103(3), § 8-1-111, § 8-3-105, § 8-2-126(6), § 8-2-127(5), § 8-17-101 et. seq., § 8-4-111(1)(b), § 8-4-111(2)(a)(i), and § 8-4-111.5(1) (2016).

Date and Time of Hearing: **Monday, July 10, 2017, at 1:00 p.m.**

Place of Hearing: **Colorado Division of Labor Standards and Statistics
633 17th Street, Sixth Floor
Denver, CO 80202**

This hearing will be held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101, et seq. (2017), to receive any testimony, written data, views, or arguments that interested parties may wish to submit regarding the proposed rules.

Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act, 7 C.C.R. 1101-1, to clarify and modernize the processes required under the Acts.

The proposed rules differ from the current 7 C.C.R. 1101-1 in the petition process for union elections required under the Act and in the Division's name pursuant to House Bill 16-1323.

Employment Opportunity Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Employment Opportunity Act Rules, 7 C.C.R. 1103-4, to clarify the hearing procedures under C.R.S. § 8-2-126.

The proposed rules differ from the current 7 C.C.R. 1103-4 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Social Media and the Workplace Law Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendment to the Colorado Social Media and the Workplace Law Rules, 7 CCR 1103-5, to clarify the hearing procedures under C.R.S. § 8-2-127.

The proposed rules differ from the current 7 C.C.R. 1103-5 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Keep Jobs in Colorado Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt amendments to the Keep Jobs in Colorado Act Rules, 7 C.C.R. 1103-6, to clarify the hearing procedures under C.R.S. § 8-17-101, et seq.

The proposed rules differ from the current 7 C.C.R. 1103-6 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Wage Protection Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Wage Protection Act Rules, 7 C.C.R. 1103-7, to supplement and clarify the statutory language and to provide a step-by-step guide to the Division's wage complaint process. The proposed rules completely revise the current 7 C.C.R. 1103-7.

Copies of the proposed sets of rules shall be available at least five days before the hearing at www.coloradolaborlaw.gov or:

Colorado Division of Labor Standards and Statistics
633 17th Street, Suite 600
Denver, Colorado 80202

To ensure sufficient time for consideration prior to adopting final rules, comments must be provided to the Division by 5:00 pm on Monday, July 10, 2017. Comments will be accepted at any time prior to the hearing.

Comments may be delivered by mail, faxed to 303-318-8400, or emailed to elizabeth.funk@state.co.us.

Comment Deadline: Monday, July 10, 2017 at 5:00 pm

**STATEMENT OF BASIS AND PURPOSE
FOR
PROPOSED AMENDMENTS TO THE KEEP JOBS IN COLORADO ACT RULES
7 C.C.R. 1103-6**

BASIS: C.R.S. § 8-1-107(2)(p) and § 8-17-101, et seq. (2017) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt and amend rules and regulations pertaining to the implementation of the Keep Jobs in Colorado Act.

PURPOSE: The purpose of the proposed amendments to the Keep Jobs in Colorado Act Rules is to clarify the hearing procedures under C.R.S. § 8-17-101, et seq., and to change the Division's name pursuant to House Bill 16-1323.

Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds that: 1) there is a demonstrated need for the rules; 2) the proper statutory authority exists for the rules; 3) to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply with the rules; 4) the rules do not conflict with other provisions of law; and 5) the duplicating or overlapping of the rules is explained by the agency proposing the rules.

Notice of Proposed Rulemaking

Tracking number

2017-00211

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-7

Rule title

WAGE PROTECTION ACT RULES

Rulemaking Hearing**Date**

07/10/2017

Time

01:00 PM

Location

633 17th Street, Suite 600, Denver, CO 80202

Subjects and issues involved

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Wage Protection Act Rules, 7 C.C.R. 1103-7, to supplement and clarify the statutory language and to provide a step-by-step guide to the Divisions wage complaint process.

Statutory authority

C.R.S. § 8-1-107(2)(p) and § 8-4-101, et seq.

Contact information**Name**

Elizabeth Funk

Title

Rules Administrator

Telephone

303-318-8459

Email

elizabeth.funk@state.co.us

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

WAGE PROTECTION ACT RULES

7 CCR 1103-7

Rule 1. Statement of Purpose and Authority

- 1.1 The general purpose of these Wage Protection Act Rules is to implement the Wage Protection Act of 2014. These rules are adopted pursuant to the division's authority in C.R.S. § 8-1-103(3), § 8-1-107(2)(p), § 8-1-111, and § 8-4-101, et seq.
- 1.2 Title 8, Article 4 of the Colorado Revised Statutes (2016) is hereby incorporated by reference into this rule. Such incorporation excludes later amendments to or editions of the statutes. These statutes are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Suite 600, Denver CO 80202. Copies may be obtained from the Division of Labor Standards & Statistics at a reasonable charge. These statutes can be accessed electronically from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of the statutes incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing the statutes.
- 1.3 These rules are severable. If any section, sentence, clause, or phrase of these rules, or any application thereof, is for any reason held to be invalid or unenforceable, that holding shall not affect the validity of the remaining rules.
- 1.4 The Director of the Division of Labor Standards and Statistics in the Department of Labor and Employment has the authority to enforce § 8-4-101, et seq. and these rules.

Rule 2. Definitions and Clarifications

- 2.1 "Administrative procedure" means the process used by the division to investigate wage complaints in accordance with § 8-4-111.
- 2.2 "Authorized representative" means a person designated by a party to a wage complaint to represent the party during the division's administrative procedure. To designate an authorized representative, the party must comply with the requirements of rule 4.3.
- 2.3 "Average daily earnings," as used in § 8-4-109(3)(b), will be calculated as follows, unless the division identifies a legitimate reason to use a different method of calculation:
- 2.3.1 The most recent typical workweek or pay period will generally be used to calculate the average daily earnings. The total gross amount of wages and compensation will be divided by the number of days worked.

- 2.3.2** If an employee is entitled to and has been paid less than the Colorado minimum wage, and has not earned more than the Colorado minimum wage, then the Colorado minimum wage will be used to calculate average daily earnings.
- 2.3.3** All compensation paid to employees including the hourly rate, shift differential, minimum wage tip credit, regularly occurring non-discretionary bonuses, commissions, and overtime may be included in the average daily earnings calculation.
- 2.4** “Certified copy,” as used in § 8-4-113, means a copy of a final division decision (issued by a compliance investigator or hearing officer) signed by the director of the division, or his or her designee, certifying that the document is a true and accurate copy of the final decision. A certified copy must be requested in writing. A division decision (issued by a compliance investigator or hearing officer) will not be certified unless: either (1) all appeal deadlines have passed and no appeal has been filed or (2) if an appeal was timely filed, the decision was not superseded on appeal. A certified copy will not be issued in the event of termination pursuant to § 8-4-111(3).
- 2.5** “Determination” means a decision issued by a compliance investigator upon the conclusion of a wage complaint investigation. “Determination” includes: Citation and Notice of Assessment, Determination of Compliance, and Notice of Dismissal, if that Notice of Dismissal is issued after the Division initiated the administrative procedure as described in rule 4.4.
- 2.6** The “employer’s correct address,” as used in § 8-4-101(15), can include, but is not limited to, the employer’s email address, the employer’s address on file with the Colorado Secretary of State, and the address of the employer’s registered agent on file with the Colorado Secretary of State.
- 2.7** A wage complaint or an appeal is considered “filed” with the division when it is received by the division via mail, fax, email, online submission, or personal delivery. Any wage complaint, appeal, or termination received after 11:59pm Mountain Time is considered filed the next business day.
- 2.8** When considering whether there is “good cause” for an extension of time, as used in § 8-4-113(1)(b), the division will determine whether the employer’s reason is substantial and reasonable and must take into account all available information and circumstances pertaining to the specific complaint.
- 2.9** “Post,” as used in § 8-4-107, may include electronic posting in a place readily accessible to all employees.
- 2.10** “Records reflecting the information contained in an employee’s itemized pay statement,” as used in § 8-4-103(4.5), may be kept electronically. The records are not required to be copies of the pay statements but must reflect all information contained in the pay statements.
- 2.11** “Terminated employee,” as used in § 8-4-105(1)(e), includes any employee separated from employment, whether the separation occurs by volition of the employer or the employee.

2.12 The division may enforce the tip provisions described in § 8-4-103(6) through the administrative procedure described in § 8-4-111.

2.13 § 8-4-103(1)(b) describes circumstances under which employers are “subject to the penalties specified in section 8-4-113(1).” Despite use of the word “penalty” in this section, this language does refer to the fine described in § 8-4-113(1) and is payable to the division.

2.14 A “written demand,” as used in § 8-4-101(15), can be sent to the employer by electronic means, including but not limited to email and text message. Wages must be owed at the time of sending for the written demand to be considered valid.

Rule 3. Filing A Wage Complaint

3.1 An employee who wishes to file a wage complaint with the division shall use the division-approved form(s).

3.1.1 A wage complaint may only be filed by the employee who did not receive his or her wages or compensation.

3.1.2 A wage complaint shall include the employee’s signature, employee’s contact information, employer’s contact information, and basis for the wage complaint. Failure to include this information on the wage complaint form may result in dismissal of the wage complaint.

3.1.3 The failure of an employee to respond in a timely manner to informational or investigatory requests by the division may result in dismissal of the wage complaint.

3.1.4 If a wage complaint is dismissed before a Notice of Complaint is sent to the employer because the employee failed to respond to a division request for information, the complaint may be reopened if the employee provides the requested information or documentation to the division within 35 days of the division’s request for information. Employees may be required to file a new complaint if the employee’s response is received more than 35 days after the division’s request for information.

3.1.5 The division shall not accept wage complaints for amounts exceeding \$7,500.

3.1.6 An anonymous complaint is not a wage complaint within the meaning of § 8-4-111 and will not be investigated using the division’s administrative procedure. The division may choose to address an anonymous complaint outside of the administrative procedure.

3.2 An employee may pursue a wage complaint through either the court system or the division’s administrative procedure.

3.2.1 Employees are not required to use the division's administrative procedure in order to pursue a wage complaint in court.

3.2.2 The division does not have jurisdiction over any wage complaint that has been adjudicated or is currently being adjudicated by a court of competent jurisdiction.

3.3 The employee may withdraw the wage complaint at any time prior to issuance of a determination by notifying the division.

Rule 4. Investigation

4.1 Wage complaints shall be assigned to division compliance investigators. Investigatory methods used by the division may include:

A. Interviews of the employer, employee, and other parties;

B. Information gathering, fact-finding, and reviews of written submissions; and

C. Any other lawful techniques that enable the division to assess the employer's compliance.

4.2 The division will evaluate wage complaints under the following burden of proof structure:

4.2.1 To initiate a wage complaint, an employee must provide an explanation of the basis for the complaint that is clear, specific, and shows the employee is entitled to relief. The employee must provide sufficient evidence from which both a violation of Colorado wage and hour laws and an estimate of wages due may be reasonably inferred.

4.2.2 The burden then shifts to the employer to prove, by a preponderance of the evidence, that the employee is not entitled to the claimed relief. If the employer fails to meet its burden, the division may award wages and/or penalties to the employee based on the employee's evidence.

4.2.3 If the division concludes that wages are owed to the employee, but cannot calculate the precise amount of wages due, then the division may award a reasonable estimate of wages due.

4.3 Any party to a wage complaint may designate an authorized representative to represent the party during the division's administrative procedure.

4.3.1 The party may designate an authorized representative by filing the division-approved form with the division.

4.3.2 If not using the division-approved form, and the authorized representative is a licensed attorney or accountant, the party or the authorized representative must provide written

notice to the division that the authorized representative will represent the party during the division's administrative procedure.

4.3.3 If not using the division-approved form, and the authorized representative is not a licensed attorney or accountant, the party must provide a signed written notice to the division that the authorized representative will represent the party during the division's administrative procedure.

4.3.4 The party may revoke the authorized representative's authority by contacting the division in writing.

4.4 After receipt of a wage complaint that states a claim for relief, the division will initiate the administrative procedure by sending a Notice of Complaint to the employer, along with any relevant supporting documentation submitted by the employee, via U.S. postal mail, electronic means, or personal delivery.

4.4.1 If the Notice of Complaint cannot be delivered, the administrative procedure has not been initiated. If a proper address is located or provided, the division will resend the Notice of Complaint, and the employer's deadline to respond will be calculated from the date of the subsequent notice.

4.4.2 If the division cannot determine the employer's correct address, it may contact the employee to request the employer's address. The division may dismiss the wage complaint if neither the employee nor the division can determine the employer's correct address.

4.4.3 The employer's response to the Notice of Complaint must include the completed division Employer Response Form, as well as any additional information or documentation requested by the division. An insufficient response from the employer may be considered a failure to respond under § 8-4-113(1)(b).

4.4.4 If an employer obtains a good cause extension to respond under § 8-4-113(1)(b), the extension does not waive or reduce penalties owed to the employee pursuant to § 8-4-109(3)(b) if the employer fails to pay the employee's wages within fourteen days after the Notice of Complaint is sent.

4.5 After receipt and review of the employer's response, the division may contact the employee for additional documentation or information. If the employer denies, in whole or in part, the allegations in the Notice of Complaint, and the division determines further investigation would be beneficial, the division shall send to the employee any relevant supporting documentation submitted by the employer. If the employee does not respond to the request for additional documentation or information by the deadline given, the division will make a determination based on the information in the record.

4.6 All parties to a wage complaint are responsible for ensuring the division has current contact information.

4.6.1 All parties must promptly notify the division of any change in contact information, including mailing address, email address, and phone number.

4.6.2 Parties should not rely on the U.S. Postal Service to forward mail. Failure to respond to a notice because mail was not forwarded to a new address will not be excused.

Rule 5. Determination

5.1 Upon conclusion of the investigation of a wage complaint, the division will issue a determination.

5.1.1 The division shall send the determination to all parties via U.S. postal mail, electronic means, or personal delivery on the date the determination is issued by the division's compliance investigator. The division shall notify the parties of their termination and any appeal rights pursuant to § 8-4-111(3) and § 8-4-111.5(1).

5.1.2 The date of "issuance" of the division's determination, as used in § 8-4-111(3), is the date the division's determination is "sent," as used in § 8-4-111.5(1). Both the termination and appeal deadlines are calculated from the date the division's determination is originally issued and sent to the parties.

5.1.3 If any copies of the decision are sent to the parties after the date the division's determination is originally issued and sent to the parties, those copies are provided only as a courtesy and do not change the thirty-five day appeal and termination deadlines.

Rule 6. Appeal

6.1 Any party to the claim may appeal the division's determination.

6.1.1 Parties are encouraged, though not required, to use the division's appeal form. A valid appeal is a written statement that is timely filed with the division, explains the clear error in the determination that is the basis for the appeal, and has been signed by the party or the party's authorized representative.

6.1.2 No appeal will be heard and no hearing will be held unless the appeal is received by the division within thirty-five calendar days of the date the determination is sent. It is the responsibility of the party filing the appeal to ensure the appeal is received by the division within the thirty-five day filing deadline.

6.1.3 Upon receipt of the appeal, the division will notify the parties of the date of the hearing and any interim deadlines via U.S. postal mail, electronic means, or personal delivery.

6.1.4 Upon receipt of the appeal, the division will send a copy of the appeal and a copy of the record of its investigation to the parties via U.S. postal mail, electronic means, or

personal delivery. All evidence submitted to the division as part of the investigation is part of the record on appeal and need not be resubmitted.

6.2 Parties who timely file a valid appeal of the division's determination will be afforded an administrative appeal hearing before a division hearing officer. Parties may appear by telephone.

6.2.1 The parties may submit new evidence to the hearing officer in accordance with deadlines imposed by the division.

6.2.2 New evidence must be sent to all other parties to the appeal. Failure to send all new evidence to all other parties to the appeal may result in the evidence being excluded from the record.

6.2.3 If the party who filed the appeal does not participate in the hearing, the appeal may be dismissed.

6.2.4 All testimony at a hearing must be recorded by the division but need not be transcribed unless the hearing officer's decision is appealed.

6.2.5 The hearing officer may, upon the application of any party or on his or her own motion, convene a prehearing conference to discuss the issues on appeal, the evidence to be presented, and any other relevant matters that may simplify further proceedings.

6.2.6 The hearing officer will decide whether the division's determination is based on a clear error of fact or law.

6.2.7 The hearing officer shall not engage in ex parte communication with any party to an appeal.

6.3 The hearing officer's decision constitutes a final agency action pursuant to C.R.S. § 24-4-106. The division shall promptly provide all parties with a copy of the hearing officer's decision via U.S. postal mail, electronic means, or personal delivery. The division shall notify the parties of their appeal rights pursuant to § 8-4-111.5(5).

Rule 1. Statement of Purpose

~~The general purpose of the Wage Protection Act Rules, effective January 1, 2015, is to implement the Wage Protection Act of 2014. These rules are adopted pursuant to the Division of Labor's authority in § 8-1-103(3), C.R.S., § 8-1-107(2)(p), C.R.S., § 8-1-111, C.R.S., and § 8-4-101, et. seq., C.R.S.~~

Rule 2. Definitions

2.1 ~~"Citation" means a written determination by the division that a wage payment requirement has been violated.~~

2.2 ~~"Credit" means an arrangement or understanding with the bank or other drawee for the payment of an order, check, draft, note, memorandum, or other acknowledgment of indebtedness.~~

2.3 ~~"Director" means the director of the division of labor or his or her designee.~~

2.4 ~~"Division" means the division of labor in the department of labor and employment.~~

2.5 ~~"Employee" means any person, including a migratory laborer, performing labor or services for the benefit of an employer in which the employer may command when, where, and how much labor or services shall be performed. For the purpose of article 4, title 8, C.R.S., an individual primarily free from control and direction in the performance of the service, both under his or her contract for~~

- the performance of service and in fact, and who is customarily engaged in an independent trade, occupation, profession, or business related to the service performed is not an "employee".
- 2.6** ~~"Employer" means every person, firm, partnership, association, corporation, migratory field labor contractor or crew leader, receiver, or other officer of court in Colorado, and any agent or officer thereof, of the above mentioned classes, employing any person in Colorado; except that the provisions of article 4, title 8, C.R.S., shall not apply to the state or its agencies or entities, counties, cities and counties, municipal corporations, quasi-municipal corporations, school districts, and irrigation, reservoir, or drainage conservation companies or districts organized and existing under the laws of Colorado.~~
- 2.7** ~~"Fine" means any monetary amount assessed against an employer and payable to the division.~~
- 2.8** ~~"Notice of assessment" means a written notice by the division, based on a citation, that the employer shall pay the amount of wages, penalties, or fines assessed.~~
- 2.9** ~~"Notice of complaint" means the letter sent by the division to the employer as described in § 8-4-111(2)(a), C.R.S.~~
- 2.10** ~~"Penalty" means any monetary amount assessed against an employer and payable to an employee.~~
- 2.11** ~~"Wage complaint" means a complaint filed with the division from an employee for unpaid wages alleging that an employer has violated section 15 of article XVIII of the Colorado Constitution, article 4 or article 6 of title 8, C.R.S., or any rule adopted by the director pursuant to article 4 or article 6 of title 8, C.R.S.~~
- 2.12** ~~"Wages" or "compensation" means:~~
- ~~A. All amounts for labor or service performed by employees, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculating the same or whether the labor or service is performed under contract, subcontract, partnership, subpartnership, station plan, or other agreement for the performance of labor or service if the labor or service to be paid for is performed personally by the person demanding payment. No amount is considered to be wages or compensation until such amount is earned, vested, and determinable, at which time such amount shall be payable to the employee pursuant to article 4, title 8, C.R.S.~~
 - ~~B. Bonuses or commissions earned for labor or services performed in accordance with the terms of any agreement between an employer and employee;~~
 - ~~C. Vacation pay earned in accordance with the terms of any agreement. If an employer provides paid vacation for an employee, the employer shall pay upon separation from employment all vacation pay earned and determinable in accordance with the terms of any agreement between the employer and the employee.~~
- 2.12.1** ~~"Wages" or "compensation" does not include severance pay.~~
- 2.13** ~~"Written demand" means any written demand for wages or compensation from or on behalf of an employee, including a notice of complaint, mailed or delivered to the employer's correct address.~~
- Rule 3. Proper Payment — Methods of Payment — Direct Deposit and Paycards**
- 3.1** ~~No employer or agent or officer thereof shall issue, in payment of or as an evidence of indebtedness for wages due an employee, any order, check, draft, note, memorandum, or other acknowledgment of indebtedness unless the same is negotiable and payable upon demand without discount in cash at a bank organized and existing under the general banking laws of the state of Colorado or the United States or at some established place of business in the state.~~
- 3.1.1** ~~The name and address of the drawee shall appear upon the face of the order, check, draft, note, memorandum, or other acknowledgment of indebtedness; except that such provisions shall not apply to a public utility engaged in interstate commerce and otherwise subject to the power of the public utilities commission.~~
- 3.1.2** ~~At the time of the issuance of same, the maker or drawer shall have sufficient funds in or credit with the bank or other drawee for the payment of same. Where such order, check, draft, note, memorandum, or other acknowledgment of indebtedness is protested or dishonored on the ground of insufficiency of funds or credit, the notice of memorandum of protest or dishonor thereof shall be admissible as proof of presentation, nonpayment, and protest.~~

~~3.2 — Nothing in these rules shall prohibit an employer from depositing wages due or to become due or an advance on wages to be earned in an account in any bank, savings and loan association, credit union, or other financial institution authorized by the United States or one of the several states to receive deposits in the United States if the employee has voluntarily authorized such deposit in the financial institution of the employee's choice.~~

~~3.3 — Nothing in these rules shall prohibit an employer from depositing an employee's wages on a paycard, so long as the employee:~~

~~A. — Is provided free means of access to the entire amount of net pay at least once per pay period; or~~

~~B. — May choose to use other means for payment of wages as authorized in rule 3.1 and 3.2.~~

~~3.3.1 — As used in this rule, "paycard" means an access device that an employee uses to receive his or her payroll funds from his or her employer.~~

Rule 4. Payment of Wages — Paydays — Itemized Pay Statements and Tips Notification

~~4.1 — All wages or compensation, other than those mentioned in § 8-4-109, C.R.S., earned by any employee in any employment, other than those specified in § 8-4-103(3), C.R.S., shall be due and payable for regular pay periods of no greater duration than one calendar month or thirty days, whichever is longer, and on regular paydays no later than ten days following the close of each pay period unless the employer and the employee shall mutually agree on any other alternative period of wage or salary payments.~~

~~4.1.1 — An employer is subject to the fine specified in § 8-4-113(1), C.R.S., if, two or more times within any twenty-four month period, the employer causes an employee's check, draft, or order to not be paid because the employer's bank does not honor an employee's paycheck upon presentment. The director may investigate complaints regarding alleged violations of this rule.~~

~~4.2 — Nothing in these rules shall apply to compensation payments due an employee under a profit-sharing plan, a pension plan, or other similar deferred compensation programs.~~

~~4.3 — Every employer shall at least monthly, or at the time of each payment of wages or compensation, furnish to each employee an itemized pay statement in writing showing the following:~~

~~A. — Gross wages earned;~~

~~B. — All withholdings and deductions;~~

~~C. — Net wages earned;~~

~~D. — The inclusive dates of the pay period;~~

~~E. — The name of the employee or the employee's social security number; and~~

~~F. — The name and address of the employer.~~

~~4.4 — An employer shall retain records reflecting the information contained in an employee's itemized pay statement as described in § 8-4-103(4), C.R.S., for a period of at least three years after the wages or compensation were due.~~

~~4.4.1 — The records shall be available for inspection by the division, and the employer shall provide copies of the records upon request by the division or the employee.~~

~~4.4.2 — The director may impose a fine of up to two hundred fifty dollars per employee per month on an employer who violates § 8-4-103(4.5), C.R.S., up to a maximum fine of seven thousand five hundred dollars.~~

~~4.5 — It is unlawful for any employer engaged in any business where the custom prevails of the giving of presents, tips, or gratuities by patrons thereof to an employee of said business to assert any claim to, or right of ownership in, or control over such presents, tips, or gratuities; and such presents, tips, or gratuities shall be the sole property of the employee of said business unless the employer posts in his or her place of business in a conspicuous place a printed card, at least twelve inches by fifteen inches in size, containing a notice to the general public in letters at least one-half inch high that all presents, tips, or gratuities given by any patron of said business to an employee thereof are not the property of said employee but belong to the employer.~~

~~4.5.1 — Nothing in rule 4.5 shall prevent an employer covered hereby from requiring employees to share or allocate such presents, tips, or gratuities on a preestablished basis among the employees of such business.~~

Rule 5. Payroll Deductions

- ~~5.1 — No employer shall make a deduction from the wages or compensation of an employee except as follows:~~
- ~~A. — Deductions mandated by or in accordance with local, state, or federal law including, but not limited to, deductions for taxes, "Federal Insurance Contributions Act" ("FICA") requirements, garnishments, or any other court-ordered deduction;~~
 - ~~1. — Deductions for contributions attributable to automatic enrollment in an employee retirement plan, as defined in § 8-4-105.5, C.R.S., regardless of whether the plan is subject to the federal "Employee Retirement Income Security Act of 1974", as amended;~~
 - ~~B. — Deductions for loans, advances, goods or services, and equipment or property provided by an employer to an employee pursuant to a written agreement between such employer and employee, so long as it is enforceable and not in violation of law;~~
 - ~~C. — Any deduction necessary to cover the replacement cost of a shortage due to theft by an employee if a report has been filed with the proper law enforcement agency in connection with such theft pending a final adjudication by a court of competent jurisdiction; except that, if the accused employee is found not guilty in a court action or if criminal charges related to such theft are not filed against the accused employee within ninety days after the filing of the report with the proper law enforcement agency, or such charges are dismissed, the accused employee shall be entitled to recover any amount wrongfully withheld plus interest. In the event an employer acts without good faith, in addition to the amount wrongfully withheld and legally proven to be due, the accused employee may be awarded an amount not to exceed treble the amount wrongfully withheld. In any such action the prevailing party shall be entitled to reasonable costs related to the recovery of such amount including attorney fees and court costs;~~
 - ~~D. — Any deduction, not listed in (A), (B), or (C) of rule 5.1, that is authorized by an employee if the authorization is revocable, including deductions for hospitalization and medical insurance, other insurance, savings plans, stock purchases, supplemental retirement plans, charities, and deposits to financial institutions;~~
 - ~~E. — A deduction for the amount of money or the value of property that the employee failed to properly pay or return to the employer in the case where a terminated employee was entrusted during his or her employment with the collection, disbursement, or handling of such money or property.~~
 - ~~1. — The employer shall have ten calendar days after the termination of employment to audit and adjust the accounts and property value of any items entrusted to the employee before the employee's wages or compensation shall be paid as provided in § 8-4-109, C.R.S. This is an exception to the pay requirements in § 8-4-109, C.R.S. The penalty provided in § 8-4-109, C.R.S., shall apply only from the date of demand made after the expiration of the ten-day period allowed for payment of the employee's wages or compensation.~~
 - ~~2. — If, upon such audit and adjustment of the accounts and property value of any items entrusted to the employee, it is found that any money or property entrusted to the employee by the employer has not been properly paid or returned the employer as provided by the terms of any agreement between the employer and the employee, the employee shall not be entitled to the benefit of payment pursuant to § 8-4-109, C.R.S., but the claim for unpaid wages or compensation of such employee shall be disposed of as provided for by article 4, title 8, C.R.S.~~
- ~~5.2 — Nothing in this section authorizes a deduction below the minimum wage applicable under the "Fair Labor Standards Act of 1938", 29 U.S.C. § 201 et seq.~~

Rule 6. Early Payment of Wages Permitted

- ~~6.1 — Nothing contained in article 4, title 8, C.R.S., shall in any way limit or prohibit the payment of wages or compensation at earlier dates, or at more frequent intervals, or in greater amounts, or in full when or before due.~~

Rule 7. Post Notice of Paydays

- ~~7.1 — Every employer shall post and keep posted conspicuously at the place of work if practicable, or otherwise where it can be seen as employees come or go to their places of work, or at the office~~

or nearest agency for payment kept by the employer a notice specifying the regular paydays and the time and place of payment, in accordance with the provisions of § 8-4-103, C.R.S., and also any changes concerning them that may occur from time to time.

- 8.1** — ~~When an interruption in the employer-employee relationship by volition of the employer occurs, the wages or compensation for labor or service earned, vested, determinable, and unpaid at the time of such discharge is due and payable immediately. If at such time the employer's accounting unit, responsible for the drawing of payroll checks, is not regularly scheduled to be operational, then the wages due the separated employee shall be made available to the employee no later than six hours after the start of such employer's accounting unit's next regular workday; except that, if the accounting unit is located off the work site, the employer shall deliver the check for wages due the separated employee no later than twenty-four hours after the start of such employer's accounting unit's next regular workday to one of the following locations selected by the employer:~~

~~A. — The work site;~~

~~B. — The employer's local office; or~~

~~C. — The employee's last known mailing address.~~

- 8.2** — ~~When an employee quits or resigns such employee's employment, the wages or compensation shall become due and payable upon the next regular payday. When a separation of employment occurs, the employer shall make the separated employee's check for wages due available at one of the following locations selected by the employer:~~

~~A. — The work site;~~

~~B. — The employer's local office; or~~

~~C. — The employee's last known mailing address.~~

- 8.3** — ~~If an employer has made the employee's wages or compensation available at the work site or at the employer's local office under § 8-4-109(1)(a)-(b), C.R.S., and the employee has not received the wages or compensation within sixty days after the wages or compensation were due, the employer shall mail the employee's check for wages or compensation due to the employee's last known mailing address.~~

- 8.4** — ~~Nothing in § 8-4-109(1), C.R.S., shall limit the right of an employer to set off any deductions pursuant to § 8-4-105, C.R.S., owing by the employee to the employer or require the payment at the time employment is severed of compensation not yet fully earned under the compensation agreement between the employee and employer, whether written or oral.~~

- 8.5** — ~~If an employer refuses to pay wages or compensation in accordance with § 8-4-109(1), C.R.S., the employee, his or her designated agent, or the division may send a written demand for the payment.~~

~~**8.5.1** — If the employer disputes the amount of wages or compensation claimed by an employee under article 4, title 8, C.R.S., and if, within fourteen days after the written demand is sent, the employer makes a legal tender of the amount that the employer in good faith believes is due, the employer shall not be liable for any penalty unless, in a legal proceeding, including a civil action or an administrative procedure under § 8-4-111, C.R.S., and § 8-4-111.5, C.R.S., the employee recovers a greater sum than the amount so tendered.~~

- 8.6** — ~~If an employee's earned, vested, and determinable wages or compensation is not paid within fourteen days after the written demand is sent in the manner set forth in § 8-4-109(3)(d), C.R.S., the employer shall be liable to the employee for the wages or compensation, and a penalty of the sum of the amount of wages or compensation due or, if greater, the employee's average daily earnings for each day, not to exceed ten days, until such payment or other settlement satisfactory to the employee is made:~~

~~A. — One hundred twenty-five percent of that amount of such wages or compensation up to and including seven thousand five hundred dollars.~~

- ~~8.7 If the employee can show that the employer's failure to pay is willful, the penalty required under § 8-4-109(3)(b), C.R.S., shall increase by fifty percent. Evidence that a judgment has, within the previous five years, been entered against the employer for failure to pay wages or compensation is admissible as evidence of willful conduct.~~
- ~~8.8 Penalties established by § 8-4-109(3), C.R.S., apply to actions instituted by the director under article 4, title 8, C.R.S., when no interruption of the employer-employee relationship has occurred.~~
- ~~8.9 The employer shall send or deliver payment, by check, draft or voucher in the employee's name, to the employee at the address contained in the written demand; or make the payment by direct deposit authorized under § 8-4-102(2), C.R.S., if the employee has not revoked the authorization.~~
- ~~8.9.1 The employer may, but is not required to, make the payment by direct deposit to an account specified by the employee in the demand, even if the employee has not previously authorized direct deposit of the employee's compensation, or make the payment by another method requested by the employee in the demand, if applicable.~~
- ~~8.9.2 If the employee has not previously authorized direct deposit of compensation and the demand does not state an address to which the payment should be mailed, the employer shall make the payment as follows:~~
- ~~A. To the employee's last known address according to the records of the employer;~~
- ~~or~~
- ~~B. If applicable and if the employer so elects, as otherwise requested by the employee in the demand.~~
- ~~8.10 The employee or his or her designated agent may commence a civil action to recover the penalty set forth in § 8-4-109(3), C.R.S. For an action filed in a small claims court, established pursuant to part 4 of article 6 of title 13, C.R.S., if the employer has not received a written demand at least fourteen days before the employer is served with the complaint or other document commencing the action, service of the complaint or other document serves as the written demand under § 8-4-109(3), C.R.S. If an employer makes a legal tender of the full amount claimed in the action within fourteen days after service of the complaint or other document commencing the action, the employee shall dismiss the action.~~

Rule 9. Wage Complaint Adjudication – Administrative Procedure

- ~~9.1 An employee may pursue a wage complaint through either the court system or the division's administrative procedure. Employees may elect either option, and are not required to utilize the division's administrative procedure in order to pursue a wage complaint in court. However, § 8-4-111(2)(e), C.R.S., provides that: upon payment by an employer, and acceptance by an employee, of all wages, compensation, and penalties assessed by the division in a citation and notice of assessment issued to the employer, the payment shall constitute a full and complete satisfaction by the employer and bar the employee from initiating or pursuing any civil action or other administrative proceeding based on the wage complaint addressed by the citation and notice of assessment.~~
- ~~9.1.1 The administrative procedure applies to wages and compensation earned on and after January 1, 2015.~~
- ~~9.1.2 The administrative procedure is subject to a dollar limit for nonpayment of wages or compensation of seven thousand five hundred dollars or less, exclusive of penalties and fines.~~
- ~~9.1.3 Wage complaints of employees where no interruption of the employer-employee relationship has occurred are subject to the administrative procedure.~~
- ~~9.2 An employee who wishes to file a wage complaint with the division shall utilize the division-approved form. An employee may designate an authorized representative.~~
- ~~9.2.1 A wage complaint may only be filed by the employee who has been directly affected by the employer's alleged violations. The complainant shall be the specific employee who has not received his or her wages or compensation, or who has been affected by other non-monetary violations under the division's authority.~~
- ~~9.2.2 A wage complaint shall include the complainant's signature, complainant's contact information, the employer's contact information, and basis for the wage complaint. Failure~~

to include this information on the wage complaint form may result in administrative dismissal of the wage complaint.

9.2.3 ~~The failure of a complainant to respond to informational or investigatory requests by the division may result in administrative dismissal of the wage complaint.~~

Rule 10. Notice of Complaint

10.1 ~~The division shall initiate the administrative procedure by sending a notice of complaint to the employer by mail or electronic means. An employer who is subject to a wage complaint shall be notified in writing of the wage complaint by the division via U.S. postal mail, electronic means, or personal delivery. In the event that the employer cannot be contacted via U.S. postal mail, electronic means, or personal delivery, or other circumstances exist which the division deems to warrant the use of other contact methods, the division shall utilize other methods to contact the employer.~~

10.1.2 ~~The notice of complaint provided by the division to the employer shall include:~~

- ~~A. The name of the complainant;~~
- ~~B. The nature of the wage complaint; and~~
- ~~C. The amount for which the employer may be liable, including any potential fines or penalties.~~

10.2 ~~An employer shall respond to the division within fourteen days after the notice of complaint is sent.~~

10.3 ~~The division's notice of complaint filed pursuant to § 8-4-111(2), C.R.S., satisfies the requirement of a written demand as described in § 8-4-109(3)(a), C.R.S.~~

Rule 11. Investigations

11.1 ~~Wage complaints shall be assigned to division investigators. Investigatory methods utilized by the division may include, but are not limited to:~~

- ~~A. Interviews of the employer, employee, and other parties;~~
- ~~B. Information gathering, fact finding, and reviews of written submissions;~~
- ~~C. Any other techniques which enable the division to assess the employer's compliance.~~

Rule 12. Citation and Notice of Assessment

12.1 ~~The division shall issue a determination within ninety days after the notice of complaint is sent unless the division extends the time period by providing advance written notice to the employee and employer stating good cause for the extension of time.~~

12.2 ~~If the division does not find a violation based on the wage complaint and any response, including the failure by the employee to pursue the wage complaint, the division shall issue a notice of dismissal of the wage complaint and send the notice of dismissal to all interested parties. The notice will set forth the employee's rights to any other relief available under § 8-4-111(2)(b), C.R.S., or § 8-4-111.5, C.R.S.~~

12.3 ~~If the division determines that an employer has violated article 4, title 8, C.R.S., for nonpayment of wages or compensation, the division shall issue a citation and notice of assessment for the amount determined that is owed, which amount will include all wages and compensation owed, penalties pursuant to § 8-4-109, C.R.S., and any fines pursuant to § 8-4-113, C.R.S.~~

12.4 ~~To encourage compliance by the employer, if the employer pays the employee all wages and compensation owed within fourteen days after the citation and notice of assessment is sent to the employer, the division may waive or reduce any fines imposed pursuant to § 8-4-113(1), C.R.S., and reduce by up to fifty percent penalties imposed pursuant to § 8-4-109, C.R.S.~~

12.5 ~~Upon payment by an employer, and acceptance by an employee, of all wages, compensation, and penalties assessed by the division in a citation and notice of assessment issued to the employer, the payment shall constitute a full and complete satisfaction by the employer and bar the employee from initiating or pursuing any civil action or other administrative proceeding based on the wage complaint addressed by the citation and notice of assessment.~~

Rule 13. Fines Pursuant to Enforcement

13.1 ~~If a case against an employer is enforced pursuant to § 8-4-111, C.R.S., any employer who without good faith legal justification fails to pay the wages of each of his or her employees shall forfeit to the people of the state of Colorado a fine in an amount determined by the director or hearing officer but no more than the sum of fifty dollars per day for each such failure to pay each employee, commencing from the date that such wages first became due and payable.~~

- ~~13.1.1 The division may collect the fine through its citation and notice of assessment issued pursuant to § 8-4-111(2), C.R.S., or after a hearing conducted pursuant to § 8-4-111.5, C.R.S.~~
- ~~13.2 The director or hearing officer shall impose a fine of two hundred fifty dollars on an employer who fails to respond to a notice of complaint or to any other notice from the division to which a response is required.~~
- ~~13.2.1 The director or hearing officer may waive or reduce the fine only if he or she finds good cause for an extension of the time for the employer to file the response.~~
- ~~13.3 A certified copy of any citation, notice of assessment, or order imposing wages due, fines or penalties pursuant to article 4, title 8, C.R.S., may be filed with the clerk of any court having jurisdiction over the parties at any time after the entry of the order. The certified copy shall be recorded by the clerk of the district court in the judgment book of said court and entry thereof made in the judgment docket, and it shall thenceforth have all the effect of a judgment of the district court, and execution may issue thereon out of said court as in other cases.~~
- ~~13.4 The division shall transmit all fines collected pursuant to § 8-4-113, C.R.S., to the state treasurer, who shall credit the same to the wage theft enforcement fund. The moneys in the fund are subject to annual appropriation by the general assembly to the division for the direct and indirect costs associated with implementing article 4, title 8, C.R.S.~~

Rule 14. Termination of Division's Administrative Procedure

- ~~14.1 An employee who has filed a wage complaint with the division pursuant to § 8-4-111(2), C.R.S., may elect to terminate the division's administrative procedure within thirty-five days after the issuance of the determination of compliance or citation and notice of assessment by providing a written notice to the division.~~
- ~~14.2 An employee who terminates the division's administrative procedure preserves any private right of action the employee may have.~~
- ~~14.3 Upon receipt of the written notice of termination, the division shall immediately discontinue its action against the employer and revoke any citation and notice of assessment sent. The division will notify the employer in writing that the action has been discontinued and any citation and notice of assessment sent has been revoked.~~

Rule 15. Appeals and Hearings

- ~~15.1 Any interested party who is dissatisfied with the division's compliance determination on a wage complaint filed pursuant to § 8-4-111(2), C.R.S., may file a request for an administrative appeals hearing within thirty-five days after the division's compliance determination is sent.~~
- ~~15.1.1 If no request is filed within the thirty-five day period, the division's compliance determination is considered the division's final agency decision.~~
- ~~15.1.2 The division's compliance determination shall contain information on appeal rights and appeal procedures.~~
- ~~15.2 Parties who wish to appeal the division's compliance determination are afforded an administrative appeals hearing and a final agency decision in conformity with § 8-4-111.5, C.R.S.~~
- ~~15.2.1 A division hearing officer shall preside over the administrative appeals hearing.~~
- ~~15.3 The hearing officer's decision constitutes a final agency action pursuant to § 24-4-106, C.R.S.~~
- ~~15.4 Any party to the division's administrative appeals hearing may appeal the hearing officer's decision only by commencing an action for judicial review in the district court of competent jurisdiction within thirty-five days after the date of mailing of the decision by the division.~~
- ~~15.4.1 Judicial review is limited to appeal briefs and the record designated on appeal.~~

Rule 16. Limitation of Actions

- ~~16.1 All actions brought pursuant to article 4, title 8, C.R.S., shall be commenced within two years after the cause of action accrues and not after that time; except that all actions brought for a willful violation of article 4, title 8, C.R.S., shall be commenced within three years after the cause of action accrues and not after that time.~~
- ~~16.2 Nothing in these rules shall be construed to limit the right of the division to pursue any action available with respect to an employee that is identified as a result of a wage complaint or with respect to an employer in the absence of a wage complaint.~~

~~16.3 — Any person claiming to be aggrieved by violation of any provisions of article 4, title 8, C.R.S. or regulations prescribed pursuant to article 4, title 8, C.R.S. may file suit in any court having jurisdiction over the parties without regard to exhaustion of any administrative remedies.~~

~~Rule 17. Claims Other Than Those Considered by the Division~~

~~17.1 — Nothing in these rules shall be construed to limit the right of the employee to pursue any civil action or administrative proceeding for any claims other than those considered by the division in the employee's wage complaint. The claims considered by the division in the employee's wage complaint are subject to the limitations set forth in § 8-4-111(2)(e), C.R.S., and § 8-4-111(3), C.R.S.—~~

~~Rule 18. Nonwaiver of Employee Rights~~

~~18.1 — Any agreement, written or oral, by any employee purporting to waive or to modify such employee's rights in violation of article 4, title 8, C.R.S., shall be void.~~

~~Rule 19. Enforcement~~

~~19.1 — The director of the division of labor in the department of labor and employment shall enforce the Wage Protection Act and these rules.~~

~~Rule 20. Severability~~

~~20.1 — If any provision of these rules or their application to any person or circumstance is held illegal, invalid, or unenforceable, no other provisions or applications of the rules shall be affected that can be given effect without the illegal, invalid, or unenforceable provision or application, and to this end the provisions of these rules are severable.~~

**COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF LABOR STANDARDS AND STATISTICS**

**NOTICE OF PUBLIC HEARING CONCERNING
FIVE PROPOSED SETS OF RULES:**

**RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND
INDUSTRIAL RELATIONS ACT
EMPLOYMENT OPPORTUNITY ACT RULES
SOCIAL MEDIA AND THE WORKPLACE LAW RULES
KEEP JOBS IN COLORADO ACT RULES
WAGE PROTECTION ACT RULES**

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to the adoption of the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act: 7 C.C.R. 1101-1, the Employment Opportunity Act Rules: 7 C.C.R. 1103-4, the Social Media and the Workplace Law Rules: 7 C.C.R. 1103-5, the Keep Jobs in Colorado Act Rules: 7 C.C.R. 1103-6, and the Wage Protection Act Rules: 7 C.C.R. 1103-7 under the authority granted the Division of Labor Standards and Statistics in C.R.S. § 8-1-107(2)(p), § 8-1-103(3), § 8-1-111, § 8-3-105, § 8-2-126(6), § 8-2-127(5), § 8-17-101 et. seq., § 8-4-111(1)(b), § 8-4-111(2)(a)(i), and § 8-4-111.5(1) (2016).

Date and Time of Hearing: **Monday, July 10, 2017, at 1:00 p.m.**

Place of Hearing: **Colorado Division of Labor Standards and Statistics
633 17th Street, Sixth Floor
Denver, CO 80202**

This hearing will be held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101, et seq. (2017), to receive any testimony, written data, views, or arguments that interested parties may wish to submit regarding the proposed rules.

Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act, 7 C.C.R. 1101-1, to clarify and modernize the processes required under the Acts.

The proposed rules differ from the current 7 C.C.R. 1101-1 in the petition process for union elections required under the Act and in the Division's name pursuant to House Bill 16-1323.

Employment Opportunity Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Employment Opportunity Act Rules, 7 C.C.R. 1103-4, to clarify the hearing procedures under C.R.S. § 8-2-126.

The proposed rules differ from the current 7 C.C.R. 1103-4 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Social Media and the Workplace Law Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendment to the Colorado Social Media and the Workplace Law Rules, 7 CCR 1103-5, to clarify the hearing procedures under C.R.S. § 8-2-127.

The proposed rules differ from the current 7 C.C.R. 1103-5 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Keep Jobs in Colorado Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt amendments to the Keep Jobs in Colorado Act Rules, 7 C.C.R. 1103-6, to clarify the hearing procedures under C.R.S. § 8-17-101, et seq.

The proposed rules differ from the current 7 C.C.R. 1103-6 in the hearing requirements and in the Division's name pursuant to House Bill 16-1323.

Wage Protection Act Rules:

It is proposed that the Director of the Division of Labor Standards and Statistics adopt the amendments to the Colorado Wage Protection Act Rules, 7 C.C.R. 1103-7, to supplement and clarify the statutory language and to provide a step-by-step guide to the Division's wage complaint process. The proposed rules completely revise the current 7 C.C.R. 1103-7.

Copies of the proposed sets of rules shall be available at least five days before the hearing at www.coloradolaborlaw.gov or:

Colorado Division of Labor Standards and Statistics
633 17th Street, Suite 600
Denver, Colorado 80202

To ensure sufficient time for consideration prior to adopting final rules, comments must be provided to the Division by 5:00 pm on Monday, July 10, 2017. Comments will be accepted at any time prior to the hearing.

Comments may be delivered by mail, faxed to 303-318-8400, or emailed to elizabeth.funk@state.co.us.

Comment Deadline: Monday, July 10, 2017 at 5:00 pm

**STATEMENT OF BASIS AND PURPOSE
FOR
PROPOSED AMENDMENTS TO THE WAGE PROTECTION ACT RULES
7 C.C.R. 1103-7**

BASIS: C.R.S. § 8-1-107(2)(p) and § 8-4-101, et seq. (2017) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt rules and regulations pertaining to the implementation of the Wage Protection Act.

PURPOSE: The purpose of the proposed amendments to the Wage Protection Act Rules is to supplement and clarify the statutory language and provide a step-by-step guide to the Division's wage complaint process.

Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds that: 1) there is a demonstrated need for the rules; 2) the proper statutory authority exists for the rules; 3) to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply with the rules; 4) the rules do not conflict with other provisions of law; and 5) the duplicating or overlapping of the rules is explained by the agency proposing the rules.

Notice of Proposed Rulemaking

Tracking number

2017-00221

Department

1505 - Department of State

Agency

1505 - Secretary of State

CCR number

8 CCR 1505-1

Rule title

ELECTIONS

Rulemaking Hearing

Date

07/11/2017

Time

10:00 AM

Location

Aspen Conference Room on the 3rd floor of the Secretary of States Office at 1700 Broadway, Denver, Colorado 80290

Subjects and issues involved

The Secretary is considering rule revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly; establish uniformity in the administration of current law; organize existing rules for clarity; eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute; and ensure consistency with Department rulemaking standards. The Secretary may consider additional rule amendments.

Statutory authority

Sections 1-4-101(2)(b) and 1-4-1203(6), C.R.S. (2017). Sections 1-1-107(2)(a); 1-1-109; 1-1.5-104(1)(b); 1-1.5-104(1)(e); 1-2-701(1) and (2); 1-2-217.7(7); 1-7-515(4); 1-7.5-104; 1-7.5-105; 1-7.5-106; 1-7.5-107(6), C.R.S., (2016).

Contact information

Name

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Title

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Preliminary Draft of Proposed Rules

Office of the Colorado Secretary of State Election Rules 8 CCR 1505-1

May 31, 2017

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the July 11, 2017 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **July 6, 2017**.²

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>Italic blue font text</i>	Annotations

1 *Amendments to 8 CCR 1505-1 follow:*

2 *Amendments to Rule 1 concerning definitions and numbering:*

3 *New Rule 1.1.10:*

4 1.1.10 "CAST VOTE RECORD" OR "CVR" MEANS THE AGGREGATED BALLOT-LEVEL DATA ON
5 BALLOTS COUNTED, CONSISTING OF A SINGLE RECORD FOR EACH BALLOT TABULATED,
6 SHOWING THE MANNER IN WHICH THE VOTING SYSTEM INTERPRETED AND TABULATED
7 THE VOTER'S MARKINGS ON THE BALLOT, AS ADJUDICATED AND RESOLVED BY ELECTION
8 JUDGES, IF APPLICABLE.

9 *[Not shown: renumbering Current Rules 1.1.10-1.1.31 as Rules 1.1.11-1.1.32]*

10 *New Rules 1.1.33 and 1.1.34:*

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2016). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2016). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

1 1.1.33 "PERSONALLY IDENTIFIABLE INFORMATION" MEANS INFORMATION ABOUT AN
2 INDIVIDUAL THAT CAN BE USED TO DISTINGUISH OR TRACE AN INDIVIDUAL'S IDENTITY,
3 SUCH AS AN ELECTOR'S SOCIAL SECURITY NUMBER, DRIVER'S LICENSE NUMBER, EMAIL
4 ADDRESS, MONTH AND DAY OF BIRTH, AND SIGNATURE.

5 *[Not shown: renumbering Current Rules 1.1.32-1.1.49 as Rules 1.1.34-1.1.51]*

6 *Amendments to Rule 2.3.1 concerning voter registration:*

7 2.3.1 The county must process the Help America Vote Verification file on at least a monthly
8 basis by verifying social security numbers and ~~remove~~ REMOVING the "ID required"
9 FLAG FROM verified records.

10 *New Rule 2.5.4 concerning affiliation in primary elections:*

11 2.5.4 IF AN UNAFFILIATED ELECTOR WHO HAS ALREADY BEEN MAILED A PRIMARY ELECTION
12 BALLOT PACKET SUBMITS AN AFFILIATION DECLARATION, THE COUNTY CLERK MUST
13 DEFER PROCESSING THE AFFILIATION CHANGE UNTIL AFTER THE PRIMARY ELECTION;
14 EXCEPT THAT AN UNAFFILIATED ELECTOR WHO APPEARS IN PERSON TO VOTE MAY
15 AFFILIATE AND VOTE A PARTY BALLOT IF THE COUNTY CLERK HAS NOT RECEIVED THE
16 ELECTOR'S VOTED MAIL BALLOT.

17 *Amendments to Rule 2.12.1 concerning list maintenance:*

18 2.12 List Maintenance under section 8 of the National Voter Registration Act of 1993

19 2.12.1 The Secretary of State will provide monthly National Change of Address (NCOA) data
20 under section 1-2-302.5, C.R.S., to the county clerk by the fifth BUSINESS DAY of each
21 month.

22 *Amendments to Rule 2.13 concerning voter registration at VSPCs and repeal of Rule 2.13.2:*

23 2.13 Voter registration at a voter service and polling center.

24 ~~2.13.1~~—A person registering voters or updating voter registration information in a voter service
25 and polling center must:

26 (a)-2.13.1 Be an election judge, a permanent or temporary county employee, state
27 employee, or temporary staff hired by the county clerk; and

28 (b)-2.13.2 Complete a training course provided by or approved by the Secretary of
29 State.

30 ~~2.13.2~~—For the purpose of providing information to watchers, the person registering voters or
31 updating voter registration information in a voter service and polling center must
32 maintain a log that includes the name and residential address of each elector who
33 registers or updates his or her registration record, or verbally confirm each elector's name
34 and residential address.

35 *New Rules 2.14.4 and 2.14.5 concerning voter registration records and data and renumbering:*

1 2.14.4 WITHOUT WRITTEN AUTHORIZATION FROM THE SECRETARY OF STATE, THE COUNTY
2 CLERK MAY NOT RUN OR SCHEDULE TO RUN SCORE REPORTS OR EXPORTS THAT
3 INCLUDE VOTER OR ELECTION DETAIL DURING REGULAR BUSINESS HOURS BEGINNING 22
4 DAYS BEFORE ELECTION DAY AND FROM 7:00 AM TO 7:00 PM ON ELECTION DAY.

5 2.14.5 THE COUNTY CLERK MUST SUBMIT ANY REQUEST FOR SCORE STATEWIDE REPORTS OR
6 EXPORTS TO THE SECRETARY OF STATE.

7 ~~2.14.4~~ 2.14.6 Custodianship of Voter Registration Information

8 (a) The Secretary of State is the official custodian of the information contained in the
9 centralized statewide registration system and the computerized statewide voter
10 registration list created and maintained under section 1-2-301, C.R.S.

11 (b) Each county clerk is the official custodian of the voter registration information
12 only for electors within his or her county.

13 ~~2.14.5~~ 2.14.7 If a person requests a certificate of registration or other election record that
14 contains personally identifiable information, he or she must provide a copy of
15 identification as defined in section 1-1-104(19.5), C.R.S.

16 *Amendments to Rule 2.15.1 concerning SCORE username and password administration:*

17 2.15.1 The state user administrator assigns county user administrator privileges to the individual
18 designated in each county by the county clerk. The county clerk OR ELECTION
19 ADMINISTRATOR must submit a request for county user administrator privilege to the
20 state user administrator in writing. The request must specifically state the full name of the
21 county employee that is being assigned as a county user administrator.

22 *New Rule 2.17 concerning ballot preference for unaffiliated voters:*

23 2.17 IF AN UNAFFILIATED ELECTOR INDICATES A POLITICAL PARTY BALLOT PREFERENCE AT ANY TIME
24 UP TO AND INCLUDING THE TWENTY-NINTH DAY BEFORE A PRIMARY ELECTION, THE COUNTY
25 CLERK MUST RECORD THE SELECTION IN SCORE AND MAIL ONLY THE BALLOT OF THAT
26 POLITICAL PARTY TO THE ELECTOR IN THE NEXT PRIMARY ELECTION. AN ELECTOR'S POLITICAL
27 PARTY BALLOT PREFERENCE IS ONLY EFFECTIVE FOR A SINGLE PRIMARY ELECTION.

28 *Repeal of Rule 4.5.2(d) concerning determination of ballot issues and texts:*

29 4.5.2 Each political subdivision must determine the order of the ballot issues for their political
30 subdivision in accordance with the requirements of Colorado Constitution Article X,
31 Section 20 and Title 1.

32 ~~(d) — For statewide measures, initiatives must be numbered in the order in which the~~
33 ~~statements of sufficiency are issued. The numbers one through five must be~~
34 ~~reserved for initiatives to increase taxes; the numbers six through ten must be~~
35 ~~reserved for initiatives to retain excess revenues; the numbers eleven through~~
36 ~~fifteen must be reserved for initiatives to increase debt; all other citizen petitions~~
37 ~~must be numbered consecutively beginning with sixteen.~~

1 ~~(e)~~(D) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or referred,
2 every proposed change to the Colorado Constitution must be called an
3 “amendment” and every proposed change to the Colorado Revised Statutes must
4 be called a “proposition”

5 ~~(f)~~(E) Ballot issues from the various political subdivisions must be ordered on the ballot
6 as provided in section 1-5-407(5), C.R.S:

7 *Amendments to Rule 4.8.3(a) concerning ballot format and printing:*

8 4.8.3 Printing primary election ballots

9 (a) If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates
10 more than one candidate for any office, the county clerk must conduct the
11 primary election for all major political parties UNLESS THE PARTY CHOOSES TO
12 NOMINATE CANDIDATES IN ACCORDANCE WITH SECTION 1-4-702, C.R.S.

13 (1) The county clerk must include on the ballot all offices to which
14 candidates may be nominated in the primary election.

15 (2) If there are no candidates for any particular office, the county clerk must
16 print on the ballot “There are no candidates for this office”.

17 [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.1.1]

18 *Amendments to Rules 7.2.5, 7.2.7, 7.2.9, and New Rules 7.2.10 through 7.2.12 concerning ballots and*
19 *ballot packets in primary elections:*

20 7.2.5 ~~Effective January 1, 2016, each~~ EACH mail ballot return envelope and mail ballot
21 instruction must include a statement informing voters that it is a violation of law to
22 receive more than ten ballots for mailing or delivery in any election.

23 7.2.7 A county must issue a mail ballot to any eligible elector who requests one in person at the
24 county clerk’s office or the office designated in the county’s mail ballot plan beginning
25 32 days before an election. ~~[Section 1-7.5-107(2.7), C.R.S.]~~

26 7.2.9 ~~On all ballot return envelopes printed after April 1, 2016, the~~ THE county clerk must
27 provide a space on the ballot-return envelope for a witness to the elector’s mark to
28 provide his or her full legal name.

29 7.2.10 MAIL BALLOT RETURN ENVELOPES FOR UNAFFILIATED VOTERS IN A PRIMARY ELECTION
30 MAY PROVIDE A MEANS FOR THE COUNTY TO DETERMINE, BEFORE OPENING THE
31 ENVELOPE, WHICH PARTY’S PRIMARY ELECTION THE ELECTOR VOTED IN. IF THE MAIL
32 BALLOT RETURN ENVELOPE DOES NOT PROVIDE SUCH A MEANS, THE COUNTY MUST
33 FOLLOW THE PROCESS OUTLINED IN RULE 7.5.13.

34 7.2.11 EACH MAIL BALLOT RETURN ENVELOPE AND MAIL BALLOT INSTRUCTION FOR AN
35 UNAFFILIATED VOTER IN A PRIMARY ELECTION MUST INCLUDE A STATEMENT
36 INSTRUCTING THE VOTER TO RETURN ONLY ONE BALLOT.

1 7.2.12 THE COUNTY CLERK MUST ISSUE A REPLACEMENT MAIL BALLOT PACKET TO AN
2 UNAFFILIATED ELECTOR IN A PRIMARY ELECTION WHO REQUESTS ONE IF THE ELECTOR
3 HAS NOT ALREADY VOTED. THE REPLACEMENT MAIL BALLOT PACKET MUST CONTAIN
4 THE BALLOTS OF ALL PARTICIPATING MAJOR POLITICAL PARTIES, OR IF THE ELECTOR HAS
5 PROVIDED A BALLOT PREFERENCE, THE BALLOT OF THE ELECTOR'S PREFERRED
6 POLITICAL PARTY.

7 *New Rule 7.5.5 concerning remote drop off locations and amendments to Current Rules 7.5.5 through*
8 *7.5.8 concerning renumbering:*

9 7.5.5 THE COUNTY CLERK MAY REQUEST A WAIVER FROM THE SECRETARY OF STATE FOR
10 REMOTE DROP OFF LOCATIONS, EXEMPTING THEM FROM THE BALLOT COLLECTION
11 REQUIREMENTS IN RULE 7.5.4. IF THE SECRETARY OF STATE GRANTS THE WAIVER:

12 (A) THE COUNTY CLERK MUST ARRANGE FOR THE COLLECTION OF BALLOTS BY
13 BIPARTISAN TEAMS OF ELECTION JUDGES FROM ALL EXEMPT DROP-OFF
14 LOCATIONS AS OFTEN AS NECESSARY, BUT AT LEAST:

15 (1) ONCE EACH WEEK AFTER BALLOTS ARE MAILED UNTIL THE FRIDAY
16 BEFORE ELECTION DAY; AND

17 (2) ON THE FRIDAY AND MONDAY BEFORE ELECTION DAY AND ON
18 ELECTION DAY AT 7:00 P.M. MT.

19 (B) THE COUNTY CLERK MUST POST A NOTICE ON EACH EXEMPT DROP BOX OF THE
20 DATES AND APPROXIMATE TIMES BALLOTS WILL BE COLLECTED.

21 (C) IF THE SECRETARY OF STATE DETERMINES THAT THE COUNTY FAILED TO
22 COLLECT BALLOTS FROM A REMOTE DROP-OFF LOCATION AS OFTEN AS
23 NECESSARY, THE SECRETARY OF STATE MAY REVOKE OR MODIFY THE WAIVER.

24 ~~7.5.5~~7.5.6 Election officials must record the number of ballot packets returned as
25 undeliverable and receive the ballot packets in SCORE upon receipt.

26 ~~7.5.6~~7.5.7 The designated election official must seal and store ballots and return envelopes
27 in a safe, secure place until the counting of the ballots.

28 ~~7.5.7~~7.5.8 After election judges verify the elector's eligibility and signature, the county
29 clerk must dissociate and segregate the mail ballot return envelope from the secrecy
30 sleeve and a voted ballot in a manner that ensures no person is able to determine how an
31 individual voted.

32 *Amendments to Rules 7.5.9, 7.5.10, 7.5.11 and New Rules 7.5.12 and 7.5.13 concerning receipt and*
33 *processing of ballots:*

34 ~~7.5.8~~7.5.9 If the county clerk discovers a violation of section 1-7.5-107(4)(b), C.R.S.,
35 prohibiting any person from ~~delivering~~ RECEIVING more than 10 ballots in addition to his
36 or her own in any election, the county clerk must refer the information to the District
37 Attorney.

1 ~~7.5.9-7.5.10~~ ~~The~~ BEFORE TABULATING BALLOTS, THE county clerk must dissociate COUNTING
2 BATCHES FROM any SCORE batch number that could trace a ballot back to the specific
3 voter who cast it ~~from the counted ballots or any reports generated by the tabulation~~
4 ~~software no later than the final certification of the abstract of votes cast.~~

5 ~~7.5.10-7.5.11~~ If an elector delivers a ballot to the wrong county, that county must date stamp
6 the ballot envelope AND TIMELY FORWARD IT TO THE CORRECT COUNTY. BEGINNING THE
7 THURSDAY BEFORE ELECTION DAY, THE COUNTY MUST NOTIFY THE CORRECT COUNTY
8 OF RECEIPT BY SECURE ELECTRONIC TRANSMISSION WITH A SCANNED IMAGE OF THE
9 OUTSIDE OF THE MAIL BALLOT ENVELOPE INCLUDING THE SIGNATURE, and forward it to
10 the correct county NO LATER THAN THE NEXT BUSINESS DAY. A COUNTY THAT
11 PHYSICALLY DELIVERS BALLOTS TO ANOTHER COUNTY NO LATER THAN THE NEXT
12 BUSINESS DAY IS NOT REQUIRED TO SCAN THE ENVELOPE. The correct county must treat
13 the ballot as received as of the date and time of the date stamp.

14 7.5.12 COUNTY CLERKS PICKING UP BALLOTS ON BEHALF OF ANOTHER COUNTY FROM THE U.S.
15 POSTAL SERVICE ON ELECTION NIGHT MUST LOG THE NUMBER OF BALLOTS COLLECTED
16 BY COUNTY AND PROVIDE THE LOG TO THE SECRETARY OF STATE'S OFFICE WITHIN 48
17 HOURS. THE COUNTY CLERK MUST DATE STAMP EACH BALLOT ENVELOPE AND
18 IMMEDIATELY FORWARD IT TO THE CORRECT COUNTY. THE CORRECT COUNTY MUST
19 TREAT THE BALLOT AS RECEIVED AS OF THE DATE AND TIME OF THE DATE STAMP.

20 7.5.13 UNAFFILIATED VOTERS IN A PRIMARY ELECTION. IF AN ELECTION JUDGE IS UNABLE TO
21 DETERMINE, BEFORE OPENING THE ENVELOPE. WHICH PARTY'S ELECTION THE ELECTOR
22 VOTED IN, THE COUNTY MUST SEPARATE THE ELECTOR'S BALLOT FROM THE ENVELOPE
23 IN THE FOLLOWING MANNER:

24 (A) AN ELECTION JUDGE MUST REMOVE THE BALLOT, ENCLOSED IN A SECRECY
25 SLEEVE, FROM THE MAIL BALLOT RETURN ENVELOPE AND PASS IT TO A
26 BIPARTISAN TEAM OF JUDGES WITHOUT ALLOWING THE TEAM OF JUDGES TO
27 DETERMINE THE IDENTITY OF THE ELECTOR.

28 (B) THE BIPARTISAN TEAM OF ELECTION JUDGES MUST REMOVE THE BALLOT FROM
29 THE SECRECY SLEEVE, REVIEW THE BALLOT, AND AUDIBLY REPORT TO THE FIRST
30 ELECTION JUDGE WHICH POLITICAL PARTY'S ELECTION THE ELECTOR VOTED IN.

31 (C) THE FIRST ELECTION JUDGE MUST RECORD IN SCORE WHICH POLITICAL PARTY'S
32 ELECTION THE ELECTOR VOTED IN, OR MARK THE MAIL BALLOT RETURN
33 ENVELOPE WITH THE PROPER PARTY INFORMATION FOR LATER RECORDING IN
34 SCORE.

35 7.5.14 IF AN UNAFFILIATED ELECTOR RETURNS MORE THAN ONE BALLOT IN A PRIMARY
36 ELECTION, A BIPARTISAN TEAM OF ELECTION JUDGES MUST REVIEW THE BALLOTS TO
37 DETERMINE THE ELECTOR'S INTENT IN ACCORDANCE WITH THE SECRETARY OF STATE'S
38 VOTER INTENT GUIDE.

39 (A) IF THE BIPARTISAN TEAM DETERMINES THE ELECTOR VOTED IN ONLY ONE
40 PARTY'S PRIMARY ELECTION, THE FIRST ELECTION JUDGE MUST RECORD THE
41 DISPOSITION IN SCORE UNDER RULE 7.5.13(C). THE COUNTY MUST RETAIN ANY
42 UNVOTED BALLOT AS AN ELECTION RECORD.

- (B) IF THE BIPARTISAN TEAM DETERMINES THE ELECTOR VOTED IN MORE THAN ONE PARTY'S PRIMARY ELECTION, OR RETURNED ONLY BLANK BALLOTS, THE COUNTY MUST REJECT THE BALLOTS AND RETAIN THEM IN THE MAIL BALLOT RETURN ENVELOPE AS AN ELECTION RECORD.

Amendments to Rule 7.6.1 concerning ballots returned in unofficial envelope:

- 7.6.1 If the county timely receives a mail ballot from an eligible elector in an envelope ~~other than the official ballot return envelope for that particular election~~ THAT IS MISSING OR LACKS THE CORRECT SELF-AFFIRMATION, the county must contact the elector in writing within three calendar days of receiving the ballot but no later than two calendar days after election day. The county must use the letter and affidavit prescribed by the Secretary of State and keep a copy as part of the official election record. If the county receives the completed affidavit no later than the eighth day after election day, the county must count the ballot.

Amendments to Rule 7.7 concerning mail ballot cure procedures:

~~7.7 Missing signature.~~ MAIL BALLOT CURE PROCEDURES

- 7.7.3 ~~Nothing in this Rule prohibits the county clerk from calling the elector, but a phone call may not substitute for written contact.~~ If the county clerk ~~calls~~ USES ANY MEANS IN ADDITION TO MAIL TO CONTACT any elector REGARDING A MISSING OR DISCREPANT SIGNATURE OR MISSING ID, he or she must attempt to ~~call~~ CONTACT all SIMILARLY SITUATED electors whose ~~affidavits are unsigned~~ REGISTRATION RECORDS HAVE THE SAME TYPE OF CONTACT INFORMATION.

Amendments to Rule 7.8.2 concerning signature verification procedures:

- 7.8.2 If the elector's signature appears anywhere on ~~the back of~~ the ballot return envelope, the election judge must ~~review the~~ VERIFY THE signature IN ACCORDANCE WITH SECTION 1-7.5-107.3, C.R.S.

Amendments to Rule 7.9.1(c) and 7.9.3 and New Rules 7.9.8, 7.9.9, and 7.9.10 concerning VSPCs:

- 7.9.1 The county clerk must designate and open the minimum number of voter service and polling centers. The centers must be open during reasonable business hours for the minimum number of days outlined in section 1-5-102.9, C.R.S., for a general election and 1-7.5-107(4.5), C.R.S., for all other elections.

- (c) The county clerk must provide all services outlined in section ~~1-2-509~~ 1-5-102.9, C.R.S., at every designated voter service and polling center.

- 7.9.3 In order to assist applicants and electors efficiently, a county clerk must configure voter service and polling centers ~~to provide~~ WITH sufficient election judges, WebSCORE work stations, voting equipment, AND SUFFICIENT NUMBERS OF mail and in-person ballots THAT CAN BE TABULATED BY THE COUNTY'S VOTING SYSTEM WITHOUT FURTHER DUPLICATION, and other supplies. A COUNTY MAY SATISFY THIS RULE BY PROVIDING A SUFFICIENT NUMBER OF BALLOT MARKING DEVICES OR BALLOT ON DEMAND PRINTERS.

1 7.9.8 AN UNAFFILIATED ELECTOR VOTING IN PERSON AT A VOTER SERVICE AND POLLING
2 CENTER IN A PRIMARY ELECTION MUST STATE WHICH PARTY'S ELECTION HE OR SHE
3 CHOOSES TO VOTE IN, AND THE ELECTION JUDGE MUST INDICATE THE VOTER'S
4 SELECTION IN WEBScore AND PROVIDE THE VOTER WITH THAT PARTY'S BALLOT.

5 7.9.9 ON ELECTION DAY DURING EACH GENERAL ELECTION, A COUNTY WITH AT LEAST FIFTY
6 THOUSAND ACTIVE ELECTORS MUST MEASURE AND RECORD THE WAIT TIME AT EACH OF
7 ITS VOTER SERVICE AND POLLING CENTERS, AT LEAST ONCE PER HOUR, FROM THE TIME A
8 PERSON ENTERS THE LOCATION OR THE LINE TO THE TIME THAT THE PERSON BEGINS THE
9 CHECK-IN PROCESS.

10 7.9.10 EACH COUNTY REQUIRED TO MEASURE UNDER RULE 7.9.9 MUST REPORT ITS RESULTS TO
11 THE SECRETARY OF STATE NO LATER THAN 30 DAYS AFTER THE ELECTION.

12 *New Rule 7.11 concerning cross-jurisdictional voter service and polling center pilot program:*

13 7.11 CROSS-JURISDICTIONAL VOTER SERVICE AND POLLING CENTER PILOT PROGRAM

14 7.11.1 THE COUNTY CLERK MAY APPLY TO THE SECRETARY OF STATE TO PARTICIPATE IN A
15 PILOT PROGRAM ALLOWING A COUNTY TO AGREE WITH ANOTHER COUNTY OR COUNTIES
16 TO PROVIDE THE COUNTY'S SERVICES AT THE OTHER COUNTY'S VOTER SERVICE AND
17 POLLING CENTERS. THE SECRETARY OF STATE MUST RECEIVE THE APPLICATION NO
18 LATER THAN 110 DAYS BEFORE ELECTION DAY.

19 7.11.2 IN REVIEWING THE COUNTY CLERK'S APPLICATION, THE SECRETARY OF STATE WILL
20 CONSIDER THE FOLLOWING:

21 (A) THE COUNTY'S PLAN TO PROVIDE ALL SERVICES OUTLINED IN SECTION 1-5-
22 102.9, C.R.S. FOR EACH PARTICIPATING COUNTY AT EACH VOTER SERVICE AND
23 POLLING CENTER.

24 (B) WHETHER THE COUNTIES SHARE A COMMON BORDER AND THE GEOGRAPHICAL
25 LOCATION OF PROPOSED MULTI-COUNTY VOTER SERVICE AND POLLING CENTERS.

26 (C) ANY PUBLIC COMMENT PROVIDED UNDER SECTION 1-5-102.9(1)(C)(II), C.R.S.
27 AND THE INPUT, IF ANY, OF THE GOVERNING BOARD OF THE COUNTY.

28 7.11.3 WHEN DESIGNATING VOTER SERVICE AND POLLING CENTERS, AT LEAST TWO-THIRDS OF
29 THE VOTER SERVICE AND POLLING CENTERS REQUIRED UNDER SECTIONS 1-5-102.9 AND
30 1-7.5-107, C.R.S., MUST BE LOCATED WITHIN THE COUNTY BOUNDARIES; EXCEPT THAT
31 EACH PARTICIPATING COUNTY MUST HAVE THE MINIMUM NUMBER OF VOTER SERVICE
32 AND POLLING CENTERS REQUIRED UNDER SECTION 1-5-102.9 AND 1-7.5-107, C.R.S. OPEN
33 WITHIN ITS BOUNDARIES ON THE MONDAY BEFORE ELECTION DAY AND ELECTION DAY.

34 *New Rule 7.16 concerning voter registration post-election scanning:*

35 7.16 FOLLOWING EACH ELECTION, THE COUNTY CLERK MUST SCAN INTO SCORE THE ELECTOR'S
36 SIGNATURE AND DATE ON EACH ACCEPTED MAIL BALLOT RETURN ENVELOPE.

37 *Amendments to Rule 8 concerning watchers:*

1 8.1.5 A watcher must complete a training provided by or approved by the Secretary of State
2 before observing election activities where confidential or personally identifiable
3 information may be within view. To verify completion of the training, a watcher must
4 provide his or her training certificate of completion with the Certificate of Appointment.
5 A TRAINING CERTIFICATE OF COMPLETION IS VALID UNTIL DECEMBER 31 OF THE
6 FOLLOWING YEAR. AN APPROVED TRAINING MAY BE USED FOR ONE CALENDAR YEAR
7 FROM THE DATE APPROVED.

8 8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The
9 six-foot limit in Rule ~~4.1.27~~ 1.1.28 applies only to voting.

10 8.15 A watcher may not:

11 8.15.8 UNLESS OTHERWISE APPROVED BY THE COUNTY CLERK, HAVE IN HIS OR HER POSSESSION
12 ANY MOBILE PHONE OR OTHER ELECTRONIC DEVICE WHILE WATCHING ELECTION
13 ACTIVITIES WHERE VOTERS' CONFIDENTIAL OR PERSONALLY IDENTIFIABLE
14 INFORMATION MAY BE WITHIN VIEW.

15 ~~8.15.8~~ 8.15.9 Attempt to determine how any elector voted.

16 ~~8.15.9~~ 8.15.10 Disclose or record any confidential voter information as defined in section 24-72-
17 204(8), C.R.S., that he or she may observe.

18 ~~8.15.10~~ 8.15.11 Disclose any results before the polls have closed.

19 *Amendments to Rule 10.3.2(b) concerning correcting cross-reference:*

20 10.3.2 The canvass board's duties are to:

21 (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S.,
22 and Election Rule ~~11.3.3(k)~~ 25.3.2;

23 *New Rule 10.4 concerning the date for conducting canvass:*

24 10.4 NO CANVASS BOARD MAY CERTIFY OFFICIAL RESULTS UNTIL AUTHORIZED TO DO SO BY THE
25 SECRETARY OF STATE. THE SECRETARY OF STATE MAY EXTEND THE CANVASS DEADLINE FOR
26 ONE OR MORE COUNTIES IN ORDER TO COMPLETE THE RISK-LIMITING AUDIT IN ACCORDANCE
27 WITH RULE 25.2. BEFORE CERTIFYING OFFICIAL RESULTS, A COUNTY THAT CONDUCTS A
28 COMPARISON AUDIT AS DEFINED IN RULE 25.1.4 MUST MANUALLY ADJUST THE PRELIMINARY
29 RESULTS TO REFLECT ALL DISCREPANCIES IDENTIFIED IN THE RISK-LIMITING AUDIT.

30 *Amendments to Rule 10.5 concerning procedures for canvass:*

31 ~~10.4~~ 10.5 Procedures for the day of the Canvass

32 ~~10.4.1~~ 10.5.1 The designated election official must provide the following information to the
33 canvass board:

34 (a) The name of each candidate, office, and votes received;

35 (b) The number or letter of each ballot issue or question and votes received;

- 1 (c) The TOTAL number of ballots cast, ~~including the number of accepted and rejected~~
2 ~~mail ballots~~;
- 3 (d) The number of provisional ballots cast, including ~~the number accepted and~~
4 ~~rejected~~; TOTALS FOR:
- 5 (1) BALLOTS ACCEPTED BY EACH CODE; AND
- 6 (2) BALLOTS REJECTED BY EACH CODE.
- 7 (e) The number of mail ballots ~~counted and the number rejected~~; CAST, INCLDUING
8 TOTALS FOR:
- 9 (1) BALLOTS ACCEPTED; AND
- 10 (2) BALLOTS REJECTED BY EACH CODE.
- 11 (f) The number of in-person ballots counted;
- 12 ~~(g) The number of provisional ballots counted and the number rejected listed by each~~
13 ~~rejection code; and~~
- 14 (G) THE NUMBER OF EMERGENCY REPLACEMENT BALLOTS, INCLUDING TOTALS FOR:
- 15 (1) BALLOTS ACCEPTED; AND
- 16 (2) BALLOTS REJECTED BY EACH CODE.
- 17 (h) The number of damaged and spoiled ballots.
- 18 (I) IF APPLICABLE, THE NUMBER OF BALLOTS CAST IN EACH PARTY'S PRIMARY
19 ELECTION, INCLUDING TOTALS FOR:
- 20 (1) BALLOTS ACCEPTED IN EACH PARTY'S PRIMARY ELECTION BY
21 AFFILIATED AND UNAFFILIATED VOTERS; AND
- 22 (2) BALLOTS REJECTED BY EACH CODE.
- 23 ~~10.4.2~~-10.5.2 Any written documentation regarding official results must be included as part of
24 the canvass.
- 25 ~~10.4.3~~-10.5.3 Written Complaints
- 26 (a) The designated election official must provide the canvass board with any written
27 complaint submitted by a registered elector about a voting device.
- 28 (b) If the complaint is resolved, the designated election official must provide the
29 details of the resolution.
- 30 (c) If the complaint is pending resolution when the board meets to conduct the
31 canvass, the designated election official must provide a proposal for how the
32 issue will be resolved.

1 *[Not shown: current Rules 10.5 through 10.13 are renumbered as Rules 10.6 through 10.14]*

2 *Additional cross reference amendments to current Rules 10.13.1 and 10.13.6 (renumbered as 10.13.1 and*
3 *10.13.6) follow:*

4 ~~10.12.1~~ 10.13.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies
5 in the test under Rule ~~10.11~~ 10.12, the recount must be conducted in the same manner as
6 the ballots were counted in the election except as outlined in this Rule. If there are
7 unresolvable discrepancies in the test, the recount must be conducted as a hand count
8 under Rule ~~10.12.5~~ 10.13.5.

9 ~~10.12.6~~ 10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule
10 ~~10.11.3~~ 10.12.3, the county clerk must upload the memory cards.

11 *Amendments to Rule 11.3 concerning hardware diagnostic testing and LAT:*

12 11.3 The clerk must perform a hardware diagnostic test; AND a logic and accuracy test; ~~and a post-~~
13 ~~election audit.~~

14 11.3.2 Logic and Accuracy Test

15 (c) Preparing for the Logic and Accuracy Test

16 (1) The county must prepare a test deck of ballots that includes every ballot
17 style and, where applicable, precinct. The county test deck must include
18 a sufficient number of ballots to mark every vote position for every
19 contest including write-in candidates, allow for situations where a contest
20 permits an elector to vote for two or more positions, and include
21 overvotes and undervotes for each contest. THE COUNTY TEST DECK
22 MUST INCLUDE AT LEAST ONE WRITE-IN VOTE FOR EACH QUALIFIED
23 WRITE-IN CANDIDATE SO THAT ALL QUALIFIED WRITE-IN CANDIDATE
24 NAMES WILL APPEAR IN THE LAT RESULT UPLOADED TO ENR AS
25 REQUIRED BY RULE 11.10.3.

26 *[Current Rule 11.3.3 is amended and recodified as New Rule 25.3.]*

27 *Amendments to Rule 11.10.1(b)(2) concerning renumbering of cross-reference and 11.10.3 concerning*
28 *election night reporting:*

29 11.10.1 A data entry county must upload a results data file to ENR containing the election results
30 on the dates and times specified in Rules 11.10.3 through 11.10.5. The county must
31 program its election database so that the results file exported from the voting system is
32 formatted in accordance with the following requirements:

33 (b) Contest order: Except as otherwise provided in subsections (1) – (4) of this Rule,
34 the results file must list the contests in the same order as they are certified for the
35 ballot.

36 (2) The results file must list ballot measures in the order certified by the
37 Secretary of State, followed by the ballot measures certified by other

1 participating political subdivisions in the order and using the numbering
2 conventions specified in Rule ~~4.5.2(f)~~ 4.5.2(E).

3 11.10.3 No later than 14 days before the election, a data entry county must upload the LAT
4 results file to ENR. At a minimum, the LAT results file must contain the results of the
5 complete county test deck required under Rule 11.3.2(c)(1). ~~The county must also provide~~
6 ~~the Secretary of State with a summary results report for the LAT results file.~~

7 *Repeal of Rule 13.1.7 and Amendment of Rule 13.2.9(a) concerning election complaint procedures:*

8 ~~13.1.7 The Secretary of State's determination is a final agency action.~~

9 13.2.9 Hearing and Resolution of HAVA complaints

10 (a) ~~If the complainant requests, the~~ THE Secretary of State or his or her designee will
11 hold a hearing IF THE COMPLAINANT REQUESTS ONE AT THE TIME OF FILING THE
12 COMPLAINT, UNLESS THE COMPLAINANT LATER WITHDRAWS THE REQUEST.

13 *Amendments to Rules 14.1.1(a) and New Rule 14.3.4 concerning voter registration drives:*

14 14.1.1 In accordance with Part 7, Article 2 of Title 1, C.R.S., the organizer of a Voter
15 Registration Drive ("VRD") must file a Statement of Intent and Training
16 Acknowledgment Form with the Secretary of State to conduct a voter registration drive.
17 The Statement of Intent and Training Acknowledgment Form must include the following
18 information:

19 (a) The name of the group conducting the VRD, and the name ~~and contact~~
20 ~~information~~ ADDRESS, EMAIL ADDRESS, AND TELEPHONE NUMBER of the
21 individual organizing the VRD;

22 14.3.4 THE VRD MUST PROVIDE THE SECRETARY OF STATE WITH THE NAME OF THE
23 CIRCULATOR ASSOCIATED WITH A PARTICULAR IDENTIFICATION NUMBER, UPON
24 REQUEST.

25 *Amendments to Rule 16.1.6 concerning military and overseas electors:*

26 16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days
27 before the Primary Election OR PRESIDENTIAL PRIMARY ELECTION, IF APPLICABLE, to
28 each elector whose record is marked "Inactive." The correspondence may be sent by
29 email or mail and, at a minimum, must notify the electors of:

- 30 (a) The status of the elector's record and ballot request;
- 31 (b) The upcoming federal elections;
- 32 (c) How to update the elector's mailing information and request a ballot; and
- 33 (d) Any other information the county clerk deems appropriate.

34 *Amendments to Rules 20.13.1(c)(8) and 20.16.3(a) concerning correction of cross-references:*

20.13.1 If a seal is broken, or there is another discrepancy, the election official must immediately notify the county, who must remedy the discrepancy as follows:

(c) If the evidence indicates that the discrepancy occurred after votes were cast on the device:

(8) Before certifying election results, the county must conduct a full (all ~~raes~~CONTESTS) post-election audit on the device and report results to the Secretary of State as required by Rule 44-25.3. This requirement is in addition to the random selection conducted by the Secretary of State.

20.16.3 Ballot reconciliation

(a) The county must reconcile ballots printed on demand in accordance with Rules ~~10.4 and 10.5~~ 10.1.1 AND 10.1.2.

(b) The county must maintain damaged, misprinted, or unusable ballots as election records.

Amendments to Rule 20.17.3 concerning voting system conditions for use:

20.17.3 The county must create a backup copy of the election setup records on a read-only, write-once ~~CD~~ELECTRONIC STORAGE MEDIA, immediately after completing the Logic and Accuracy Test.

(a) The county must identify the master database name and date of election on the label of the backup ~~CD~~.

(b) The county must store the backup ~~CD~~ in a sealed container. Two election officials of different party affiliations must sign and date entries to the chain-of-custody log for the sealed container.

Amendments to Rule 21.4.5(e) and New Rule 21.4.14 concerning voting system standards for certification:

21.4.5 Functional Requirements

(e) The voting system must include hardware or software to enable the closing of ~~the voting location and disabling the acceptance of ballots on~~ all vote tabulation devices AT POLLING LOCATIONS to allow for the following:

21.4.14 Ballot-level Cast Vote Records and Exports. All voting systems certified by the Secretary of State for use in Colorado on or after January 1, 2016 must meet the following requirements for ballot-level cast vote records and exports on or before December 31, 2016:

(a) The voting system must capture a ballot-level cast vote record (CVR) ~~consisting of a single record for each ballot tabulated, showing the manner in which the voting system interpreted and tabulated the voter's markings on the ballot, as adjudicated and resolved by election judges, if applicable.~~

(c) The CVR export must contain the following fields, with values or data populated by the voting system:

(8) NUMBER OF VALID CHOICES. THE NUMBER OF VALID CHOICES (E.G., "VOTE FOR 3") FOR EACH CONTEST.

New Rule 24 concerning presidential electors:

RULE 24. PRESIDENTIAL ELECTORS

24.1 OATH

24.1.1 AS USED IN SECTION 1-4-304 (1), C.R.S., "THE OATH REQUIRED BY LAW FOR PRESIDENTIAL ELECTORS" MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

"I,, DO SOLEMNLY SWEAR OR AFFIRM THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND OF THE STATE OF COLORADO, THAT I WILL FAITHFULLY PERFORM THE DUTIES OF THE OFFICE OF PRESIDENTIAL ELECTOR THAT I AM ABOUT TO ENTER, AND THAT I WILL VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE."

24.1.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO TAKE AND SUBSCRIBE THE OATH IN RULE 24.1.1, THE REFUSAL OR FAILURE CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.2 VOTING

24.2.1 AS SPECIFIED IN SECTION 1-4-304 (5), C.R.S., EACH PRESIDENTIAL ELECTOR MUST VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE.

24.2.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE, THE REFUSAL OR FAILURE CONSTITUTES A "REFUSAL TO ACT" AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.3 FILLING VACANCIES

24.3.1 AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S., THE PRESIDENTIAL ELECTORS PRESENT MUST IMMEDIATELY PROCEED TO FILL ANY VACANCY IN THE ELECTORAL COLLEGE. A QUORUM IS NOT REQUIRED TO FILL A VACANCY. IN THE EVENT OF A TIE VOTE, THE VACANCY WILL BE FILLED BY LOT.

24.3.2 IF A REMAINING PRESIDENTIAL ELECTOR REFUSES TO FILL A VACANCY IN THE ELECTORAL COLLEGE, THE REFUSAL CONSTITUTES A “REFUSAL TO ACT” AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.3.3 NOMINEES TO FILL VACANCIES MUST BE SELECTED IN ACCORDANCE WITH SECTION 1-4-302 (2), C.R.S. THERE MUST BE MORE VACANCY NOMINEES THAN VACANCIES TO BE FILLED.

New Rule 25 concerning post-election audit:

RULE 25. POST-ELECTION AUDIT

25.1 DEFINITIONS. AS USED IN THIS RULE, UNLESS STATED OTHERWISE:

25.1.1 “AUDIT CENTER” MEANS THE PAGE OR PAGES OF THE SECRETARY OF STATE’S WEBSITE DEVOTED TO RISK-LIMITING AUDITS.

25.1.2 “AUDITED CONTEST” MEANS A CONTEST SELECTED BY THE SECRETARY OF STATE FOR A RISK-LIMITING AUDIT. THE AUDITED CONTEST DETERMINES THE NUMBER OF BALLOTS THAT MUST BE EXAMINED AND VERIFIED DURING THE RLA.

25.1.3 “BALLOT POLLING AUDIT” MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT BOARD EXAMINES AND REPORTS TO THE SECRETARY OF STATE VOTER MARKINGS ON RANDOMLY SELECTED BALLOTS.

25.1.4 “COMPARISON AUDIT” MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT BOARD EXAMINES AND REPORTS TO THE SECRETARY OF STATE VOTER MARKINGS ON RANDOMLY SELECTED BALLOTS, AND THEN COMPARED TO THE VOTING SYSTEM’S TABULATION AS REFLECTED IN THE CORRESPONDING CAST VOTE RECORDS.

25.1.5 “DILUTED MARGIN” OF AN AUDITED CONTEST MEANS THE SMALLEST REPORTED MARGIN IN VOTES BETWEEN THE REPORTED CONTEST WINNER WITH THE LEAST VOTES IN THE CONTEST, AND THE REPORTED CONTEST LOSER WITH THE MOST VOTES IN THE CONTEST, DIVIDED BY THE NUMBER OF BALLOTS COUNTED IN THAT CONTEST. FOR EXAMPLE, IF THE VOTING SYSTEM TABULATED 10,000 BALLOTS IN AN AUDITED CONTEST, AND THE REPORTED WINNING CANDIDATE WITH THE LEAST NUMBER OF VOTES RECEIVED 4,000 VOTES, AND THE REPORTED LOSING CANDIDATE WITH THE MOST NUMBER OF VOTES RECEIVED 3,500 VOTES, THE DILUTED MARGIN OF THE CONTEST IS 5% $[(4,000 - 3,500) / 10,000]$.

25.1.6 “MARGIN OVERSTATEMENT” MEANS A CIRCUMSTANCE IN WHICH THE AUDIT BOARD’S INTERPRETATION OF BALLOT MARKINGS REVEALS THAT THE WINNER WITH THE LEAST NUMBER OF VOTES RECEIVED FEWER VOTES THAN THE VOTING SYSTEM’S INTERPRETATION OF THE SAME MARKINGS AS REFLECTED IN THE CVR. FOR EXAMPLE, IF THE CVR REFLECTS AN UNDERVOTE IN THE AUDITED CONTEST, AND THE AUDIT BOARD’S INTERPRETATION OF THE CORRESPONDING PAPER BALLOT REFLECTS A VOTE FOR THE LOSER WITH THE MOST VOTES IN THAT CONTEST, THE CVR CONTAINS A ONE-VOTE OVERSTATEMENT. IF THE CVR REFLECTS A VOTE FOR THE WINNER WITH THE LEAST

VOTES, AND THE AUDIT BOARD'S INTERPRETATION OF THE PAPER BALLOT REFLECTS A VOTE FOR THE LOSER WITH THE MOST VOTES, THE PRELIMINARY RESULTS CONTAIN A TWO-VOTE OVERSTATEMENT.

25.1.7 "MARGIN UNDERSTATEMENT" MEANS A CIRCUMSTANCE IN WHICH THE AUDIT BOARD'S INTERPRETATION OF BALLOT MARKINGS REVEALS THAT THE CONTEST WINNER WITH THE LEAST NUMBER OF VOTES RECEIVED MORE VOTES THAN THE VOTING SYSTEM'S INTERPRETATION OF THE SAME MARKINGS AS REFLECTED IN THE CVR. FOR EXAMPLE, IF THE CVR REFLECTS AN UNDERVOTE IN THE AUDITED CONTEST, AND THE AUDIT BOARD'S INTERPRETATION OF THE CORRESPONDING PAPER BALLOT REFLECTS A VOTE FOR THE WINNER WITH THE LEAST NUMBER OF VOTES IN THAT CONTEST, THE CVR CONTAINS A ONE-VOTE UNDERSTATEMENT. IF THE CVR REFLECTS A VOTE FOR THE LOSER WITH THE MOST VOTES, AND THE AUDIT BOARD'S INTERPRETATION OF THE PAPER BALLOT REFLECTS A VOTE FOR THE WINNER WITH THE LEAST VOTES, THE CVR CONTAINS A TWO-VOTE UNDERSTATEMENT.

25.1.8 "REPORTED OUTCOME" MEANS THE PRESUMED WINNING AND LOSING CANDIDATES OR VOTING CHOICES OF A BALLOT CONTEST AS REFLECTED IN PRELIMINARY RESULTS.

25.1.9 "RISK LIMIT" MEANS THE LARGEST STATISTICAL PROBABILITY THAT AN INCORRECT REPORTED OUTCOME IS NOT DETECTED AND CORRECTED IN A RISK-LIMITING AUDIT.

25.1.10 "RISK-LIMITING AUDIT" OR "RLA" MEANS A POST-ELECTION AUDIT OF VOTES ON PAPER BALLOTS AND VVPAT RECORDS, CONDUCTED IN ACCORDANCE WITH SECTION 1-7-515, C.R.S., AND RULE 25.2, WHICH HAS A PRE-SPECIFIED MINIMUM CHANCE OF REQUIRING A FULL HAND COUNT IF THE OUTCOME OF A FULL HAND COUNT WOULD DIFFER FROM THE REPORTED OUTCOME.

25.1.11 "RLA TOOL" MEANS THE SOFTWARE AND USER INTERFACE PROVIDED BY THE SECRETARY OF STATE IN ORDER FOR COUNTIES TO CONDUCT RLAs.

25.2 RISK LIMITING AUDIT. THE DESIGNATED ELECTION OFFICIAL MUST CONDUCT A RISK-LIMITING AUDIT IN ACCORDANCE WITH SECTION 1-7-515, C.R.S. AND THIS RULE.

25.2.1 RLA METHODS

(A) COUNTIES THAT USE A VOTING SYSTEM CAPABLE OF EXPORTING CVRS MUST CONDUCT A COMPARISON AUDIT.

(B) COUNTIES THAT USE A VOTING SYSTEM INCAPABLE OF EXPORTING CVRS MUST CONDUCT A BALLOT POLLING AUDIT.

25.2.2 PREPARING FOR THE AUDIT

(A) RISK LIMIT. NO LATER THAN 30 DAYS BEFORE ELECTION DAY, THE SECRETARY OF STATE WILL ESTABLISH AND PUBLISH ON THE AUDIT CENTER THE RISK LIMIT(S) THAT WILL APPLY IN RLAs FOR THAT ELECTION. THE SECRETARY OF STATE MAY ESTABLISH DIFFERENT RISK LIMITS FOR COMPARISON AUDITS AND BALLOT POLLING AUDITS, BUT IN NO EVENT WILL THE RISK LIMIT EXCEED FIVE PERCENT.

- (B) AUDIT BOARD. NO LATER THAN 15 DAYS BEFORE ELECTION DAY, THE DESIGNATED ELECTION OFFICIAL MUST APPOINT AN AUDIT BOARD TO CONDUCT THE RISK-LIMITING AUDIT. THE AUDIT BOARD MUST CONSIST OF ELECTORS NOMINATED BY THE MAJOR POLITICAL PARTY COUNTY CHAIRPERSONS. THE DESIGNATED ELECTION OFFICIAL MUST GIVE WRITTEN NOTICE TO THE COUNTY CHAIRPERSONS OF THEIR OBLIGATION TO NOMINATE AUDIT BOARD MEMBERS AND MAY DESIGNATE APPROPRIATELY AFFILIATED ELECTORS AS AUDIT BOARD MEMBERS IF ONE OR BOTH COUNTY CHAIRPERSONS FAIL TO DO SO IN A TIMELY MANNER. AT LEAST TWO CANVASS BOARD MEMBERS MUST OBSERVE THE RLA, AND MEMBERS OF THE CANVASS BOARD MAY SERVE AS MEMBERS OF THE AUDIT BOARD. THE DESIGNATED ELECTION OFFICIAL, MEMBERS OF HIS OR HER STAFF, AND OTHER DULY APPOINTED ELECTION JUDGES MAY ASSIST THE AUDIT BOARD IN CONDUCTING THE AUDIT.
- (C) BALLOT MANIFEST. WHILE TABULATING BALLOTS, THE COUNTY MUST MAINTAIN AN ACCURATE BALLOT MANIFEST IN A FORM APPROVED BY THE SECRETARY OF STATE. AT A MINIMUM, THE BALLOT MANIFEST MUST UNIQUELY IDENTIFY FOR EACH TABULATED BALLOT THE SCANNER ON WHICH THE BALLOT IS SCANNED, THE BALLOT BATCH OF WHICH THE BALLOT IS A PART, THE NUMBER OF BALLOTS IN THE BATCH, AND THE STORAGE CONTAINER IN WHICH THE BALLOT BATCH IS STORED AFTER TABULATION. THE COUNTY MUST SECURE AND MAINTAIN IN SEALED BALLOT CONTAINERS ALL TABULATED BALLOTS IN THE BATCHES AND ORDER THEY ARE SCANNED. THE COUNTY MUST MAINTAIN AND DOCUMENT UNINTERRUPTED CHAIN-OF-CUSTODY FOR EACH BALLOT STORAGE CONTAINER.
- (D) RLA TABULATION. ON THE NINTH DAY AFTER ELECTION DAY, THE COUNTY MUST FINISH TABULATING ALL BALLOTS OTHER THAN PROVISIONAL BALLOTS AND PROPERTY OWNER BALLOTS. IMMEDIATELY AFTER COMPLETING THE RLA TABULATION, AND TO THE EXTENT PERMITTED BY ITS VOTING SYSTEM, THE COUNTY MUST ALSO GENERATE AND PRESERVE:
- (1) A SUMMARY RESULTS REPORT, SHOWING OVERVOTES, UNDERVOTES, BLANK-VOTED CONTESTS, AND VALID WRITE-IN VOTES;
 - (2) A RESULTS FILE EXPORT SUITABLE FOR UPLOADING TO THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING SYSTEM; AND
 - (3) A CVR EXPORT.
- (E) CVR EXPORT VERIFICATION. COUNTIES CONDUCTING A COMPARISON AUDIT MUST VERIFY THAT:
- (1) THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE AGGREGATE NUMBER OF BALLOTS REFLECTED IN THE COUNTY'S BALLOT MANIFEST AS OF THE NINTH DAY AFTER ELECTION DAY;
 - (2) THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE NUMBER OF BALLOTS TABULATED AS REFLECTED IN THE SUMMARY RESULTS REPORT FOR THE RLA TABULATION;

(3) THE NUMBER OF INDIVIDUAL CVRs IN ITS CVR EXPORT EQUALS THE NUMBER OF IN-PERSON BALLOTS ISSUED PLUS THE NUMBER OF MAIL BALLOTS IN VERIFIED-ACCEPTED STAGE IN SCORE, PLUS THE NUMBER OF PROVISIONAL BALLOTS AND PROPERTY OWNER BALLOTS INCLUDED IN THE RLA TABULATION, IF ANY; AND

(4) THE VOTE TOTALS FOR ALL CHOICES IN ALL BALLOT CONTESTS IN THE CVR EXPORT EQUALS THE VOTE TOTALS IN THE SUMMARY RESULTS REPORT FOR THE RLA TABULATION.

(5) AFTER VERIFYING THE ACCURACY OF THE CVR EXPORT, THE COUNTY MUST APPLY A HASH VALUE TO THE CVR EXPORT FILE USING THE HASH VALUE UTILITY PROVIDED BY THE SECRETARY OF STATE.

(F) COMPARISON AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE NINTH DAY AFTER ELECTION DAY, EACH COUNTY CONDUCTING A COMPARISON AUDIT MUST UPLOAD:

(1) ITS BALLOT MANIFEST TO THE RLA TOOL;

(2) ITS VERIFIED AND HASHED CVR EXPORT TO THE RLA TOOL; AND

(3) ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING SYSTEM.

(G) BALLOT POLLING AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE NINTH DAY AFTER ELECTION DAY, EACH COUNTY CONDUCTING A BALLOT POLLING AUDIT MUST UPLOAD:

(1) ITS BALLOT MANIFEST TO THE RLA TOOL; AND

(2) ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING SYSTEM.

(H) RANDOM SEED. THE SECRETARY OF STATE WILL CONVENE A PUBLIC MEETING ON THE TENTH DAY AFTER ELECTION DAY TO ESTABLISH A RANDOM SEED FOR USE WITH THE SECRETARY OF STATE'S RLA TOOL'S PSEUDO-RANDOM NUMBER GENERATOR BASED ON PHILIP STARK'S ONLINE TOOL, *PSEUDO-RANDOM NUMBER GENERATOR USING SHA-256*. THIS MATERIAL IS INCORPORATED BY REFERENCE IN THE ELECTION RULES AND DOES NOT INCLUDE LATER AMENDMENTS OR EDITIONS. THE FOLLOWING MATERIAL INCORPORATED BY REFERENCE IS POSTED ON THE SECRETARY OF STATE WEBSITE AND AVAILABLE FOR REVIEW BY THE PUBLIC DURING REGULAR BUSINESS HOURS AT THE COLORADO SECRETARY OF STATE'S OFFICE: *PSEUDO-RANDOM NUMBER GENERATOR USING SHA-256* AVAILABLE AT [HTTPS://WWW.STAT.BERKELEY.EDU/~STARK/JAVA/HTML/SHA256RAND.HTM](https://www.stat.berkeley.edu/~stark/java/html/sha256rand.htm). THE SECRETARY OF STATE WILL GIVE PUBLIC NOTICE OF THE MEETING AT LEAST SEVEN CALENDAR DAYS IN ADVANCE. THE SEED IS A NUMBER CONSISTING OF AT LEAST 20 DIGITS, AND EACH DIGIT WILL BE SELECTED IN ORDER BY SEQUENTIAL ROLLS OF A 10-SIDED DIE. THE SECRETARY OF STATE WILL RANDOMLY SELECT MEMBERS OF THE PUBLIC WHO ATTEND THE MEETING TO TAKE TURNS ROLLING

1 THE DIE, AND DESIGNATE ONE OR MORE STAFF MEMBERS TO TAKE TURNS
2 ROLLING THE DIE IN THE EVENT THAT NO MEMBERS OF THE PUBLIC ATTEND THE
3 MEETING. THE SECRETARY OF STATE WILL PUBLISH THE SEED ON THE AUDIT
4 CENTER IMMEDIATELY AFTER IT IS ESTABLISHED.

5 (I) SELECTION OF AUDITED CONTESTS. NO LATER THAN 5:00 P.M. MT ON THE
6 FRIDAY AFTER ELECTION DAY, THE SECRETARY OF STATE WILL SELECT FOR
7 AUDIT AT LEAST ONE STATEWIDE CONTEST, AND FOR EACH COUNTY AT LEAST
8 ONE COUNTYWIDE CONTEST. THE SECRETARY OF STATE WILL SELECT OTHER
9 BALLOT CONTESTS FOR AUDIT IF IN ANY PARTICULAR ELECTION THERE IS NO
10 STATEWIDE CONTEST OR A COUNTYWIDE CONTEST IN ANY COUNTY. THE
11 SECRETARY OF STATE WILL PUBLISH A COMPLETE LIST OF ALL AUDITED
12 CONTESTS ON THE AUDIT CENTER. THE SECRETARY OF STATE WILL CONSIDER
13 THE FOLLOWING FACTORS IN DETERMINING WHICH CONTESTS TO AUDIT:

- 14 (1) THE CLOSENESS OF THE REPORTED OUTCOME OF THE CONTESTS;
15 (2) THE GEOGRAPHICAL SCOPE OF THE CONTESTS;
16 (3) ANY CAUSE FOR CONCERN REGARDING THE ACCURACY OF THE
17 REPORTED OUTCOME OF THE CONTESTS;
18 (4) ANY BENEFITS THAT MAY RESULT FROM OPPORTUNISTICALLY AUDITING
19 CERTAIN CONTESTS; AND
20 (5) THE ABILITY OF THE COUNTY CLERKS TO COMPLETE THE AUDIT BEFORE
21 THE CANVASS DEADLINE.

22 (J) NUMBER OF BALLOTS TO AUDIT. THE SECRETARY OF STATE WILL DETERMINE
23 THE NUMBER OF BALLOTS TO AUDIT TO SATISFY THE RISK LIMIT FOR THE
24 AUDITED CONTESTS BASED ON THE BALLOT MANIFESTS SUBMITTED BY THE
25 COUNTIES. THE NUMBER OF BALLOTS TO AUDIT WILL BE DETERMINED
26 ACCORDING TO THE FORMULAS AND PROTOCOLS PUBLISHED BY MARK
27 LINDEMAN AND PHILIP B. STARK IN *A GENTLE INTRODUCTION TO RISK-LIMITING*
28 *AUDITS*, AS APPLIED IN PHILIP STARK'S *TOOLS FOR COMPARISON RISK-LIMITING*
29 *ELECTION AUDITS*, AND *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION*
30 *AUDITS*. THESE MATERIALS ARE INCORPORATED BY REFERENCE IN THE ELECTION
31 RULES AND DO NOT INCLUDE LATER AMENDMENTS OR EDITIONS OF THE
32 INCORPORATED MATERIAL. THE FOLLOWING MATERIALS INCORPORATED BY
33 REFERENCE ARE POSTED ON THE SECRETARY OF STATE WEBSITE AND
34 AVAILABLE FOR REVIEW BY THE PUBLIC DURING REGULAR BUSINESS HOURS AT
35 THE COLORADO SECRETARY OF STATE'S OFFICE:

- 36 (1) MARK LINDEMAN AND PHILIP B. STARK, *A GENTLE INTRODUCTION TO*
37 *RISK-LIMITING AUDITS*, IEEE SECURITY AND PRIVACY, SPECIAL ISSUE ON
38 ELECTRONIC VOTING, (MAR. 16, 2012), AT
39 [HTTP://WWW.STAT.BERKELEY.EDU/~STARK/PREPRINTS/GENTLE12.PDF](http://WWW.STAT.BERKELEY.EDU/~STARK/PREPRINTS/GENTLE12.PDF).
40 (2) PHILIP B. STARK, *TOOLS FOR COMPARISON RISK-LIMITING ELECTION*
41 *AUDITS*, (FEB. 26, 2017), AT
42 [HTTP://WWW.STAT.BERKELEY.EDU/~STARK/VOTE/AUDITTOOLS.HTM](http://WWW.STAT.BERKELEY.EDU/~STARK/VOTE/AUDITTOOLS.HTM).

(3) PHILIP B. STARK, *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION AUDITS*, (FEB. 16, 2017), AT [HTTPS://WWW.STAT.BERKELEY.EDU/~STARK/JAVA/HTML/BALLOTPOLLTOOLS.HTM](https://www.stat.berkeley.edu/~stark/java/html/ballotpolltools.htm).

(K) RANDOM SELECTION OF BALLOTS FOR AUDIT. THE SECRETARY OF STATE WILL RANDOMLY SELECT THE INDIVIDUAL BALLOTS TO AUDIT. THE SECRETARY OF STATE WILL USE A PSEUDO-RANDOM NUMBER GENERATOR WITH THE SEED ESTABLISHED UNDER SUBSECTION (H) OF THIS RULE TO IDENTIFY INDIVIDUAL BALLOTS AS REFLECTED IN THE COUNTY BALLOT MANIFESTS. THE SECRETARY OF STATE WILL NOTIFY EACH COUNTY OF, AND PUBLISH ON THE AUDIT CENTER, THE RANDOMLY SELECTED BALLOTS THAT EACH COUNTY MUST AUDIT NO LATER THAN 11:59 P.M. MT ON THE TENTH DAY AFTER ELECTION DAY.

25.2.3 CONDUCTING THE AUDIT

(A) THE AUDIT BOARD MUST LOCATE AND RETRIEVE FROM THE APPROPRIATE STORAGE CONTAINER EACH RANDOMLY SELECTED BALLOT. THE AUDIT BOARD MUST VERIFY THAT THE SEALS ON THE APPROPRIATE STORAGE CONTAINERS ARE THOSE RECORDED ON THE APPLICABLE CHAIN-OF-CUSTODY LOGS.

(B) WITHOUT EXAMINING THE CVR, THE AUDIT BOARD MUST EXAMINE EACH RANDOMLY SELECTED BALLOT OR VVPAT AND REPORT THE VOTER MARKINGS OR CHOICES USING THE RLA TOOL OR OTHER MEANS SPECIFIED BY THE SECRETARY OF STATE. IF SUPPORTED BY THE COUNTY'S VOTING SYSTEM, THE AUDIT BOARD MAY REFER TO THE DIGITAL IMAGE OF THE AUDITED BALLOT CAPTURED BY THE VOTING SYSTEM IN ORDER TO CONFIRM IT HAD RETRIEVED THE CORRECT BALLOT RANDOMLY SELECTED FOR AUDIT. IF THE SCANNED BALLOT WAS DUPLICATED PRIOR TO TABULATION, THE AUDIT BOARD MUST ALSO RETRIEVE AND COMPARE THE MARKINGS ON THE ORIGINAL BALLOT. THE AUDIT BOARD MUST COMPLETE ITS REPORTS OF ALL BALLOTS RANDOMLY SELECTED FOR AUDIT NO LATER THAN 5:00 P.M. MT ONE BUSINESS DAY BEFORE THE CANVASS DEADLINE.

(C) THE AUDIT BOARD MUST INTERPRET VOTER MARKINGS ON BALLOTS SELECTED FOR AUDIT IN ACCORDANCE WITH THE SECRETARY OF STATE'S VOTER INTENT GUIDE.

(D) TO THE EXTENT APPLICABLE, THE SECRETARY OF STATE WILL COMPARE THE AUDIT BOARD'S REPORTS OF THE AUDITED BALLOTS TO THE CORRESPONDING CVRS AND POST THE RESULTS OF THE COMPARISON AND ANY MARGIN OVERSTATEMENTS OR UNDERSTATEMENTS ON THE AUDIT CENTER. THE RLA WILL CONTINUE UNTIL THE RISK LIMIT FOR THE AUDITED CONTESTS IS MET OR UNTIL A FULL HAND COUNT RESULTS. IF THE COUNTY AUDIT REPORTS REFLECT THAT THE RISK LIMIT HAS NOT BEEN SATISFIED IN AN AUDITED CONTEST, THE SECRETARY OF STATE WILL RANDOMLY SELECT ADDITIONAL BALLOTS FOR AUDIT.

25.2.4 FOR THE 2017 COORDINATED ELECTION, THE SECRETARY OF STATE MAY, BY ORDER, ALTER ANY OF THE REQUIREMENTS OUTLINED IN RULE 25.2.

1 *Current Rule 11.3.3 is amended and recodified as New Rule 25.3 as follows:*

2 ~~11.3.3~~ 25.3 ~~Post-Election~~ RANDOM Audit. ~~The~~ IF THE SECRETARY OF STATE WAIVES THE
3 REQUIREMENT TO CONDUCT AN RLA UNDER SECTION 1-7-515(2)(B), C.R.S., THE designated
4 election official must conduct the ~~post-election~~ RANDOM audit mandated by sections 1-7-
5 509(1)(b) and 1-7-514, C.R.S., in accordance with this rule.

6 ~~(a)~~ 25.3.1 Selected voting devices

7 ~~(1)~~ (A) No later than 48 hours after the close of polls on election night, the Secretary of
8 State must notify the designated election official of the voting devices randomly
9 selected for audit, based on the submitted hardware inventory list referred to in
10 Rule 11.2.

11 ~~(2)~~ (B) The Secretary of State will randomly select, from the voting devices used in the
12 election, at least five percent of the central count ballot scanners; at least one
13 ballot scanner used at a polling location; and five percent of DREs.

14 ~~(b)~~ 25.3.2 The designated election official must appoint an audit board to conduct the post-
15 election audit in accordance with section 1-7-509(1)(c), C.R.S. At least two canvass
16 board members must observe the random audit. The designated election official,
17 members of his or her staff, and other duly appointed election judges, may assist with the
18 audit.

19 ~~(c)~~ 25.3.3 Number of ballots to audit

20 ~~(1)~~ (A) Paper ballots tabulated on ballot scanners. The board must audit at least 500
21 ballots or 20 percent of the ballots tabulated on each selected ballot scanner,
22 whichever is less. The board may audit more than the minimum number of
23 ballots required.

24 ~~(2)~~ (B) Electronic ballots tabulated on DREs. The board must audit all ballots tabulated
25 on the selected DREs.

26 ~~(d)~~ 25.3.4 Conducting the audit

27 ~~(1)~~ (A) Paper ballots tabulated on ballot scanners

28 ~~(A)~~ (1) If the voting system is capable of generating batch-level tabulation
29 reports for a selected ballot scanner, the board must randomly select a
30 number of ballot batches tabulated on the ballot scanner that, in the
31 aggregate, contain the minimum number of ballots to be audited. The
32 board must manually verify that the votes on the ballots contained in
33 each randomly selected batch match the voting system's tabulation of
34 votes for that batch.

35 ~~(B)~~ (2) If the voting system is not capable of generating batch-level tabulation
36 reports for a selected ballot scanner, the board can choose to audit all of
37 the ballots that were tabulated on the selected scanner, or randomly select
38 and rescan the minimum number of ballots to be audited. If the board
39 chooses to rescan the minimum number of ballots, the board also must:

- (i)-(A) Reset the selected ballot scanner's results to zero and generate a zero report;
- (ii)-(B) Rescan the randomly selected ballots for audit and generate a tabulation report from the selected ballot scanner; and
- (iii)-(C) Manually verify that the votes on the randomly selected ballots match the tabulation report for those ballots generated from the selected ballot scanner.
- (2)-(B) Ballots tabulated on DREs. The board must examine the VVPAT record of each selected DRE and manually verify that the votes reflected on the VVPAT match the tabulation report.
- (e)25.3.5 If the board discovers discrepancies during the audit, the board must:
- (1)-(A) Confirm that the manual count of the votes contained in the audited ballots is correct;
- (2)-(B) Confirm that the manual count of the votes contained in the audited ballots properly reflects overvotes, stray marks on the ballot, and other indications of voter intent;
- (3)-(C) Determine whether any discrepancy is attributable to a damaged ballot; and
- (4)-(D) Take any other action necessary in accordance with the canvass board's powers as described in Part 1, Article 10 of Title 1, C.R.S.
- (f)25.3.6 The designated election official must report the results of the audit in writing to the Secretary of State by 5:00 p.m. on the last day to canvass. The audit report may be submitted by mail, fax, or email. The audit report must contain:
- (1)-(A) The make, model, and serial number of the voting devices audited;
- (2)-(B) The number of ballots originally counted on each device or the number of ballots audited;
- (3)-(C) The count of the specific ~~races~~ CONTESTS on the summary report printed at the close of polls ~~or~~ AND the report generated for the audit;
- (4)-(D) The count of the specific ~~races~~ CONTESTS as manually verified;
- (5)-(E) Any other information required by section 1-7-514, C.R.S.; and
- (6)-(F) The signatures of the audit board, the canvass board members who observed the audit, and the designated election official.
- (g)25.3.7 The designated election official must segregate and seal the materials used during the post-election audit, including all tabulation reports, the audited ballots, and the audit report.



Notice of Proposed Rulemaking

**Office of the Secretary of State
Election Rules
8 CCR 1505-1**

May 31, 2017

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for **July 11, 2017 from 10:00 a.m. - 12:00 p.m.** in the Aspen Conference Room on the 3rd floor of the Secretary of State's Office at 1700 Broadway, Denver, Colorado 80290.

II. Subject

The Secretary is considering amendments to the election rules² to improve the administration and enforcement of Colorado election law.³

Specifically, the Secretary is considering rule revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly; establish uniformity in the administration of current law; organize existing rules for clarity; eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute; and ensure consistency with Department rulemaking standards. The Secretary may consider additional rule amendments.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory authority

The Secretary proposes the rule revisions and amendments in accordance with the following statutory provisions:

¹ Section 24-4-103(3)(a), C.R.S. (2016).

² 8 CCR 1505-CCR 1.

³ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

- Section 1-1-107(2)(a), C.R.S., (2016), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-1-109, C.R.S., (2016), which authorizes the Secretary of State to “promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms.”
- Section 1-1.5-104(1)(b), C.R.S., (2016), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
- Section 1-1.5-104(1)(e), C.R.S., (2016), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. §§ 15301-15545] of [Article 1.5 of Title 1].”
- Section 1-2-701(1) and (2), C.R.S., (2016), which authorizes the Secretary of State to promulgate rules in accordance with article 4 of title 24, C.R.S. for commencing and conducting voter registration drives, and for fulfilling training requirements.
- Section 1-2-217.7(7), C.R.S., (2016), which states that “[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section” concerning registration on or immediately before election day.
- Section 1-4-101(2)(b), C.R.S., (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in primary elections.
- Section 1-4-1203(6), C.R.S. (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in presidential primary elections.”
- Section 1-7-515(4), C.R.S. (2016), which requires the Secretary of State to promulgate rules necessary to implement and administer risk-limiting audits.
- Section 1-7.5-104, C.R.S. (2016), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
- Section 1-7.5-105, C.R.S. (2016), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in accordance with “rules promulgated by the secretary of state as provided in section 1-7.5-106(2).”

- Section 1-7.5-106, C.R.S., (2016), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting “rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.].”
- Section 1-7.5-107(6), C.R.S., (2016), which requires all deposited ballots be counted as provided “by rules promulgated by the secretary of state.”

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State’s rules and notices of rulemaking website at:

www.sos.state.co.us/pubs/rule_making/hearings/2017/ElectionsRulesHearing20170711.html.

You may also contact our office to request a paper or editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by July 6, 2017.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

Everyone will have the opportunity to testify and provide written comment concerning the rule amendments. To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

You may submit written comments by mail, email, or in person to our office any time before the hearing. If you attend the hearing, you may submit written comments to the hearing panel as well. Additional opportunity to comment in writing may be announced at the conclusion of the hearing.

All written comments will be posted online at the Secretary of State website: www.sos.state.co.us/pubs/rule_making/hearings/2017/ElectionsRulesHearing20170711.html.

We will redact contact information, including home address, email address, and telephone number(s), from submissions before posting the information online, unless otherwise directed by the contributor.

⁴ Section 24-4-103(3)(a), C.R.S. (2016). “Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

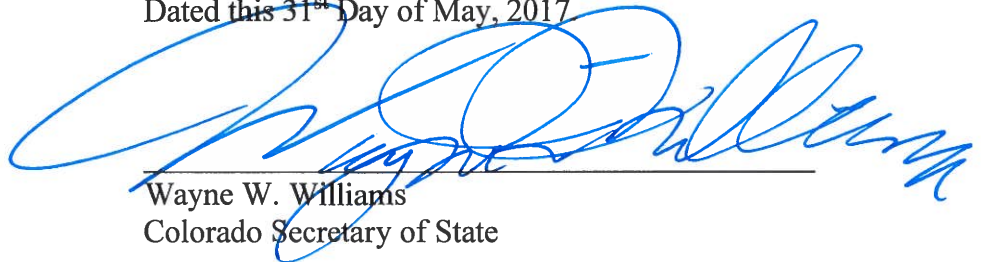
VI. Broadcast and audio recording of hearing

If you are unable to attend the hearing, you may listen to the live broadcast from the Aspen Conference Room online at www.sos.state.co.us/pubs/info_center/audioBroadcasts.html. After the hearing, visit the same website and click on “archived recordings” to access an audio recording of the hearing.

VII. Office contact

If you have any questions or would like to submit written comments, please contact Andrea Gyger with the Administration Division at SoS.Rulemaking@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 31st Day of May, 2017



Wayne W. Williams
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Election Rules 8 CCR 1505-1

May 31, 2017

I. Basis and Purpose

This statement explains proposed amendments to the Colorado Secretary of State Election Rules. The Secretary is considering other amendments to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws,¹ improve elections administration in Colorado, and increase the transparency and security of the election process.

On May 15, 2017, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/ruleComments.html and are incorporated into the official rulemaking record.

Specific proposed changes include:

- New Rule 1.1.10 to define the term “cast vote record”.
- New Rule 1.1.33 to define the term “personally identifiable information”.
- Amendments to Rule 2.3.1 to clarify the language of existing rule.
- New Rule 2.5.4 to ensure proper administration of Propositions 107 and 108 and SB 17-305, and to guarantee that an elector affiliated with one party does not cast a ballot in another party’s primary election.
- Amendments to Rule 2.12.1 to clarify the language of existing rule.
- Repeal of Rule 2.13.2 to establish uniformity in the administration of current law.

¹ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 (“HAVA”), P.L. No. 107-252.

- New Rules 2.14.4 and 2.14.5 to ensure the proper administration of the statewide voter registration database.
- Amendments to Rule 2.15.1 to establish uniformity in the administration of current law.
- New Rule 2.17 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- Amendments to Rule 4.5.2(d) to establish uniformity in the administration of current law.
- Amendments to Rule 4.8.3(a) to ensure proper administration of Propositions 107 and 108.
- Amendments to Rule 7.2.5 to eliminate obsolete provisions.
- Amendments to Rule 7.2.7 to eliminate an unnecessary citation.
- Amendments to Rule 7.2.9 to eliminate obsolete provisions.
- New Rule 7.2.10 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.2.11 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.2.12 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.5.5 to establish uniformity in the administration of current law, and to allow access to drop-off locations that are not near an office, VSPC, or other drop-box.
- Amendments to Rule 7.5.9 to establish uniformity in the administration of current law.
- Amendments to Rule 7.5.10 to establish uniformity in the administration of current law and organize existing rules for clarity. The amendments to this rule ensure ballot secrecy as required by the Colorado Constitution.
- Amendments to Rule 7.5.11 to establish uniformity in the administration of current law and organize existing rules for clarity.
- New Rule 7.5.12 to establish uniformity in the administration of current law and organize existing rules for clarity.
- New Rule 7.5.13 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.5.14 to ensure proper administration of Propositions 107 and 108 and SB 17-305.

- Amendments to Rule 7.6.1 to establish uniformity in the administration of current law and organize existing rules for clarity.
- Amendments to Rule 7.7 and 7.7.3 to establish uniformity in the administration of current law and organize existing rules for clarity.
- Amendments to Rule 7.8.2 to establish uniformity in the administration of current law and organize existing rules for clarity.
- Amendments to Rule 7.9.1(c) to correct an incorrect citation.
- Amendments to Rule 7.9.3 to establish uniformity in the administration of current law and organize existing rules for clarity.
- New Rule 7.9.8 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- New Rule 7.9.9 to establish uniformity in the administration of current law.
- New Rule 7.9.10 to establish uniformity in the administration of current law.
- New Rule 7.11 to establish uniformity in the administration of current law and provide more voting options to voters.
- New Rule 7.16 to establish uniformity in the administration of current law.
- Amendments to Rule 8.1.5 to establish uniformity in the administration of current law.
- Amendments to Rule 8.7.4 to correct an incorrect cross-reference.
- New Rule 8.15.8 to establish uniformity in the administration of current law.
- Amendments to rule 10.3.2(b) to correct an incorrect cross-reference.
- New Rule 10.4 to ensure proper administration of risk-limiting audits.
- Amendments to Rule 10.5.1 to establish uniformity in the administration of current law, organize existing rules for clarity, and to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- Amendments to Rule 10.13.1 and 10.13.2 to correct incorrect cross-references.
- Amendments to Rule 11.3.2(c)(1) to establish uniformity in the administration of current law.
- Amendments to Rule 11.10.1(b)(2) to correct an incorrect cross-reference.
- Amendments to Rule 11.10.3 establish uniformity in the administration of current law.

- Repeal of Rule 13.1.7 to establish uniformity in the administration of current law.
- Amendments to Rule 13.2.9(a) to establish uniformity in the administration of current law.
- Amendments to Rule 14.1.1(a) establish uniformity in the administration of current law.
- New Rule 14.3.4 to establish uniformity in the administration of current law.
- Amendments to Rule 16.1.6 to establish uniformity in the administration of current law and organize existing rules for clarity.
- Amendments to Rule 20.13.1(c)(8) to establish uniformity in the administration of current law and correct an incorrect cross-reference.
- Amendments to Rule 20.16.3 to correct an incorrect cross-reference.
- Amendments to Rule 20.17.3 to establish uniformity in the administration of current law.
- Amendments to Rule 21.4.5 to establish uniformity in the administration of current law and organize existing rules for clarity.
- Amendments to Rule 21.4.14 to organize existing rules for clarity and establish uniformity in the administration of current law.
- New Rule 24 to establish uniformity in the administration of current law.
- New Rule 25.1 to ensure proper administration of risk-limiting audits.
- New Rule 25.2 to ensure proper administration of risk-limiting audits.
- Recodification of Rule 11.3.3 as Rule 25.3 to ensure uniformity in the administration of post-election random audits.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2016), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”

2. Section 1-1-109, C.R.S., (2016), which authorizes the Secretary of State to “promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms.”
3. Section 1-1.5-104(1)(b), C.R.S., (2016), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
4. Section 1-1.5-104(1)(e), C.R.S., (2016), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. §§ 15301-15545] of [Article 1.5 of Title 1].”
5. Section 1-2-701(1) and (2), C.R.S., (2016), which authorizes the Secretary of State to promulgate rules in accordance with article 4 of title 24, C.R.S. for commencing and conducting voter registration drives, and for fulfilling training requirements.
6. Section 1-2-217.7(7), C.R.S., (2016), which states that “[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section” concerning registration on or immediately before election day.
7. Section 1-4-101(2)(b), C.R.S., (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in primary elections.
8. Section 1-4-1203(6), C.R.S. (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in presidential primary elections.”
9. Section 1-7-515(4), C.R.S. (2016), which requires the Secretary of State to promulgate rules necessary to implement and administer risk-limiting audits.
10. Section 1-7.5-104, C.R.S. (2016), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
11. Section 1-7.5-105, C.R.S. (2016), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in accordance with “rules promulgated by the secretary of state as provided in section 1-7.5-106(2).”
12. Section 1-7.5-106, C.R.S., (2016), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting “rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.].”
13. Section 1-7.5-107(6), C.R.S., (2016), which requires all deposited ballots be counted as provided “by rules promulgated by the secretary of state.”

Preliminary Draft of Proposed Rules

Office of the Colorado Secretary of State Election Rules 8 CCR 1505-1

May 31, 2017

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the July 11, 2017 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **July 6, 2017**.²

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>Italic blue font text</i>	Annotations

1 *Amendments to 8 CCR 1505-1 follow:*

2 *Amendments to Rule 1 concerning definitions and numbering:*

3 *New Rule 1.1.10:*

4 1.1.10 "CAST VOTE RECORD" OR "CVR" MEANS THE AGGREGATED BALLOT-LEVEL DATA ON
5 BALLOTS COUNTED, CONSISTING OF A SINGLE RECORD FOR EACH BALLOT TABULATED,
6 SHOWING THE MANNER IN WHICH THE VOTING SYSTEM INTERPRETED AND TABULATED
7 THE VOTER'S MARKINGS ON THE BALLOT, AS ADJUDICATED AND RESOLVED BY ELECTION
8 JUDGES, IF APPLICABLE.

9 *[Not shown: renumbering Current Rules 1.1.10-1.1.31 as Rules 1.1.11-1.1.32]*

10 *New Rules 1.1.33 and 1.1.34:*

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2016). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2016). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

1 1.1.33 “PERSONALLY IDENTIFIABLE INFORMATION” MEANS INFORMATION ABOUT AN
2 INDIVIDUAL THAT CAN BE USED TO DISTINGUISH OR TRACE AN INDIVIDUAL’S IDENTITY,
3 SUCH AS AN ELECTOR’S SOCIAL SECURITY NUMBER, DRIVER’S LICENSE NUMBER, EMAIL
4 ADDRESS, MONTH AND DAY OF BIRTH, AND SIGNATURE.

5 *[Not shown: renumbering Current Rules 1.1.32-1.1.49 as Rules 1.1.34-1.1.51]*

6 *Amendments to Rule 2.3.1 concerning voter registration:*

7 2.3.1 The county must process the Help America Vote Verification file on at least a monthly
8 basis by verifying social security numbers and ~~remove~~—REMOVING the “ID required”
9 FLAG FROM verified records.

10 *New Rule 2.5.4 concerning affiliation in primary elections:*

11 2.5.4 IF AN UNAFFILIATED ELECTOR WHO HAS ALREADY BEEN MAILED A PRIMARY ELECTION
12 BALLOT PACKET SUBMITS AN AFFILIATION DECLARATION, THE COUNTY CLERK MUST
13 DEFER PROCESSING THE AFFILIATION CHANGE UNTIL AFTER THE PRIMARY ELECTION;
14 EXCEPT THAT AN UNAFFILIATED ELECTOR WHO APPEARS IN PERSON TO VOTE MAY
15 AFFILIATE AND VOTE A PARTY BALLOT IF THE COUNTY CLERK HAS NOT RECEIVED THE
16 ELECTOR’S VOTED MAIL BALLOT.

17 *Amendments to Rule 2.12.1 concerning list maintenance:*

18 2.12 List Maintenance under section 8 of the National Voter Registration Act of 1993

19 2.12.1 The Secretary of State will provide monthly National Change of Address (NCOA) data
20 under section 1-2-302.5, C.R.S., to the county clerk by the fifth BUSINESS DAY of each
21 month.

22 *Amendments to Rule 2.13 concerning voter registration at VSPCs and repeal of Rule 2.13.2:*

23 2.13 Voter registration at a voter service and polling center.

24 ~~2.13.1~~—A person registering voters or updating voter registration information in a voter service
25 and polling center must:

26 (a)-2.13.1 Be an election judge, a permanent or temporary county employee, state
27 employee, or temporary staff hired by the county clerk; and

28 (b)-2.13.2 Complete a training course provided by or approved by the Secretary of
29 State.

30 ~~2.13.2~~ For the purpose of providing information to watchers, the person registering voters or
31 updating voter registration information in a voter service and polling center must
32 maintain a log that includes the name and residential address of each elector who
33 registers or updates his or her registration record, or verbally confirm each elector’s name
34 and residential address.

35 *New Rules 2.14.4 and 2.14.5 concerning voter registration records and data and renumbering:*

1 2.14.4 WITHOUT WRITTEN AUTHORIZATION FROM THE SECRETARY OF STATE, THE COUNTY
2 CLERK MAY NOT RUN OR SCHEDULE TO RUN SCORE REPORTS OR EXPORTS THAT
3 INCLUDE VOTER OR ELECTION DETAIL DURING REGULAR BUSINESS HOURS BEGINNING 22
4 DAYS BEFORE ELECTION DAY AND FROM 7:00 AM TO 7:00 PM ON ELECTION DAY.

5 2.14.5 THE COUNTY CLERK MUST SUBMIT ANY REQUEST FOR SCORE STATEWIDE REPORTS OR
6 EXPORTS TO THE SECRETARY OF STATE.

7 ~~2.14.4~~ 2.14.6 Custodianship of Voter Registration Information

8 (a) The Secretary of State is the official custodian of the information contained in the
9 centralized statewide registration system and the computerized statewide voter
10 registration list created and maintained under section 1-2-301, C.R.S.

11 (b) Each county clerk is the official custodian of the voter registration information
12 only for electors within his or her county.

13 ~~2.14.5~~ 2.14.7 If a person requests a certificate of registration or other election record that
14 contains personally identifiable information, he or she must provide a copy of
15 identification as defined in section 1-1-104(19.5), C.R.S.

16 *Amendments to Rule 2.15.1 concerning SCORE username and password administration:*

17 2.15.1 The state user administrator assigns county user administrator privileges to the individual
18 designated in each county by the county clerk. The county clerk OR ELECTION
19 ADMINISTRATOR must submit a request for county user administrator privilege to the
20 state user administrator in writing. The request must specifically state the full name of the
21 county employee that is being assigned as a county user administrator.

22 *New Rule 2.17 concerning ballot preference for unaffiliated voters:*

23 2.17 IF AN UNAFFILIATED ELECTOR INDICATES A POLITICAL PARTY BALLOT PREFERENCE AT ANY TIME
24 UP TO AND INCLUDING THE TWENTY-NINTH DAY BEFORE A PRIMARY ELECTION, THE COUNTY
25 CLERK MUST RECORD THE SELECTION IN SCORE AND MAIL ONLY THE BALLOT OF THAT
26 POLITICAL PARTY TO THE ELECTOR IN THE NEXT PRIMARY ELECTION. AN ELECTOR'S POLITICAL
27 PARTY BALLOT PREFERENCE IS ONLY EFFECTIVE FOR A SINGLE PRIMARY ELECTION.

28 *Repeal of Rule 4.5.2(d) concerning determination of ballot issues and texts:*

29 4.5.2 Each political subdivision must determine the order of the ballot issues for their political
30 subdivision in accordance with the requirements of Colorado Constitution Article X,
31 Section 20 and Title 1.

32 ~~(d) For statewide measures, initiatives must be numbered in the order in which the~~
33 ~~statements of sufficiency are issued. The numbers one through five must be~~
34 ~~reserved for initiatives to increase taxes; the numbers six through ten must be~~
35 ~~reserved for initiatives to retain excess revenues; the numbers eleven through~~
36 ~~fifteen must be reserved for initiatives to increase debt; all other citizen petitions~~
37 ~~must be numbered consecutively beginning with sixteen.~~

1 ~~(e)~~(D) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or referred,
2 every proposed change to the Colorado Constitution must be called an
3 “amendment” and every proposed change to the Colorado Revised Statutes must
4 be called a “proposition”

5 ~~(f)~~(E) Ballot issues from the various political subdivisions must be ordered on the ballot
6 as provided in section 1-5-407(5), C.R.S:

7 *Amendments to Rule 4.8.3(a) concerning ballot format and printing:*

8 4.8.3 Printing primary election ballots

9 (a) If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates
10 more than one candidate for any office, the county clerk must conduct the
11 primary election for all major political parties UNLESS THE PARTY CHOOSES TO
12 NOMINATE CANDIDATES IN ACCORDANCE WITH SECTION 1-4-702, C.R.S.

13 (1) The county clerk must include on the ballot all offices to which
14 candidates may be nominated in the primary election.

15 (2) If there are no candidates for any particular office, the county clerk must
16 print on the ballot “There are no candidates for this office”.

17 [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.1.1]

18 *Amendments to Rules 7.2.5, 7.2.7, 7.2.9, and New Rules 7.2.10 through 7.2.12 concerning ballots and*
19 *ballot packets in primary elections:*

20 7.2.5 ~~Effective January 1, 2016, each~~ EACH mail ballot return envelope and mail ballot
21 instruction must include a statement informing voters that it is a violation of law to
22 receive more than ten ballots for mailing or delivery in any election.

23 7.2.7 A county must issue a mail ballot to any eligible elector who requests one in person at the
24 county clerk’s office or the office designated in the county’s mail ballot plan beginning
25 32 days before an election. ~~[Section 1-7.5-107(2.7), C.R.S.]~~

26 7.2.9 ~~On all ballot return envelopes printed after April 1, 2016, the~~ THE county clerk must
27 provide a space on the ballot-return envelope for a witness to the elector’s mark to
28 provide his or her full legal name.

29 7.2.10 MAIL BALLOT RETURN ENVELOPES FOR UNAFFILIATED VOTERS IN A PRIMARY ELECTION
30 MAY PROVIDE A MEANS FOR THE COUNTY TO DETERMINE, BEFORE OPENING THE
31 ENVELOPE, WHICH PARTY’S PRIMARY ELECTION THE ELECTOR VOTED IN. IF THE MAIL
32 BALLOT RETURN ENVELOPE DOES NOT PROVIDE SUCH A MEANS, THE COUNTY MUST
33 FOLLOW THE PROCESS OUTLINED IN RULE 7.5.13.

34 7.2.11 EACH MAIL BALLOT RETURN ENVELOPE AND MAIL BALLOT INSTRUCTION FOR AN
35 UNAFFILIATED VOTER IN A PRIMARY ELECTION MUST INCLUDE A STATEMENT
36 INSTRUCTING THE VOTER TO RETURN ONLY ONE BALLOT.

1 7.2.12 THE COUNTY CLERK MUST ISSUE A REPLACEMENT MAIL BALLOT PACKET TO AN
2 UNAFFILIATED ELECTOR IN A PRIMARY ELECTION WHO REQUESTS ONE IF THE ELECTOR
3 HAS NOT ALREADY VOTED. THE REPLACEMENT MAIL BALLOT PACKET MUST CONTAIN
4 THE BALLOTS OF ALL PARTICIPATING MAJOR POLITICAL PARTIES, OR IF THE ELECTOR HAS
5 PROVIDED A BALLOT PREFERENCE, THE BALLOT OF THE ELECTOR'S PREFERRED
6 POLITICAL PARTY.

7 *New Rule 7.5.5 concerning remote drop off locations and amendments to Current Rules 7.5.5 through*
8 *7.5.8 concerning renumbering:*

9 7.5.5 THE COUNTY CLERK MAY REQUEST A WAIVER FROM THE SECRETARY OF STATE FOR
10 REMOTE DROP OFF LOCATIONS, EXEMPTING THEM FROM THE BALLOT COLLECTION
11 REQUIREMENTS IN RULE 7.5.4. IF THE SECRETARY OF STATE GRANTS THE WAIVER:

12 (A) THE COUNTY CLERK MUST ARRANGE FOR THE COLLECTION OF BALLOTS BY
13 BIPARTISAN TEAMS OF ELECTION JUDGES FROM ALL EXEMPT DROP-OFF
14 LOCATIONS AS OFTEN AS NECESSARY, BUT AT LEAST:

15 (1) ONCE EACH WEEK AFTER BALLOTS ARE MAILED UNTIL THE FRIDAY
16 BEFORE ELECTION DAY; AND

17 (2) ON THE FRIDAY AND MONDAY BEFORE ELECTION DAY AND ON
18 ELECTION DAY AT 7:00 P.M. MT.

19 (B) THE COUNTY CLERK MUST POST A NOTICE ON EACH EXEMPT DROP BOX OF THE
20 DATES AND APPROXIMATE TIMES BALLOTS WILL BE COLLECTED.

21 (C) IF THE SECRETARY OF STATE DETERMINES THAT THE COUNTY FAILED TO
22 COLLECT BALLOTS FROM A REMOTE DROP-OFF LOCATION AS OFTEN AS
23 NECESSARY, THE SECRETARY OF STATE MAY REVOKE OR MODIFY THE WAIVER.

24 ~~7.5.5~~7.5.6 Election officials must record the number of ballot packets returned as
25 undeliverable and receive the ballot packets in SCORE upon receipt.

26 ~~7.5.6~~7.5.7 The designated election official must seal and store ballots and return envelopes
27 in a safe, secure place until the counting of the ballots.

28 ~~7.5.7~~7.5.8 After election judges verify the elector's eligibility and signature, the county
29 clerk must dissociate and segregate the mail ballot return envelope from the secrecy
30 sleeve and a voted ballot in a manner that ensures no person is able to determine how an
31 individual voted.

32 *Amendments to Rules 7.5.9, 7.5.10, 7.5.11 and New Rules 7.5.12 and 7.5.13 concerning receipt and*
33 *processing of ballots:*

34 ~~7.5.8~~7.5.9 If the county clerk discovers a violation of section 1-7.5-107(4)(b), C.R.S.,
35 prohibiting any person from ~~delivering~~ RECEIVING more than 10 ballots in addition to his
36 or her own in any election, the county clerk must refer the information to the District
37 Attorney.

1 ~~7.5.9~~ 7.5.10 ~~The~~ BEFORE TABULATING BALLOTS, THE county clerk must dissociate COUNTING
2 BATCHES FROM any SCORE batch number that could trace a ballot back to the specific
3 voter who cast it ~~from the counted ballots or any reports generated by the tabulation~~
4 ~~software no later than the final certification of the abstract of votes cast.~~

5 ~~7.5.10~~ 7.5.11 If an elector delivers a ballot to the wrong county, that county must date stamp
6 the ballot envelope AND TIMELY FORWARD IT TO THE CORRECT COUNTY. BEGINNING THE
7 THURSDAY BEFORE ELECTION DAY, THE COUNTY MUST NOTIFY THE CORRECT COUNTY
8 OF RECEIPT BY SECURE ELECTRONIC TRANSMISSION WITH A SCANNED IMAGE OF THE
9 OUTSIDE OF THE MAIL BALLOT ENVELOPE INCLUDING THE SIGNATURE, and forward it to
10 the correct county NO LATER THAN THE NEXT BUSINESS DAY. A COUNTY THAT
11 PHYSICALLY DELIVERS BALLOTS TO ANOTHER COUNTY NO LATER THAN THE NEXT
12 BUSINESS DAY IS NOT REQUIRED TO SCAN THE ENVELOPE. The correct county must treat
13 the ballot as received as of the date and time of the date stamp.

14 7.5.12 COUNTY CLERKS PICKING UP BALLOTS ON BEHALF OF ANOTHER COUNTY FROM THE U.S.
15 POSTAL SERVICE ON ELECTION NIGHT MUST LOG THE NUMBER OF BALLOTS COLLECTED
16 BY COUNTY AND PROVIDE THE LOG TO THE SECRETARY OF STATE'S OFFICE WITHIN 48
17 HOURS. THE COUNTY CLERK MUST DATE STAMP EACH BALLOT ENVELOPE AND
18 IMMEDIATELY FORWARD IT TO THE CORRECT COUNTY. THE CORRECT COUNTY MUST
19 TREAT THE BALLOT AS RECEIVED AS OF THE DATE AND TIME OF THE DATE STAMP.

20 7.5.13 UNAFFILIATED VOTERS IN A PRIMARY ELECTION. IF AN ELECTION JUDGE IS UNABLE TO
21 DETERMINE, BEFORE OPENING THE ENVELOPE. WHICH PARTY'S ELECTION THE ELECTOR
22 VOTED IN, THE COUNTY MUST SEPARATE THE ELECTOR'S BALLOT FROM THE ENVELOPE
23 IN THE FOLLOWING MANNER:

24 (A) AN ELECTION JUDGE MUST REMOVE THE BALLOT, ENCLOSED IN A SECRECY
25 SLEEVE, FROM THE MAIL BALLOT RETURN ENVELOPE AND PASS IT TO A
26 BIPARTISAN TEAM OF JUDGES WITHOUT ALLOWING THE TEAM OF JUDGES TO
27 DETERMINE THE IDENTITY OF THE ELECTOR.

28 (B) THE BIPARTISAN TEAM OF ELECTION JUDGES MUST REMOVE THE BALLOT FROM
29 THE SECRECY SLEEVE, REVIEW THE BALLOT, AND AUDIBLY REPORT TO THE FIRST
30 ELECTION JUDGE WHICH POLITICAL PARTY'S ELECTION THE ELECTOR VOTED IN.

31 (C) THE FIRST ELECTION JUDGE MUST RECORD IN SCORE WHICH POLITICAL PARTY'S
32 ELECTION THE ELECTOR VOTED IN, OR MARK THE MAIL BALLOT RETURN
33 ENVELOPE WITH THE PROPER PARTY INFORMATION FOR LATER RECORDING IN
34 SCORE.

35 7.5.14 IF AN UNAFFILIATED ELECTOR RETURNS MORE THAN ONE BALLOT IN A PRIMARY
36 ELECTION, A BIPARTISAN TEAM OF ELECTION JUDGES MUST REVIEW THE BALLOTS TO
37 DETERMINE THE ELECTOR'S INTENT IN ACCORDANCE WITH THE SECRETARY OF STATE'S
38 VOTER INTENT GUIDE.

39 (A) IF THE BIPARTISAN TEAM DETERMINES THE ELECTOR VOTED IN ONLY ONE
40 PARTY'S PRIMARY ELECTION, THE FIRST ELECTION JUDGE MUST RECORD THE
41 DISPOSITION IN SCORE UNDER RULE 7.5.13(C). THE COUNTY MUST RETAIN ANY
42 UNVOTED BALLOT AS AN ELECTION RECORD.

- (B) IF THE BIPARTISAN TEAM DETERMINES THE ELECTOR VOTED IN MORE THAN ONE PARTY'S PRIMARY ELECTION, OR RETURNED ONLY BLANK BALLOTS, THE COUNTY MUST REJECT THE BALLOTS AND RETAIN THEM IN THE MAIL BALLOT RETURN ENVELOPE AS AN ELECTION RECORD.

Amendments to Rule 7.6.1 concerning ballots returned in unofficial envelope:

- 7.6.1 If the county timely receives a mail ballot from an eligible elector in an envelope ~~other than the official ballot return envelope for that particular election~~ THAT IS MISSING OR LACKS THE CORRECT SELF-AFFIRMATION, the county must contact the elector in writing within three calendar days of receiving the ballot but no later than two calendar days after election day. The county must use the letter and affidavit prescribed by the Secretary of State and keep a copy as part of the official election record. If the county receives the completed affidavit no later than the eighth day after election day, the county must count the ballot.

Amendments to Rule 7.7 concerning mail ballot cure procedures:

~~7.7 Missing signature.~~ MAIL BALLOT CURE PROCEDURES

- 7.7.3 ~~Nothing in this Rule prohibits the county clerk from calling the elector, but a phone call may not substitute for written contact.~~ If the county clerk ~~calls~~ USES ANY MEANS IN ADDITION TO MAIL TO CONTACT any elector REGARDING A MISSING OR DISCREPANT SIGNATURE OR MISSING ID, he or she must attempt to ~~call~~ CONTACT all SIMILARLY SITUATED electors whose ~~affidavits are unsigned~~ REGISTRATION RECORDS HAVE THE SAME TYPE OF CONTACT INFORMATION.

Amendments to Rule 7.8.2 concerning signature verification procedures:

- 7.8.2 If the elector's signature appears anywhere on ~~the back of~~ the ballot return envelope, the election judge must ~~review the~~ VERIFY THE signature IN ACCORDANCE WITH SECTION 1-7.5-107.3, C.R.S.

Amendments to Rule 7.9.1(c) and 7.9.3 and New Rules 7.9.8, 7.9.9, and 7.9.10 concerning VSPCs:

- 7.9.1 The county clerk must designate and open the minimum number of voter service and polling centers. The centers must be open during reasonable business hours for the minimum number of days outlined in section 1-5-102.9, C.R.S., for a general election and 1-7.5-107(4.5), C.R.S., for all other elections.

- (c) The county clerk must provide all services outlined in section ~~1-2-509~~ 1-5-102.9, C.R.S., at every designated voter service and polling center.

- 7.9.3 In order to assist applicants and electors efficiently, a county clerk must configure voter service and polling centers ~~to provide~~ WITH sufficient election judges, WebSCORE work stations, voting equipment, AND SUFFICIENT NUMBERS OF mail and in-person ballots THAT CAN BE TABULATED BY THE COUNTY'S VOTING SYSTEM WITHOUT FURTHER DUPLICATION, and other supplies. A COUNTY MAY SATISFY THIS RULE BY PROVIDING A SUFFICIENT NUMBER OF BALLOT MARKING DEVICES OR BALLOT ON DEMAND PRINTERS.

1 7.9.8 AN UNAFFILIATED ELECTOR VOTING IN PERSON AT A VOTER SERVICE AND POLLING
2 CENTER IN A PRIMARY ELECTION MUST STATE WHICH PARTY'S ELECTION HE OR SHE
3 CHOOSES TO VOTE IN, AND THE ELECTION JUDGE MUST INDICATE THE VOTER'S
4 SELECTION IN WEBScore AND PROVIDE THE VOTER WITH THAT PARTY'S BALLOT.

5 7.9.9 ON ELECTION DAY DURING EACH GENERAL ELECTION, A COUNTY WITH AT LEAST FIFTY
6 THOUSAND ACTIVE ELECTORS MUST MEASURE AND RECORD THE WAIT TIME AT EACH OF
7 ITS VOTER SERVICE AND POLLING CENTERS, AT LEAST ONCE PER HOUR, FROM THE TIME A
8 PERSON ENTERS THE LOCATION OR THE LINE TO THE TIME THAT THE PERSON BEGINS THE
9 CHECK-IN PROCESS.

10 7.9.10 EACH COUNTY REQUIRED TO MEASURE UNDER RULE 7.9.9 MUST REPORT ITS RESULTS TO
11 THE SECRETARY OF STATE NO LATER THAN 30 DAYS AFTER THE ELECTION.

12 *New Rule 7.11 concerning cross-jurisdictional voter service and polling center pilot program:*

13 7.11 CROSS-JURISDICTIONAL VOTER SERVICE AND POLLING CENTER PILOT PROGRAM

14 7.11.1 THE COUNTY CLERK MAY APPLY TO THE SECRETARY OF STATE TO PARTICIPATE IN A
15 PILOT PROGRAM ALLOWING A COUNTY TO AGREE WITH ANOTHER COUNTY OR COUNTIES
16 TO PROVIDE THE COUNTY'S SERVICES AT THE OTHER COUNTY'S VOTER SERVICE AND
17 POLLING CENTERS. THE SECRETARY OF STATE MUST RECEIVE THE APPLICATION NO
18 LATER THAN 110 DAYS BEFORE ELECTION DAY.

19 7.11.2 IN REVIEWING THE COUNTY CLERK'S APPLICATION, THE SECRETARY OF STATE WILL
20 CONSIDER THE FOLLOWING:

21 (A) THE COUNTY'S PLAN TO PROVIDE ALL SERVICES OUTLINED IN SECTION 1-5-
22 102.9, C.R.S. FOR EACH PARTICIPATING COUNTY AT EACH VOTER SERVICE AND
23 POLLING CENTER.

24 (B) WHETHER THE COUNTIES SHARE A COMMON BORDER AND THE GEOGRAPHICAL
25 LOCATION OF PROPOSED MULTI-COUNTY VOTER SERVICE AND POLLING CENTERS.

26 (C) ANY PUBLIC COMMENT PROVIDED UNDER SECTION 1-5-102.9(1)(C)(II), C.R.S.
27 AND THE INPUT, IF ANY, OF THE GOVERNING BOARD OF THE COUNTY.

28 7.11.3 WHEN DESIGNATING VOTER SERVICE AND POLLING CENTERS, AT LEAST TWO-THIRDS OF
29 THE VOTER SERVICE AND POLLING CENTERS REQUIRED UNDER SECTIONS 1-5-102.9 AND
30 1-7.5-107, C.R.S., MUST BE LOCATED WITHIN THE COUNTY BOUNDARIES; EXCEPT THAT
31 EACH PARTICIPATING COUNTY MUST HAVE THE MINIMUM NUMBER OF VOTER SERVICE
32 AND POLLING CENTERS REQUIRED UNDER SECTION 1-5-102.9 AND 1-7.5-107, C.R.S. OPEN
33 WITHIN ITS BOUNDARIES ON THE MONDAY BEFORE ELECTION DAY AND ELECTION DAY.

34 *New Rule 7.16 concerning voter registration post-election scanning:*

35 7.16 FOLLOWING EACH ELECTION, THE COUNTY CLERK MUST SCAN INTO SCORE THE ELECTOR'S
36 SIGNATURE AND DATE ON EACH ACCEPTED MAIL BALLOT RETURN ENVELOPE.

37 *Amendments to Rule 8 concerning watchers:*

1 8.1.5 A watcher must complete a training provided by or approved by the Secretary of State
2 before observing election activities where confidential or personally identifiable
3 information may be within view. To verify completion of the training, a watcher must
4 provide his or her training certificate of completion with the Certificate of Appointment.
5 A TRAINING CERTIFICATE OF COMPLETION IS VALID UNTIL DECEMBER 31 OF THE
6 FOLLOWING YEAR. AN APPROVED TRAINING MAY BE USED FOR ONE CALENDAR YEAR
7 FROM THE DATE APPROVED.

8 8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The
9 six-foot limit in Rule ~~4.1.27~~ 1.1.28 applies only to voting.

10 8.15 A watcher may not:

11 8.15.8 UNLESS OTHERWISE APPROVED BY THE COUNTY CLERK, HAVE IN HIS OR HER POSSESSION
12 ANY MOBILE PHONE OR OTHER ELECTRONIC DEVICE WHILE WATCHING ELECTION
13 ACTIVITIES WHERE VOTERS' CONFIDENTIAL OR PERSONALLY IDENTIFIABLE
14 INFORMATION MAY BE WITHIN VIEW.

15 ~~8.15.8~~ 8.15.9 Attempt to determine how any elector voted.

16 ~~8.15.9~~ 8.15.10 Disclose or record any confidential voter information as defined in section 24-72-
17 204(8), C.R.S., that he or she may observe.

18 ~~8.15.10~~ 8.15.11 Disclose any results before the polls have closed.

19 *Amendments to Rule 10.3.2(b) concerning correcting cross-reference:*

20 10.3.2 The canvass board's duties are to:

21 (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S.,
22 and Election Rule ~~11.3.3(k)~~ 25.3.2;

23 *New Rule 10.4 concerning the date for conducting canvass:*

24 10.4 NO CANVASS BOARD MAY CERTIFY OFFICIAL RESULTS UNTIL AUTHORIZED TO DO SO BY THE
25 SECRETARY OF STATE. THE SECRETARY OF STATE MAY EXTEND THE CANVASS DEADLINE FOR
26 ONE OR MORE COUNTIES IN ORDER TO COMPLETE THE RISK-LIMITING AUDIT IN ACCORDANCE
27 WITH RULE 25.2. BEFORE CERTIFYING OFFICIAL RESULTS, A COUNTY THAT CONDUCTS A
28 COMPARISON AUDIT AS DEFINED IN RULE 25.1.4 MUST MANUALLY ADJUST THE PRELIMINARY
29 RESULTS TO REFLECT ALL DISCREPANCIES IDENTIFIED IN THE RISK-LIMITING AUDIT.

30 *Amendments to Rule 10.5 concerning procedures for canvass:*

31 ~~10.4~~ 10.5 Procedures for the day of the Canvass

32 ~~10.4.1~~ 10.5.1 The designated election official must provide the following information to the
33 canvass board:

34 (a) The name of each candidate, office, and votes received;

35 (b) The number or letter of each ballot issue or question and votes received;

- 1 (c) The TOTAL number of ballots cast, ~~including the number of accepted and rejected~~
2 ~~mail ballots~~;
- 3 (d) The number of provisional ballots cast, including ~~the number accepted and~~
4 ~~rejected~~; TOTALS FOR:
- 5 (1) BALLOTS ACCEPTED BY EACH CODE; AND
- 6 (2) BALLOTS REJECTED BY EACH CODE.
- 7 (e) The number of mail ballots ~~counted and the number rejected~~; CAST, INCLDUING
8 TOTALS FOR:
- 9 (1) BALLOTS ACCEPTED; AND
- 10 (2) BALLOTS REJECTED BY EACH CODE.
- 11 (f) The number of in-person ballots counted;
- 12 ~~(g) The number of provisional ballots counted and the number rejected listed by each~~
13 ~~rejection code; and~~
- 14 (G) THE NUMBER OF EMERGENCY REPLACEMENT BALLOTS, INCLUDING TOTALS FOR:
- 15 (1) BALLOTS ACCEPTED; AND
- 16 (2) BALLOTS REJECTED BY EACH CODE.
- 17 (h) The number of damaged and spoiled ballots.
- 18 (I) IF APPLICABLE, THE NUMBER OF BALLOTS CAST IN EACH PARTY'S PRIMARY
19 ELECTION, INCLUDING TOTALS FOR:
- 20 (1) BALLOTS ACCEPTED IN EACH PARTY'S PRIMARY ELECTION BY
21 AFFILIATED AND UNAFFILIATED VOTERS; AND
- 22 (2) BALLOTS REJECTED BY EACH CODE.
- 23 ~~10.4.2~~-10.5.2 Any written documentation regarding official results must be included as part of
24 the canvass.
- 25 ~~10.4.3~~-10.5.3 Written Complaints
- 26 (a) The designated election official must provide the canvass board with any written
27 complaint submitted by a registered elector about a voting device.
- 28 (b) If the complaint is resolved, the designated election official must provide the
29 details of the resolution.
- 30 (c) If the complaint is pending resolution when the board meets to conduct the
31 canvass, the designated election official must provide a proposal for how the
32 issue will be resolved.

[Not shown: current Rules 10.5 through 10.13 are renumbered as Rules 10.6 through 10.14]

Additional cross reference amendments to current Rules 10.13.1 and 10.13.6 (renumbered as 10.13.1 and 10.13.6) follow:

~~10.12.1~~ 10.13.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule ~~10.11~~ 10.12, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule ~~10.12.5~~ 10.13.5.

~~10.12.6~~ 10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule ~~10.11.3~~ 10.12.3, the county clerk must upload the memory cards.

Amendments to Rule 11.3 concerning hardware diagnostic testing and LAT:

11.3 The clerk must perform a hardware diagnostic test, AND a logic and accuracy test, ~~and a post-election audit.~~

11.3.2 Logic and Accuracy Test

(c) Preparing for the Logic and Accuracy Test

(1) The county must prepare a test deck of ballots that includes every ballot style and, where applicable, precinct. The county test deck must include a sufficient number of ballots to mark every vote position for every contest including write-in candidates, allow for situations where a contest permits an elector to vote for two or more positions, and include overvotes and undervotes for each contest. THE COUNTY TEST DECK MUST INCLUDE AT LEAST ONE WRITE-IN VOTE FOR EACH QUALIFIED WRITE-IN CANDIDATE SO THAT ALL QUALIFIED WRITE-IN CANDIDATE NAMES WILL APPEAR IN THE LAT RESULT UPLOADED TO ENR AS REQUIRED BY RULE 11.10.3.

[Current Rule 11.3.3 is amended and recodified as New Rule 25.3.]

Amendments to Rule 11.10.1(b)(2) concerning renumbering of cross-reference and 11.10.3 concerning election night reporting:

11.10.1 A data entry county must upload a results data file to ENR containing the election results on the dates and times specified in Rules 11.10.3 through 11.10.5. The county must program its election database so that the results file exported from the voting system is formatted in accordance with the following requirements:

(b) Contest order: Except as otherwise provided in subsections (1) – (4) of this Rule, the results file must list the contests in the same order as they are certified for the ballot.

(2) The results file must list ballot measures in the order certified by the Secretary of State, followed by the ballot measures certified by other

1 participating political subdivisions in the order and using the numbering
2 conventions specified in Rule ~~4.5.2(f)~~ 4.5.2(E).

3 11.10.3 No later than 14 days before the election, a data entry county must upload the LAT
4 results file to ENR. At a minimum, the LAT results file must contain the results of the
5 complete county test deck required under Rule 11.3.2(c)(1). ~~The county must also provide~~
6 ~~the Secretary of State with a summary results report for the LAT results file.~~

7 *Repeal of Rule 13.1.7 and Amendment of Rule 13.2.9(a) concerning election complaint procedures:*

8 ~~13.1.7 The Secretary of State's determination is a final agency action.~~

9 13.2.9 Hearing and Resolution of HAVA complaints

10 (a) ~~If the complainant requests, the~~ THE Secretary of State or his or her designee will
11 hold a hearing IF THE COMPLAINANT REQUESTS ONE AT THE TIME OF FILING THE
12 COMPLAINT, UNLESS THE COMPLAINANT LATER WITHDRAWS THE REQUEST.

13 *Amendments to Rules 14.1.1(a) and New Rule 14.3.4 concerning voter registration drives:*

14 14.1.1 In accordance with Part 7, Article 2 of Title 1, C.R.S., the organizer of a Voter
15 Registration Drive ("VRD") must file a Statement of Intent and Training
16 Acknowledgment Form with the Secretary of State to conduct a voter registration drive.
17 The Statement of Intent and Training Acknowledgment Form must include the following
18 information:

19 (a) The name of the group conducting the VRD, and the name ~~and contact~~
20 ~~information~~ ADDRESS, EMAIL ADDRESS, AND TELEPHONE NUMBER of the
21 individual organizing the VRD;

22 14.3.4 THE VRD MUST PROVIDE THE SECRETARY OF STATE WITH THE NAME OF THE
23 CIRCULATOR ASSOCIATED WITH A PARTICULAR IDENTIFICATION NUMBER, UPON
24 REQUEST.

25 *Amendments to Rule 16.1.6 concerning military and overseas electors:*

26 16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days
27 before the Primary Election OR PRESIDENTIAL PRIMARY ELECTION, IF APPLICABLE, to
28 each elector whose record is marked "Inactive." The correspondence may be sent by
29 email or mail and, at a minimum, must notify the electors of:

- 30 (a) The status of the elector's record and ballot request;
- 31 (b) The upcoming federal elections;
- 32 (c) How to update the elector's mailing information and request a ballot; and
- 33 (d) Any other information the county clerk deems appropriate.

34 *Amendments to Rules 20.13.1(c)(8) and 20.16.3(a) concerning correction of cross-references:*

20.13.1 If a seal is broken, or there is another discrepancy, the election official must immediately notify the county, who must remedy the discrepancy as follows:

(c) If the evidence indicates that the discrepancy occurred after votes were cast on the device:

(8) Before certifying election results, the county must conduct a full (all ~~raes~~CONTESTS) post-election audit on the device and report results to the Secretary of State as required by Rule ~~44~~25.3. This requirement is in addition to the random selection conducted by the Secretary of State.

20.16.3 Ballot reconciliation

(a) The county must reconcile ballots printed on demand in accordance with Rules ~~10.4 and 10.5~~ 10.1.1 AND 10.1.2.

(b) The county must maintain damaged, misprinted, or unusable ballots as election records.

Amendments to Rule 20.17.3 concerning voting system conditions for use:

20.17.3 The county must create a backup copy of the election setup records on a read-only, write-once ~~CD~~ELECTRONIC STORAGE MEDIA, immediately after completing the Logic and Accuracy Test.

(a) The county must identify the master database name and date of election on the label of the backup ~~CD~~.

(b) The county must store the backup ~~CD~~ in a sealed container. Two election officials of different party affiliations must sign and date entries to the chain-of-custody log for the sealed container.

Amendments to Rule 21.4.5(e) and New Rule 21.4.14 concerning voting system standards for certification:

21.4.5 Functional Requirements

(e) The voting system must include hardware or software to enable the closing of ~~the voting location and disabling the acceptance of ballots on~~ all vote tabulation devices AT POLLING LOCATIONS to allow for the following:

21.4.14 Ballot-level Cast Vote Records and Exports. All voting systems certified by the Secretary of State for use in Colorado on or after January 1, 2016 must meet the following requirements for ballot-level cast vote records and exports on or before December 31, 2016:

(a) The voting system must capture a ballot-level cast vote record (CVR) ~~consisting of a single record for each ballot tabulated, showing the manner in which the voting system interpreted and tabulated the voter's markings on the ballot, as adjudicated and resolved by election judges, if applicable.~~

(c) The CVR export must contain the following fields, with values or data populated by the voting system:

(8) NUMBER OF VALID CHOICES. THE NUMBER OF VALID CHOICES (E.G., "VOTE FOR 3") FOR EACH CONTEST.

New Rule 24 concerning presidential electors:

RULE 24. PRESIDENTIAL ELECTORS

24.1 OATH

24.1.1 AS USED IN SECTION 1-4-304 (1), C.R.S., "THE OATH REQUIRED BY LAW FOR PRESIDENTIAL ELECTORS" MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

"I,, DO SOLEMNLY SWEAR OR AFFIRM THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND OF THE STATE OF COLORADO, THAT I WILL FAITHFULLY PERFORM THE DUTIES OF THE OFFICE OF PRESIDENTIAL ELECTOR THAT I AM ABOUT TO ENTER, AND THAT I WILL VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE."

24.1.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO TAKE AND SUBSCRIBE THE OATH IN RULE 24.1.1, THE REFUSAL OR FAILURE CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.2 VOTING

24.2.1 AS SPECIFIED IN SECTION 1-4-304 (5), C.R.S., EACH PRESIDENTIAL ELECTOR MUST VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE.

24.2.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE, THE REFUSAL OR FAILURE CONSTITUTES A "REFUSAL TO ACT" AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.3 FILLING VACANCIES

24.3.1 AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S., THE PRESIDENTIAL ELECTORS PRESENT MUST IMMEDIATELY PROCEED TO FILL ANY VACANCY IN THE ELECTORAL COLLEGE. A QUORUM IS NOT REQUIRED TO FILL A VACANCY. IN THE EVENT OF A TIE VOTE, THE VACANCY WILL BE FILLED BY LOT.

24.3.2 IF A REMAINING PRESIDENTIAL ELECTOR REFUSES TO FILL A VACANCY IN THE ELECTORAL COLLEGE, THE REFUSAL CONSTITUTES A “REFUSAL TO ACT” AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.3.3 NOMINEES TO FILL VACANCIES MUST BE SELECTED IN ACCORDANCE WITH SECTION 1-4-302 (2), C.R.S. THERE MUST BE MORE VACANCY NOMINEES THAN VACANCIES TO BE FILLED.

New Rule 25 concerning post-election audit:

RULE 25. POST-ELECTION AUDIT

25.1 DEFINITIONS. AS USED IN THIS RULE, UNLESS STATED OTHERWISE:

25.1.1 “AUDIT CENTER” MEANS THE PAGE OR PAGES OF THE SECRETARY OF STATE’S WEBSITE DEVOTED TO RISK-LIMITING AUDITS.

25.1.2 “AUDITED CONTEST” MEANS A CONTEST SELECTED BY THE SECRETARY OF STATE FOR A RISK-LIMITING AUDIT. THE AUDITED CONTEST DETERMINES THE NUMBER OF BALLOTS THAT MUST BE EXAMINED AND VERIFIED DURING THE RLA.

25.1.3 “BALLOT POLLING AUDIT” MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT BOARD EXAMINES AND REPORTS TO THE SECRETARY OF STATE VOTER MARKINGS ON RANDOMLY SELECTED BALLOTS.

25.1.4 “COMPARISON AUDIT” MEANS A TYPE OF RISK-LIMITING AUDIT IN WHICH THE AUDIT BOARD EXAMINES AND REPORTS TO THE SECRETARY OF STATE VOTER MARKINGS ON RANDOMLY SELECTED BALLOTS, AND THEN COMPARED TO THE VOTING SYSTEM’S TABULATION AS REFLECTED IN THE CORRESPONDING CAST VOTE RECORDS.

25.1.5 “DILUTED MARGIN” OF AN AUDITED CONTEST MEANS THE SMALLEST REPORTED MARGIN IN VOTES BETWEEN THE REPORTED CONTEST WINNER WITH THE LEAST VOTES IN THE CONTEST, AND THE REPORTED CONTEST LOSER WITH THE MOST VOTES IN THE CONTEST, DIVIDED BY THE NUMBER OF BALLOTS COUNTED IN THAT CONTEST. FOR EXAMPLE, IF THE VOTING SYSTEM TABULATED 10,000 BALLOTS IN AN AUDITED CONTEST, AND THE REPORTED WINNING CANDIDATE WITH THE LEAST NUMBER OF VOTES RECEIVED 4,000 VOTES, AND THE REPORTED LOSING CANDIDATE WITH THE MOST NUMBER OF VOTES RECEIVED 3,500 VOTES, THE DILUTED MARGIN OF THE CONTEST IS 5% $[(4,000 - 3,500) / 10,000]$.

25.1.6 “MARGIN OVERSTATEMENT” MEANS A CIRCUMSTANCE IN WHICH THE AUDIT BOARD’S INTERPRETATION OF BALLOT MARKINGS REVEALS THAT THE WINNER WITH THE LEAST NUMBER OF VOTES RECEIVED FEWER VOTES THAN THE VOTING SYSTEM’S INTERPRETATION OF THE SAME MARKINGS AS REFLECTED IN THE CVR. FOR EXAMPLE, IF THE CVR REFLECTS AN UNDERVOTE IN THE AUDITED CONTEST, AND THE AUDIT BOARD’S INTERPRETATION OF THE CORRESPONDING PAPER BALLOT REFLECTS A VOTE FOR THE LOSER WITH THE MOST VOTES IN THAT CONTEST, THE CVR CONTAINS A ONE-VOTE OVERSTATEMENT. IF THE CVR REFLECTS A VOTE FOR THE WINNER WITH THE LEAST

VOTES, AND THE AUDIT BOARD’S INTERPRETATION OF THE PAPER BALLOT REFLECTS A VOTE FOR THE LOSER WITH THE MOST VOTES, THE PRELIMINARY RESULTS CONTAIN A TWO-VOTE OVERSTATEMENT.

25.1.7 “MARGIN UNDERSTATEMENT” MEANS A CIRCUMSTANCE IN WHICH THE AUDIT BOARD’S INTERPRETATION OF BALLOT MARKINGS REVEALS THAT THE CONTEST WINNER WITH THE LEAST NUMBER OF VOTES RECEIVED MORE VOTES THAN THE VOTING SYSTEM’S INTERPRETATION OF THE SAME MARKINGS AS REFLECTED IN THE CVR. FOR EXAMPLE, IF THE CVR REFLECTS AN UNDERVOTE IN THE AUDITED CONTEST, AND THE AUDIT BOARD’S INTERPRETATION OF THE CORRESPONDING PAPER BALLOT REFLECTS A VOTE FOR THE WINNER WITH THE LEAST NUMBER OF VOTES IN THAT CONTEST, THE CVR CONTAINS A ONE-VOTE UNDERSTATEMENT. IF THE CVR REFLECTS A VOTE FOR THE LOSER WITH THE MOST VOTES, AND THE AUDIT BOARD’S INTERPRETATION OF THE PAPER BALLOT REFLECTS A VOTE FOR THE WINNER WITH THE LEAST VOTES, THE CVR CONTAINS A TWO-VOTE UNDERSTATEMENT.

25.1.8 “REPORTED OUTCOME” MEANS THE PRESUMED WINNING AND LOSING CANDIDATES OR VOTING CHOICES OF A BALLOT CONTEST AS REFLECTED IN PRELIMINARY RESULTS.

25.1.9 “RISK LIMIT” MEANS THE LARGEST STATISTICAL PROBABILITY THAT AN INCORRECT REPORTED OUTCOME IS NOT DETECTED AND CORRECTED IN A RISK-LIMITING AUDIT.

25.1.10 “RISK-LIMITING AUDIT” OR “RLA” MEANS A POST-ELECTION AUDIT OF VOTES ON PAPER BALLOTS AND VVPAT RECORDS, CONDUCTED IN ACCORDANCE WITH SECTION 1-7-515, C.R.S., AND RULE 25.2, WHICH HAS A PRE-SPECIFIED MINIMUM CHANCE OF REQUIRING A FULL HAND COUNT IF THE OUTCOME OF A FULL HAND COUNT WOULD DIFFER FROM THE REPORTED OUTCOME.

25.1.11 “RLA TOOL” MEANS THE SOFTWARE AND USER INTERFACE PROVIDED BY THE SECRETARY OF STATE IN ORDER FOR COUNTIES TO CONDUCT RLAs.

25.2 RISK LIMITING AUDIT. THE DESIGNATED ELECTION OFFICIAL MUST CONDUCT A RISK-LIMITING AUDIT IN ACCORDANCE WITH SECTION 1-7-515, C.R.S. AND THIS RULE.

25.2.1 RLA METHODS

(A) COUNTIES THAT USE A VOTING SYSTEM CAPABLE OF EXPORTING CVRS MUST CONDUCT A COMPARISON AUDIT.

(B) COUNTIES THAT USE A VOTING SYSTEM INCAPABLE OF EXPORTING CVRS MUST CONDUCT A BALLOT POLLING AUDIT.

25.2.2 PREPARING FOR THE AUDIT

(A) RISK LIMIT. NO LATER THAN 30 DAYS BEFORE ELECTION DAY, THE SECRETARY OF STATE WILL ESTABLISH AND PUBLISH ON THE AUDIT CENTER THE RISK LIMIT(S) THAT WILL APPLY IN RLAs FOR THAT ELECTION. THE SECRETARY OF STATE MAY ESTABLISH DIFFERENT RISK LIMITS FOR COMPARISON AUDITS AND BALLOT POLLING AUDITS, BUT IN NO EVENT WILL THE RISK LIMIT EXCEED FIVE PERCENT.

- (B) AUDIT BOARD. NO LATER THAN 15 DAYS BEFORE ELECTION DAY, THE DESIGNATED ELECTION OFFICIAL MUST APPOINT AN AUDIT BOARD TO CONDUCT THE RISK-LIMITING AUDIT. THE AUDIT BOARD MUST CONSIST OF ELECTORS NOMINATED BY THE MAJOR POLITICAL PARTY COUNTY CHAIRPERSONS. THE DESIGNATED ELECTION OFFICIAL MUST GIVE WRITTEN NOTICE TO THE COUNTY CHAIRPERSONS OF THEIR OBLIGATION TO NOMINATE AUDIT BOARD MEMBERS AND MAY DESIGNATE APPROPRIATELY AFFILIATED ELECTORS AS AUDIT BOARD MEMBERS IF ONE OR BOTH COUNTY CHAIRPERSONS FAIL TO DO SO IN A TIMELY MANNER. AT LEAST TWO CANVASS BOARD MEMBERS MUST OBSERVE THE RLA, AND MEMBERS OF THE CANVASS BOARD MAY SERVE AS MEMBERS OF THE AUDIT BOARD. THE DESIGNATED ELECTION OFFICIAL, MEMBERS OF HIS OR HER STAFF, AND OTHER DULY APPOINTED ELECTION JUDGES MAY ASSIST THE AUDIT BOARD IN CONDUCTING THE AUDIT.
- (C) BALLOT MANIFEST. WHILE TABULATING BALLOTS, THE COUNTY MUST MAINTAIN AN ACCURATE BALLOT MANIFEST IN A FORM APPROVED BY THE SECRETARY OF STATE. AT A MINIMUM, THE BALLOT MANIFEST MUST UNIQUELY IDENTIFY FOR EACH TABULATED BALLOT THE SCANNER ON WHICH THE BALLOT IS SCANNED, THE BALLOT BATCH OF WHICH THE BALLOT IS A PART, THE NUMBER OF BALLOTS IN THE BATCH, AND THE STORAGE CONTAINER IN WHICH THE BALLOT BATCH IS STORED AFTER TABULATION. THE COUNTY MUST SECURE AND MAINTAIN IN SEALED BALLOT CONTAINERS ALL TABULATED BALLOTS IN THE BATCHES AND ORDER THEY ARE SCANNED. THE COUNTY MUST MAINTAIN AND DOCUMENT UNINTERRUPTED CHAIN-OF-CUSTODY FOR EACH BALLOT STORAGE CONTAINER.
- (D) RLA TABULATION. ON THE NINTH DAY AFTER ELECTION DAY, THE COUNTY MUST FINISH TABULATING ALL BALLOTS OTHER THAN PROVISIONAL BALLOTS AND PROPERTY OWNER BALLOTS. IMMEDIATELY AFTER COMPLETING THE RLA TABULATION, AND TO THE EXTENT PERMITTED BY ITS VOTING SYSTEM, THE COUNTY MUST ALSO GENERATE AND PRESERVE:
- (1) A SUMMARY RESULTS REPORT, SHOWING OVERVOTES, UNDERVOTES, BLANK-VOTED CONTESTS, AND VALID WRITE-IN VOTES;
 - (2) A RESULTS FILE EXPORT SUITABLE FOR UPLOADING TO THE SECRETARY OF STATE'S ELECTION NIGHT REPORTING SYSTEM; AND
 - (3) A CVR EXPORT.
- (E) CVR EXPORT VERIFICATION. COUNTIES CONDUCTING A COMPARISON AUDIT MUST VERIFY THAT:
- (1) THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE AGGREGATE NUMBER OF BALLOTS REFLECTED IN THE COUNTY'S BALLOT MANIFEST AS OF THE NINTH DAY AFTER ELECTION DAY;
 - (2) THE NUMBER OF INDIVIDUAL CVRS IN ITS CVR EXPORT EQUALS THE NUMBER OF BALLOTS TABULATED AS REFLECTED IN THE SUMMARY RESULTS REPORT FOR THE RLA TABULATION;

1 (3) THE NUMBER OF INDIVIDUAL CVRs IN ITS CVR EXPORT EQUALS THE
2 NUMBER OF IN-PERSON BALLOTS ISSUED PLUS THE NUMBER OF MAIL
3 BALLOTS IN VERIFIED-ACCEPTED STAGE IN SCORE, PLUS THE NUMBER
4 OF PROVISIONAL BALLOTS AND PROPERTY OWNER BALLOTS INCLUDED
5 IN THE RLA TABULATION, IF ANY; AND

6 (4) THE VOTE TOTALS FOR ALL CHOICES IN ALL BALLOT CONTESTS IN THE
7 CVR EXPORT EQUALS THE VOTE TOTALS IN THE SUMMARY RESULTS
8 REPORT FOR THE RLA TABULATION.

9 (5) AFTER VERIFYING THE ACCURACY OF THE CVR EXPORT, THE COUNTY
10 MUST APPLY A HASH VALUE TO THE CVR EXPORT FILE USING THE HASH
11 VALUE UTILITY PROVIDED BY THE SECRETARY OF STATE.

12 (F) COMPARISON AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE NINTH
13 DAY AFTER ELECTION DAY, EACH COUNTY CONDUCTING A COMPARISON AUDIT
14 MUST UPLOAD:

15 (1) ITS BALLOT MANIFEST TO THE RLA TOOL;

16 (2) ITS VERIFIED AND HASHED CVR EXPORT TO THE RLA TOOL; AND

17 (3) ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE'S
18 ELECTION NIGHT REPORTING SYSTEM.

19 (G) BALLOT POLLING AUDIT UPLOADS. NO LATER THAN 11:59 P.M. MT ON THE
20 NINTH DAY AFTER ELECTION DAY, EACH COUNTY CONDUCTING A BALLOT
21 POLLING AUDIT MUST UPLOAD:

22 (1) ITS BALLOT MANIFEST TO THE RLA TOOL; AND

23 (2) ITS RLA TABULATION RESULTS EXPORT TO THE SECRETARY OF STATE'S
24 ELECTION NIGHT REPORTING SYSTEM.

25 (H) RANDOM SEED. THE SECRETARY OF STATE WILL CONVENE A PUBLIC MEETING
26 ON THE TENTH DAY AFTER ELECTION DAY TO ESTABLISH A RANDOM SEED FOR
27 USE WITH THE SECRETARY OF STATE'S RLA TOOL'S PSEUDO-RANDOM NUMBER
28 GENERATOR BASED ON PHILIP STARK'S ONLINE TOOL, *PSEUDO-RANDOM*
29 *NUMBER GENERATOR USING SHA-256*. THIS MATERIAL IS INCORPORATED BY
30 REFERENCE IN THE ELECTION RULES AND DOES NOT INCLUDE LATER
31 AMENDMENTS OR EDITIONS. THE FOLLOWING MATERIAL INCORPORATED BY
32 REFERENCE IS POSTED ON THE SECRETARY OF STATE WEBSITE AND AVAILABLE
33 FOR REVIEW BY THE PUBLIC DURING REGULAR BUSINESS HOURS AT THE
34 COLORADO SECRETARY OF STATE'S OFFICE: *PSEUDO-RANDOM NUMBER*
35 *GENERATOR USING SHA-256* AVAILABLE AT
36 [HTTPS://WWW.STAT.BERKELEY.EDU/~STARK/JAVA/HTML/SHA256RAND.HTM](https://www.stat.berkeley.edu/~stark/java/html/sha256rand.htm).
37 THE SECRETARY OF STATE WILL GIVE PUBLIC NOTICE OF THE MEETING AT LEAST
38 SEVEN CALENDAR DAYS IN ADVANCE. THE SEED IS A NUMBER CONSISTING OF AT
39 LEAST 20 DIGITS, AND EACH DIGIT WILL BE SELECTED IN ORDER BY SEQUENTIAL
40 ROLLS OF A 10-SIDED DIE. THE SECRETARY OF STATE WILL RANDOMLY SELECT
41 MEMBERS OF THE PUBLIC WHO ATTEND THE MEETING TO TAKE TURNS ROLLING

1 THE DIE, AND DESIGNATE ONE OR MORE STAFF MEMBERS TO TAKE TURNS
2 ROLLING THE DIE IN THE EVENT THAT NO MEMBERS OF THE PUBLIC ATTEND THE
3 MEETING. THE SECRETARY OF STATE WILL PUBLISH THE SEED ON THE AUDIT
4 CENTER IMMEDIATELY AFTER IT IS ESTABLISHED.

5 (I) SELECTION OF AUDITED CONTESTS. NO LATER THAN 5:00 P.M. MT ON THE
6 FRIDAY AFTER ELECTION DAY, THE SECRETARY OF STATE WILL SELECT FOR
7 AUDIT AT LEAST ONE STATEWIDE CONTEST, AND FOR EACH COUNTY AT LEAST
8 ONE COUNTYWIDE CONTEST. THE SECRETARY OF STATE WILL SELECT OTHER
9 BALLOT CONTESTS FOR AUDIT IF IN ANY PARTICULAR ELECTION THERE IS NO
10 STATEWIDE CONTEST OR A COUNTYWIDE CONTEST IN ANY COUNTY. THE
11 SECRETARY OF STATE WILL PUBLISH A COMPLETE LIST OF ALL AUDITED
12 CONTESTS ON THE AUDIT CENTER. THE SECRETARY OF STATE WILL CONSIDER
13 THE FOLLOWING FACTORS IN DETERMINING WHICH CONTESTS TO AUDIT:

- 14 (1) THE CLOSENESS OF THE REPORTED OUTCOME OF THE CONTESTS;
15 (2) THE GEOGRAPHICAL SCOPE OF THE CONTESTS;
16 (3) ANY CAUSE FOR CONCERN REGARDING THE ACCURACY OF THE
17 REPORTED OUTCOME OF THE CONTESTS;
18 (4) ANY BENEFITS THAT MAY RESULT FROM OPPORTUNISTICALLY AUDITING
19 CERTAIN CONTESTS; AND
20 (5) THE ABILITY OF THE COUNTY CLERKS TO COMPLETE THE AUDIT BEFORE
21 THE CANVASS DEADLINE.

22 (J) NUMBER OF BALLOTS TO AUDIT. THE SECRETARY OF STATE WILL DETERMINE
23 THE NUMBER OF BALLOTS TO AUDIT TO SATISFY THE RISK LIMIT FOR THE
24 AUDITED CONTESTS BASED ON THE BALLOT MANIFESTS SUBMITTED BY THE
25 COUNTIES. THE NUMBER OF BALLOTS TO AUDIT WILL BE DETERMINED
26 ACCORDING TO THE FORMULAS AND PROTOCOLS PUBLISHED BY MARK
27 LINDEMAN AND PHILIP B. STARK IN *A GENTLE INTRODUCTION TO RISK-LIMITING*
28 *AUDITS*, AS APPLIED IN PHILIP STARK'S *TOOLS FOR COMPARISON RISK-LIMITING*
29 *ELECTION AUDITS*, AND *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION*
30 *AUDITS*. THESE MATERIALS ARE INCORPORATED BY REFERENCE IN THE ELECTION
31 RULES AND DO NOT INCLUDE LATER AMENDMENTS OR EDITIONS OF THE
32 INCORPORATED MATERIAL. THE FOLLOWING MATERIALS INCORPORATED BY
33 REFERENCE ARE POSTED ON THE SECRETARY OF STATE WEBSITE AND
34 AVAILABLE FOR REVIEW BY THE PUBLIC DURING REGULAR BUSINESS HOURS AT
35 THE COLORADO SECRETARY OF STATE'S OFFICE:

- 36 (1) MARK LINDEMAN AND PHILIP B. STARK, *A GENTLE INTRODUCTION TO*
37 *RISK-LIMITING AUDITS*, IEEE SECURITY AND PRIVACY, SPECIAL ISSUE ON
38 ELECTRONIC VOTING, (MAR. 16, 2012), AT
39 [HTTP://WWW.STAT.BERKELEY.EDU/~STARK/PREPRINTS/GENTLE12.PDF](http://WWW.STAT.BERKELEY.EDU/~STARK/PREPRINTS/GENTLE12.PDF).
40 (2) PHILIP B. STARK, *TOOLS FOR COMPARISON RISK-LIMITING ELECTION*
41 *AUDITS*, (FEB. 26, 2017), AT
42 [HTTP://WWW.STAT.BERKELEY.EDU/~STARK/VOTE/AUDITTOOLS.HTM](http://WWW.STAT.BERKELEY.EDU/~STARK/VOTE/AUDITTOOLS.HTM).

(3) PHILIP B. STARK, *TOOLS FOR BALLOT-POLLING RISK-LIMITING ELECTION AUDITS*, (FEB. 16, 2017), AT [HTTPS://WWW.STAT.BERKELEY.EDU/~STARK/JAVA/HTML/BALLOTPOLLTOOLS.HTM](https://www.stat.berkeley.edu/~stark/java/html/ballotpolltools.htm).

(K) RANDOM SELECTION OF BALLOTS FOR AUDIT. THE SECRETARY OF STATE WILL RANDOMLY SELECT THE INDIVIDUAL BALLOTS TO AUDIT. THE SECRETARY OF STATE WILL USE A PSEUDO-RANDOM NUMBER GENERATOR WITH THE SEED ESTABLISHED UNDER SUBSECTION (H) OF THIS RULE TO IDENTIFY INDIVIDUAL BALLOTS AS REFLECTED IN THE COUNTY BALLOT MANIFESTS. THE SECRETARY OF STATE WILL NOTIFY EACH COUNTY OF, AND PUBLISH ON THE AUDIT CENTER, THE RANDOMLY SELECTED BALLOTS THAT EACH COUNTY MUST AUDIT NO LATER THAN 11:59 P.M. MT ON THE TENTH DAY AFTER ELECTION DAY.

25.2.3 CONDUCTING THE AUDIT

(A) THE AUDIT BOARD MUST LOCATE AND RETRIEVE FROM THE APPROPRIATE STORAGE CONTAINER EACH RANDOMLY SELECTED BALLOT. THE AUDIT BOARD MUST VERIFY THAT THE SEALS ON THE APPROPRIATE STORAGE CONTAINERS ARE THOSE RECORDED ON THE APPLICABLE CHAIN-OF-CUSTODY LOGS.

(B) WITHOUT EXAMINING THE CVR, THE AUDIT BOARD MUST EXAMINE EACH RANDOMLY SELECTED BALLOT OR VVPAT AND REPORT THE VOTER MARKINGS OR CHOICES USING THE RLA TOOL OR OTHER MEANS SPECIFIED BY THE SECRETARY OF STATE. IF SUPPORTED BY THE COUNTY'S VOTING SYSTEM, THE AUDIT BOARD MAY REFER TO THE DIGITAL IMAGE OF THE AUDITED BALLOT CAPTURED BY THE VOTING SYSTEM IN ORDER TO CONFIRM IT HAD RETRIEVED THE CORRECT BALLOT RANDOMLY SELECTED FOR AUDIT. IF THE SCANNED BALLOT WAS DUPLICATED PRIOR TO TABULATION, THE AUDIT BOARD MUST ALSO RETRIEVE AND COMPARE THE MARKINGS ON THE ORIGINAL BALLOT. THE AUDIT BOARD MUST COMPLETE ITS REPORTS OF ALL BALLOTS RANDOMLY SELECTED FOR AUDIT NO LATER THAN 5:00 P.M. MT ONE BUSINESS DAY BEFORE THE CANVASS DEADLINE.

(C) THE AUDIT BOARD MUST INTERPRET VOTER MARKINGS ON BALLOTS SELECTED FOR AUDIT IN ACCORDANCE WITH THE SECRETARY OF STATE'S VOTER INTENT GUIDE.

(D) TO THE EXTENT APPLICABLE, THE SECRETARY OF STATE WILL COMPARE THE AUDIT BOARD'S REPORTS OF THE AUDITED BALLOTS TO THE CORRESPONDING CVRS AND POST THE RESULTS OF THE COMPARISON AND ANY MARGIN OVERSTATEMENTS OR UNDERSTATEMENTS ON THE AUDIT CENTER. THE RLA WILL CONTINUE UNTIL THE RISK LIMIT FOR THE AUDITED CONTESTS IS MET OR UNTIL A FULL HAND COUNT RESULTS. IF THE COUNTY AUDIT REPORTS REFLECT THAT THE RISK LIMIT HAS NOT BEEN SATISFIED IN AN AUDITED CONTEST, THE SECRETARY OF STATE WILL RANDOMLY SELECT ADDITIONAL BALLOTS FOR AUDIT.

25.2.4 FOR THE 2017 COORDINATED ELECTION, THE SECRETARY OF STATE MAY, BY ORDER, ALTER ANY OF THE REQUIREMENTS OUTLINED IN RULE 25.2.

1 *Current Rule 11.3.3 is amended and recodified as New Rule 25.3 as follows:*

2 ~~11.3.3~~ 25.3 ~~Post-Election~~ RANDOM Audit. ~~The~~ IF THE SECRETARY OF STATE WAIVES THE
3 REQUIREMENT TO CONDUCT AN RLA UNDER SECTION 1-7-515(2)(B), C.R.S., THE designated
4 election official must conduct the ~~post-election~~ RANDOM audit mandated by sections 1-7-
5 509(1)(b) and 1-7-514, C.R.S., in accordance with this rule.

6 ~~(a)~~ 25.3.1 Selected voting devices

7 ~~(1)~~ (A) No later than 48 hours after the close of polls on election night, the Secretary of
8 State must notify the designated election official of the voting devices randomly
9 selected for audit, based on the submitted hardware inventory list referred to in
10 Rule 11.2.

11 ~~(2)~~ (B) The Secretary of State will randomly select, from the voting devices used in the
12 election, at least five percent of the central count ballot scanners; at least one
13 ballot scanner used at a polling location; and five percent of DREs.

14 ~~(b)~~ 25.3.2 The designated election official must appoint an audit board to conduct the post-
15 election audit in accordance with section 1-7-509(1)(c), C.R.S. At least two canvass
16 board members must observe the random audit. The designated election official,
17 members of his or her staff, and other duly appointed election judges, may assist with the
18 audit.

19 ~~(c)~~ 25.3.3 Number of ballots to audit

20 ~~(1)~~ (A) Paper ballots tabulated on ballot scanners. The board must audit at least 500
21 ballots or 20 percent of the ballots tabulated on each selected ballot scanner,
22 whichever is less. The board may audit more than the minimum number of
23 ballots required.

24 ~~(2)~~ (B) Electronic ballots tabulated on DREs. The board must audit all ballots tabulated
25 on the selected DREs.

26 ~~(d)~~ 25.3.4 Conducting the audit

27 ~~(1)~~ (A) Paper ballots tabulated on ballot scanners

28 ~~(A)~~ (1) If the voting system is capable of generating batch-level tabulation
29 reports for a selected ballot scanner, the board must randomly select a
30 number of ballot batches tabulated on the ballot scanner that, in the
31 aggregate, contain the minimum number of ballots to be audited. The
32 board must manually verify that the votes on the ballots contained in
33 each randomly selected batch match the voting system's tabulation of
34 votes for that batch.

35 ~~(B)~~ (2) If the voting system is not capable of generating batch-level tabulation
36 reports for a selected ballot scanner, the board can choose to audit all of
37 the ballots that were tabulated on the selected scanner, or randomly select
38 and rescan the minimum number of ballots to be audited. If the board
39 chooses to rescan the minimum number of ballots, the board also must:

- (i)-(A) Reset the selected ballot scanner's results to zero and generate a zero report;
- (ii)-(B) Rescan the randomly selected ballots for audit and generate a tabulation report from the selected ballot scanner; and
- (iii)-(C) Manually verify that the votes on the randomly selected ballots match the tabulation report for those ballots generated from the selected ballot scanner.
- (2)-(B) Ballots tabulated on DREs. The board must examine the VVPAT record of each selected DRE and manually verify that the votes reflected on the VVPAT match the tabulation report.
- (e)25.3.5 If the board discovers discrepancies during the audit, the board must:
- (1)-(A) Confirm that the manual count of the votes contained in the audited ballots is correct;
- (2)-(B) Confirm that the manual count of the votes contained in the audited ballots properly reflects overvotes, stray marks on the ballot, and other indications of voter intent;
- (3)-(C) Determine whether any discrepancy is attributable to a damaged ballot; and
- (4)-(D) Take any other action necessary in accordance with the canvass board's powers as described in Part 1, Article 10 of Title 1, C.R.S.
- (f)25.3.6 The designated election official must report the results of the audit in writing to the Secretary of State by 5:00 p.m. on the last day to canvass. The audit report may be submitted by mail, fax, or email. The audit report must contain:
- (1)-(A) The make, model, and serial number of the voting devices audited;
- (2)-(B) The number of ballots originally counted on each device or the number of ballots audited;
- (3)-(C) The count of the specific ~~faces~~ CONTESTS on the summary report printed at the close of polls ~~or~~ AND the report generated for the audit;
- (4)-(D) The count of the specific ~~faces~~ CONTESTS as manually verified;
- (5)-(E) Any other information required by section 1-7-514, C.R.S.; and
- (6)-(F) The signatures of the audit board, the canvass board members who observed the audit, and the designated election official.
- (g)25.3.7 The designated election official must segregate and seal the materials used during the post-election audit, including all tabulation reports, the audited ballots, and the audit report.

Notice of Proposed Rulemaking

Tracking number

2017-00194

Department

500,1008,2500 - Department of Human Services

Agency

2503 - Income Maintenance (Volume 3)

CCR number

9 CCR 2503-6

Rule title

COLORADO WORKS PROGRAM

Rulemaking Hearing**Date**

07/07/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

"The proposed rule change aims to prevent a potential federal penalty of \$59M for the State of Colorado. Federal law requires the State to meet the Work Participation Rate (WPR), which requires specific work activities for Colorado Works participants. WPR is a process measure which tracks the number of hours individuals spend in specific activities. Individuals either meet the minimum federally required hours or no credit is given towards the rate. Colorado has been unable to meet the Two-Parent federal WPR of 90%. The inability to meet this could potentially result in a \$59 million sanction for the State of Colorado. The proposed rule change allows the Two-Parent Colorado Works households to be removed from the WPR by changing the funding source while still having the same eligibility requirements.

"

Statutory authority

"26-1-107, C.R.S. (2016)
26-1-109, C.R.S. (2016)
26-1-111, C.R.S. (2016)
45 CFR 261
26-2-705, C.R.S. (2016)
26-2-715, C.R.S. (2016)
"

Contact information**Name**

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Title

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Title of Proposed Rule: Revisions to Colorado Works Rules for Two-Parent Household**CDHS Tracking #: 17-02-07-01**Office, Division, & Program:
OES, EB, CO WorksRule Author:
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STATEMENT OF BASIS AND PURPOSE**Summary of the basis and purpose for new rule or rule change.***Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.*

The proposed rule change aims to prevent a potential federal penalty of \$59M for the State of Colorado. Federal law requires the State to meet the Work Participation Rate (WPR), which requires specific work activities for Colorado Works participants. WPR is a process measure which tracks the number of hours individuals spend in specific activities. Individuals either meet the minimum federally required hours or no credit is given towards the rate. Colorado has been unable to meet the Two-Parent federal WPR of 90%. The inability to meet this could potentially result in a \$59 million sanction for the State of Colorado. The proposed rule change allows the Two-Parent Colorado Works households to be removed from the WPR by changing the funding source while still having the same eligibility requirements.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2016)	State Board to promulgate rules
26-1-109, C.R.S. (2016)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2016)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
45 CFR 261	Federal regulations to ensure that recipients work
26-2-705, C.R.S. (2016)	Requirement to develop strategies and policies that focus on ensuring that participants are in work activities as soon as possible so the state is able to meet or exceed work participation rates specified in the federal law
26-2-715, C.R.S. (2016)	WPR for the county shall ensure that the state will be able to meet or exceed its WPR under federal law

Does the rule incorporate material by reference?
Does this rule repeat language found in statute?☐
☐Yes
Yes☒
☒No
No

If yes, please explain.

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Title of Proposed Rule: Revisions to Colorado Works Rules for Two-Parent Household**CDHS Tracking #: 17-02-07-01**Office, Division, & Program:
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REGULATORY ANALYSIS**1. List of groups impacted by this rule.***Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?*

These proposed rules will not impact Colorado Works customers. Changes will take place "behind the scenes" in CBMS to ensure households are correctly coded.

These proposed rules will not change county financial obligations. These rules may affect county practice; counties that currently direct MOE funds to specific cases will lose this functionality, as the State will now manage this.

2. Describe the qualitative and quantitative impact.*How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?*

There is no negative financial impact to counties as a result of this rule change; each county's financial obligation remains the same. Each county will continue pay the full amount of obligated MOE.

Longer term, we expect this rule change to prevent a \$59M federal penalty from failing to meet Two-Parent WPR. This penalty would likely be absorbed at least partially by counties, which *would* negatively financially affect them. Thus, this rule change aims to avoid a future financial burden at no cost today.

On average across the past three fiscal years, half (32) of counties in the State have designated county MOE funds to specific cases using the "NJR" (Not-Job-Ready) activity code in CBMS. This accounted for about 21% of the County MOE obligation. If instead, as outlined in this rule change, all counties would have designated their MOE-obligated funds to pay Two-Parent households as defined by the State, this would have accounted for 53% of the County MOE obligation. Thus, while this rule change will change practice for some counties currently using the NJR code to designate MOE funds to those specific cases, the rule change does not result in exceeding the overall County MOE funds available.

Statewide	County MOE Obligation	MOE Spent on NJR (actual)	MOE on 2PHH's (proposed)
FY14	\$ 22,149,729.99	\$ 4,947,248.59 22%	\$ 11,614,144.20 52%
FY15	\$ 22,149,729.99	\$ 3,277,257.63 15%	\$ 11,744,992.00 53%
FY16	\$ 22,219,730.00	\$ 5,815,812.04 26%	\$ 11,899,183.00 54%
Average	\$ 22,173,063.33	\$ 4,680,106.09 21%	\$ 11,752,773.07 53%

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

Deloitte estimates this project will take 1,729 hours. All of these hours will come from the Division's existing allocation, making this cost-neutral. All other administrative costs will be covered by the existing appropriation.

Title of Proposed Rule: Revisions to Colorado Works Rules for Two-Parent Household**CDHS Tracking #: 17-02-07-01**Office, Division, & Program:
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County Fiscal Impact

There is no additional cost to counties. Counties are required to meet the MOE established in the annual Long Bill. There are no additional requirements as a result of these rules.

Federal Fiscal Impact

There is no additional cost to federal TANF funds. Federal funds are appropriated to the County TANF Block Grant in the annual Long Bill. There are no additional requirements as a result of these rules.

Other Fiscal Impact (such as providers, local governments, etc.)

No impact as this change relates to how the state accounts for expenditures. There are no additional requirements due to these changes.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Federal rule (45 CFR 261.23) requires each state to achieve a 90% minimum two-parent participation rate. Since Jan. 2014, Colorado's monthly Two-Parent WPR has averaged 17%, ranging from 6% to 31%. Thus, on average, Colorado is 73 percentage points below the federally-required rate every month.

In contrast, federal rule (45 CFR 261.21) requires each state to achieve a 50% minimum all-family participation rate, the sole measure to which Colorado will be held accountable after this proposed rule change is effected. Since Jan. 2014, Colorado's monthly All-Family WPR has averaged 20.5%, ranging from 14% to 31%. Thus, on average, Colorado is 29.5 percentage points below the federally-required rate every month.

The difference in the gaps between the federal requirement and Colorado's actual performance for each rate highlights the reason for this proposed rule change. This change eliminates the need for Colorado to close the relatively much larger 73 percentage point gap.

	Avg Since 1/14	Goal	Gap
2 Parent	17%	90%	73 pp
All Family	20.50%	50%	29.5 pp

Title of Proposed Rule: Revisions to Colorado Works Rules for Two-Parent Household

CDHS Tracking #: 17-02-07-01

Office, Division, & Program:
OES, EB, CO Works

Rule Author:
Elizabeth Nelson

Phone: 303-866-5206

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5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

A workgroup has been established to determine how to avoid the possibility of the sanction. The workgroup consists of the members from Employment and Benefits Division and county partners. The group considered three other options in addition to the one being submitted for this proposed rule change:

1. Continue Two-Parent intervention and "Not-Job Ready" program as is

This is current process, State could risk \$59 million sanction

Status quo- this is the current practice, and the state will not meet WPR for the Two-Parent household using the current process.

County feedback-They all agreed

2. Eliminate the Two-Parent WPR rate-pay only one parent

Counties would spend less of the TANF block grant, but the families would receive less which potentially would increase dependency on the Colorado Works program

Eliminate Two-Parent caseload, pay only one parent.

Group all agreed that this option would not best support the overall well-being of the family.

3. Create a State funded program for Two-Parent families

This option would require rule change. The option would require the Department to request \$12-\$15 million in general funds to cover the current cost of the Two-Parent caseload.

Workgroup agreed that this option is not likely because it would require general funds.

These options were not prioritized by the workgroup due to the possible consequences associated with those options.

Title of Proposed Rule: Revisions to Colorado Works Rules for Two-Parent Household**CDHS Tracking #: 17-02-07-01**Office, Division, & Program:
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E-Mail: Elizabeth.Nelson@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
3.601	New Definitions needed	None	"Co-mingled funds" shall mean any case paid from this source is paid using federal TANF dollars. "Segregated funds" shall mean any case paid from this source is paid from the county maintenance of effort (MOE) share of the county block grant, and not from federal funds.	Implement new policy	NO
3.604.2	Need to add new type	None	Single parent households are paid out of co-mingled funds. Two-parent households are paid out of segregated funds. All eligibility criteria must still be met.	Implement new policy	NO

Title of Proposed Rule: Revisions to Colorado Works Rules for Two-Parent Household**CDHS Tracking #: 17-02-07-01**Office, Division, & Program:
OES, EB, CO WorksRule Author:
Elizabeth Nelson

Phone: 303-866-5206

E-Mail: Elizabeth.Nelson@state.co.us

STAKEHOLDER COMMENT SUMMARY**Development**

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Sub-PAC sanctioned 2-Parent Household Workgroup

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

County Human Services Directors Association; Colorado Legal Services; The Legal Center; All Families Deserve a Chance (AFDC) Coalition; Policy Advisory Committee (PAC), Economic Security Sub-PAC; Legal Aid of Metropolitan Denver; Colorado Center on Law and Policy; and Colorado Counties, Inc.
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Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

☐ Yes ☒ No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

☒ Yes ☐ No

Name of Sub-PAC			
Date presented	April 6, 2017		
What issues were raised?	None		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	15	0	1
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

☐ Yes ☐ No

Date presented	April 6, 2017		
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

☐ Yes ☒ No

Title of Proposed Rule: Revisions to Colorado Works Rules for Two-Parent Household

CDHS Tracking #: 17-02-07-01

Office, Division, & Program:

Rule Author:

Phone: 303-866-5206

OES, EB, CO Works

Elizabeth Nelson

E-Mail: Elizabeth.Nelson@state.co.us

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

(9 CCR 2503-6)

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3.600 Colorado Works Program

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3.601 PROGRAM DEFINITIONS

“Application” shall mean a request on a state approved form for benefits and/or services, which can include the electronic state prescribed form.

“Authorized representative” shall mean someone acting for the applicant, recipient, or participant with the authority to make decisions on behalf of the applicant/participant and who has taken responsibility for the case including but not limited to signing documents and speaking with county departments. If an authorized representative is needed, the appropriate authorized representative release form shall be included in the case file.

“Payments and Services”

- A. “Cash assistance shall mean payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs such as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. Cash assistance includes supportive services to families based upon the assessment completed, such as transportation and child care assistance. All short-term payments of less than four (4) consecutive months are not cash assistance.
- B. “Basic Cash Assistance” shall mean a recurrent cash payment. In addition to a cash payment, an eligible assistance unit also may receive cash assistance in the form of a cash-equivalent payment, voucher, or other form of cash benefit that is designed to meet the basic ongoing needs of the persons in the assistance unit. Components that basic cash assistance are intended to cover include: food, clothing, shelter, utilities, household goods, personal care items, general incidental expenses, and other items deemed necessary per the assessment by the county department to address an ongoing need. In addition to cash assistance, persons in an assistance unit that are eligible for ongoing assistance may receive supportive services and/or special needs payments.
- C. “Diversion Payment” shall mean a needs-based, cash or cash-equivalent payment designed to meet the short-term needs of the participant. A diversion payment is designed to address a specific crisis situation or episode of need and is not designed to meet the basic ongoing needs of the participant. A diversion payment may not extend beyond four (4) months. In addition to a diversion payment, a participant who is eligible for diversion may receive supportive services. Diversion payment includes two types:
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 - 1. Supportive services such as child care and transportation provided to families who are employed or working toward self-sufficiency; or,

2. Other or additional supportive services the county department deems appropriate/ necessary; or,
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An eligible participant/ recipient may receive non-assistance including, but not limited to:

1. Work subsidies such as payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training.
 2. Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement and other employment-related services that do not provide basic income support.
- G. "CO-MINGLED FUNDS" SHALL MEAN ANY CASE PAID FROM THIS SOURCE IS PAID USING FEDERAL TANF DOLLARS.
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3.604.2 Assistance Unit

A. Assistance Unit

An assistance unit consists of members of the household who live together and whose income and other circumstances are considered to determine eligibility and payment amount.

Members of the same assistance unit who meet the requirements of the Colorado Works program shall receive basic cash assistance or shall be considered when determining diversion grant amounts.

SINGLE PARENT HOUSEHOLDS ARE PAID OUT OF CO-MINGLED FUNDS. TWO-PARENT HOUSEHOLDS ARE PAID OUT OF SEGREGATED FUNDS. ALL ELIGIBILITY CRITERIA AND PROGRAM PARTICIPATION APPLIES TO ALL COLORADO WORKS BASIC CASH ASSISTANCE UNITS.

- B. Persons not required to be in one assistance unit, but residing in the same household, shall have the option of applying for Colorado Works as separate units. Each assistance unit shall be budgeted using the appropriate need standard for the unit.

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Title of Proposed Rule: Revisions to Colorado Works Rules for Two-Parent Household**CDHS Tracking #: 17-02-07-01**Office, Division, & Program:
OES, EB, CO WorksRule Author:
Elizabeth Nelson

Phone: 303-866-5206

E-Mail: Elizabeth.Nelson@state.co.us

STATEMENT OF BASIS AND PURPOSE**Summary of the basis and purpose for new rule or rule change.***Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.*

The proposed rule change aims to prevent a potential federal penalty of \$59M for the State of Colorado. Federal law requires the State to meet the Work Participation Rate (WPR), which requires specific work activities for Colorado Works participants. WPR is a process measure which tracks the number of hours individuals spend in specific activities. Individuals either meet the minimum federally required hours or no credit is given towards the rate. Colorado has been unable to meet the Two-Parent federal WPR of 90%. The inability to meet this could potentially result in a \$59 million sanction for the State of Colorado. The proposed rule change allows the Two-Parent Colorado Works households to be removed from the WPR by changing the funding source while still having the same eligibility requirements.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2016)	State Board to promulgate rules
26-1-109, C.R.S. (2016)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2016)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
45 CFR 261	Federal regulations to ensure that recipients work
26-2-705, C.R.S. (2016)	Requirement to develop strategies and policies that focus on ensuring that participants are in work activities as soon as possible so the state is able to meet or exceed work participation rates specified in the federal law
26-2-715, C.R.S. (2016)	WPR for the county shall ensure that the state will be able to meet or exceed its WPR under federal law

Does the rule incorporate material by reference?
Does this rule repeat language found in statute?☐
☐Yes
Yes☒
☒No
No

If yes, please explain.

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REGULATORY ANALYSIS**1. List of groups impacted by this rule.***Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?*

These proposed rules will not impact Colorado Works customers. Changes will take place "behind the scenes" in CBMS to ensure households are correctly coded.

These proposed rules will not change county financial obligations. These rules may affect county practice; counties that currently direct MOE funds to specific cases will lose this functionality, as the State will now manage this.

2. Describe the qualitative and quantitative impact.*How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?*

There is no negative financial impact to counties as a result of this rule change; each county's financial obligation remains the same. Each county will continue pay the full amount of obligated MOE.

Longer term, we expect this rule change to prevent a \$59M federal penalty from failing to meet Two-Parent WPR. This penalty would likely be absorbed at least partially by counties, which *would* negatively financially affect them. Thus, this rule change aims to avoid a future financial burden at no cost today.

On average across the past three fiscal years, half (32) of counties in the State have designated county MOE funds to specific cases using the "NJR" (Not-Job-Ready) activity code in CBMS. This accounted for about 21% of the County MOE obligation. If instead, as outlined in this rule change, all counties would have designated their MOE-obligated funds to pay Two-Parent households as defined by the State, this would have accounted for 53% of the County MOE obligation. Thus, while this rule change will change practice for some counties currently using the NJR code to designate MOE funds to those specific cases, the rule change does not result in exceeding the overall County MOE funds available.

Statewide	County MOE Obligation	MOE Spent on NJR (actual)	MOE on 2PHH's (proposed)
FY14	\$ 22,149,729.99	\$ 4,947,248.59 22%	\$ 11,614,144.20 52%
FY15	\$ 22,149,729.99	\$ 3,277,257.63 15%	\$ 11,744,992.00 53%
FY16	\$ 22,219,730.00	\$ 5,815,812.04 26%	\$ 11,899,183.00 54%
Average	\$ 22,173,063.33	\$ 4,680,106.09 21%	\$ 11,752,773.07 53%

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

Deloitte estimates this project will take 1,729 hours. All of these hours will come from the Division's existing allocation, making this cost-neutral. All other administrative costs will be covered by the existing appropriation.

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County Fiscal Impact

There is no additional cost to counties. Counties are required to meet the MOE established in the annual Long Bill. There are no additional requirements as a result of these rules.

Federal Fiscal Impact

There is no additional cost to federal TANF funds. Federal funds are appropriated to the County TANF Block Grant in the annual Long Bill. There are no additional requirements as a result of these rules.

Other Fiscal Impact (such as providers, local governments, etc.)

No impact as this change relates to how the state accounts for expenditures. There are no additional requirements due to these changes.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Federal rule (45 CFR 261.23) requires each state to achieve a 90% minimum two-parent participation rate. Since Jan. 2014, Colorado's monthly Two-Parent WPR has averaged 17%, ranging from 6% to 31%. Thus, on average, Colorado is 73 percentage points below the federally-required rate every month.

In contrast, federal rule (45 CFR 261.21) requires each state to achieve a 50% minimum all-family participation rate, the sole measure to which Colorado will be held accountable after this proposed rule change is effected. Since Jan. 2014, Colorado's monthly All-Family WPR has averaged 20.5%, ranging from 14% to 31%. Thus, on average, Colorado is 29.5 percentage points below the federally-required rate every month.

The difference in the gaps between the federal requirement and Colorado's actual performance for each rate highlights the reason for this proposed rule change. This change eliminates the need for Colorado to close the relatively much larger 73 percentage point gap.

	Avg Since 1/14	Goal	Gap
2 Parent	17%	90%	73 pp
All Family	20.50%	50%	29.5 pp

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5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

A workgroup has been established to determine how to avoid the possibility of the sanction. The workgroup consists of the members from Employment and Benefits Division and county partners. The group considered three other options in addition to the one being submitted for this proposed rule change:

1. Continue Two-Parent intervention and "Not-Job Ready" program as is

This is current process, State could risk \$59 million sanction

Status quo- this is the current practice, and the state will not meet WPR for the Two-Parent household using the current process.

County feedback-They all agreed

2. Eliminate the Two-Parent WPR rate-pay only one parent

Counties would spend less of the TANF block grant, but the families would receive less which potentially would increase dependency on the Colorado Works program

Eliminate Two-Parent caseload, pay only one parent.

Group all agreed that this option would not best support the overall well-being of the family.

3. Create a State funded program for Two-Parent families

This option would require rule change. The option would require the Department to request \$12-\$15 million in general funds to cover the current cost of the Two-Parent caseload.

Workgroup agreed that this option is not likely because it would require general funds.

These options were not prioritized by the workgroup due to the possible consequences associated with those options.

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Have these rules been reviewed by the appropriate Sub-PAC Committee?

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Name of Sub-PAC			
Date presented	April 6, 2017		
What issues were raised?	None		
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PAC

Have these rules been approved by PAC?

☐ Yes ☐ No

Date presented	April 6, 2017		
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☐ Yes ☒ No

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- B. Persons not required to be in one assistance unit, but residing in the same household, shall have the option of applying for Colorado Works as separate units. Each assistance unit shall be budgeted using the appropriate need standard for the unit.

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Notice of Proposed Rulemaking

Tracking number

2017-00185

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**

07/14/2017

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

Telephone

3038664416

Email

chris.sykes@state.co.us



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, July 14, 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 17-03-21-B, Revision to the Medical Assistance Benefits Rule Concerning Transgender Services, Section 8.735

Medical Assistance. The proposed rule clearly defines and codifies the amount, duration, and scope of covered gender transition-related services available to Colorado Medicaid clients. Colorado Medicaid currently covers medically necessary counseling, hormone therapy, and surgery to eligible clients. The proposed rule does not add coverage of any new services.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2016), 92 CFR Part 92.

MSB 17-03-23-B, Revision to the Medical Assistance Rule Concerning Federally Qualified Health Center, Section 8.700

Medical Assistance. The purpose of this Rule is to clarify the Department's payment methodology for payment of services outside of the Federally Qualified Health Center (FQHC) encounter rate. Currently, that rules state that FQHCs are reimbursed a 100% cost-based encounter rate for a one-on-one, face-to-face visit between a client and an eligible provider. This Rule revision is necessary to allow for payments to FQHCs separate from the encounter rate for Long Acting Reversible Contraceptives (LARCs), dentures and partial dentures, services provided at an inpatient hospital setting by the FQHC, the Nurse Home Visitor Program, and the Prenatal+ Program. Services provided by a FQHC at an inpatient hospital setting are not FQHC services and therefore should not be reimbursed at the encounter rate. The provision of LARCs, dentures, and partial dentures is costly for FQHCs and therefore an additional payment separate from the encounter rate is necessary to incentivize access and the provision of LARCs. The Prenatal+ Program and Nurse

Home Visitor Program currently have a payment methodology that is separate from the encounter rate that is clarified elsewhere in the Rules.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2016), Section 1902(bb) of the Social Security Act and Section 25.5-4-401(1)(a), C.R.S. (2016).

MSB 17-04-21-A, Revision to the Medical Assistance Benefits Rule Concerning Home Health Services, Section 8.520

Medical Assistance. The rule defines the amount, duration, and scope of covered home health services. This revision updates the home health services rule by adding provisions concerning face-to-face visits and place of service limitations, as required under recently issued federal regulations, both of which must be effective by July 1, 2017. Specifically, this revision aligns the Colorado Medicaid home health services rule with federal regulations by adding: (1) a requirement that the physician must document a face-to-face encounter with the Medicaid client for the authorization of home health services within particular timelines; and (2) language clarifying that Medicaid home health services are not limited solely to home settings.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2016), 42 CFR 440.70.

Notice of Proposed Rulemaking

Tracking number

2017-00195

Department

500,1008,2500 - Department of Human Services

Agency

2506 - Food Assistance Program (Volume 4B)

CCR number

10 CCR 2506-1

Rule title

RULE MANUAL VOLUME 4B, FOOD ASSISTANCE

Rulemaking Hearing

Date

07/07/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

*Current rules do not align with Federal regulations which create discrepancies with how rules are applied. Clarifications have been made to include homeless customers under the persons physically or mentally unfit for employment exemption.

Changes have also been made to update the old term of WIA (Workforce Investment Act) to WIOA (Workforce Innovation and Opportunity Act). Implementation for the proposed changes will begin October 1, 2017 to align with the Federal Fiscal year while the required State plan is due to FNS August 15, 2017.

The goal of these rule changes is to align with Federal regulations while allowing for: greater access to food security for ABAWDs and non-participants, a decrease in participant to case manager ratio, an increase in employment outcomes for participants, and minimal negative fiscal impacts for counties who choose to operate the program.

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Statutory authority

"26-1-107, C.R.S. (2016)

26-1-109, C.R.S. (2016)

26-1-111, C.R.S. (2016)

"

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4.100 FOOD ASSISTANCE PROGRAM DEFINITIONS

“Work Registrant” means an individual age sixteen (16) to fifty (50) who HAS NOT MET ANY FEDERAL EXEMPTIONS FROM SNAP WORK REQUIREMENTS AND IS THEREFORE REQUIRED TO REGITSTER FOR WORK OR BE REGISTERD BY THE STATE AGENCY. WORK REGISTRANTS ARE NOT NECESSARILY MANDATORY EMPLOYMENT FIRST PARTICIPANTS. ~~is required to participate in a monthly work activity, unless considered otherwise exempt.~~

4.306.1 Student Eligibility Criteria

To be eligible to participate in the Food Assistance Program, a student shall meet at least one (1) of the following criteria:

- A. The student is employed for an average of twenty (20) hours per week and is paid for such employment. The student shall be employed an average of twenty (20) hours each week, regardless of wages received.

If the student is self-employed, the student shall work an average of twenty (20) hours a week and have earnings after allowable business expenses are deducted equal to at least the federal minimum wage multiplied by twenty (20) hours.

The weekly employment of twenty (20) hours may be based on an average number of hours worked per month, so long as the student is employed for eighty (80) hours per month.

- B. The student is participating in a state or federally financed work-study program. The student shall be approved for a work-study program at the time of application for Food Assistance. The work- study shall be approved for the school term and student shall anticipate actually working during that time. The student qualifies for this exemption the month the school term in which the work- study will occur begins or the month work-study is approved, whichever is later. The exemption will continue until the end of the school term or until it becomes known that the student has refused an assignment. The exemption shall not continue between terms when there is a break of one (1) full month or longer unless the student is participating in work-study during the break.
- C. The student is responsible for the more than half of the physical care of a dependent household member under the age of six (6), or a full-time student who is a single parent with responsibility for the care of a dependent child under age twelve (12).

The single parent provision applies in those situations where only one natural, adoptive, or stepparent regardless of marital status is in the same Food Assistance household as the child. A full-time student in the same Food Assistance household with a child who is under his/her parental control may qualify if he/she does not reside with his/her spouse.

- D. The student is responsible for more than half of the physical care of a dependent household member who has reached the age of six (6) but is under the age of twelve (12) where the local office has determined that adequate child care is not available to enable the individual to attend class and satisfy the requirement of item A or item B, above.
- E. The student is receiving a Title IV-A TANF cash grant. The student's needs shall be included in the grant to be eligible under this provision. Family Preservation is not considered a TANF cash grant.
- F. The student is assigned to or placed in an institution of higher education through a program under the Workforce INNOVATION AND OPPORTUNITY~~Investment~~ Act (WIOA), Employment First Program, a program under Section 236 of the Trade Act of 1974 (19 USC 2296), another program for the purpose of employment and training operated by the state or local government (program shall have at least one (1) component equivalent to the Food Assistance Employment First Program), or as a result of participating in the JOBS program under Title IV of the Social Security Act.

Self-initiated placement during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled. This placement is considered in compliance provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption.

4.310.1 Work Registration and Referral to Employment First in Employment First Counties

“Work registration” means completion of the Food Assistance application. ~~and, in an Employment First county, referral to an Employment First Unit.~~ The local office shall complete an appointment form for all household members not exempt from work registration under Section 4.310.3.

In Employment First counties, the Food Assistance eligibility technician shall provide the written notice of referral to each work-registered household member, send a copy to the Employment First Unit, and retain a copy of the referral in the case record.

Upon determination that the person should be referred to an Employment First Unit, the local office shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work-registered household members, and the consequences of failing to comply. The local office shall provide a written statement of these requirements to each work registrant in the household and to each previously exempt or new household member when that person becomes subject to work registration and at recertification.

Individuals who are not determined exempt from work registration shall be referred to Employment First at the application interview. Food Assistance applicants may volunteer for

Employment First services prior to the application interview. Exempt recipients may volunteer at any time.

Employment First may exempt individuals for whom they determine participation in an Employment First component is impractical. Reasons for such exemption include lack of job readiness, remoteness from work opportunities (remoteness shall mean a one-way commute of more than one hour), or lack of transportation, medical or family problems, such as a lack of child care, migrant or seasonal farm work status, or other reasons as Employment First determines limit practicability.

Job-attached persons (e.g., those on temporary layoff or those expecting to return to work within sixty (60) days shall be exempt from referral to Employment First for sixty (60) calendar days at which time the local office shall review the job-attached status.

Reasons for exemption should be reviewed at recertification or more frequently if a change affecting the exempt status occurs, and shall be documented in the case record.

Any resident or non-resident participant in a drug or alcohol center's treatment and rehabilitation program is exempt from the work registration requirement. This exemption is not meant to discourage participants in such a program from seeking and accepting employment on their own.

4.310.11 Work Registration in Non-Employment First Counties

Fulfillment of the work registration requirement in non-employment first counties shall occur when an applicant household completes and signs a Food Assistance application.

4.310.2 Work Requirements for Ages Eighteen (18) through Forty-Nine (49) Years

- A. No individual shall be eligible to participate in the Food Assistance Program as a member of any household if, during the preceding thirty-six (36) month period, the individual received Food Assistance benefits for not less than three (3) months (consecutively or not) during which time the individual:
 - 1. Was not employed twenty (20) hours or more each week, averaged monthly; or,
 - 2. Did not participate in and comply with the requirements of a work program for twenty (20) hours or more each week; or,
 - 3. Did not participate in and comply with Section 20 Workfare program of the Food and Nutrition Act of 2008 (codified at 7 USC sec. 2011 et seq.).
- B. A work program is defined as:
 - 1. A program of employment and training operated or supervised by the Employment First program other than a job search program or a job search training program;
 - 2. A program under the Workforce ~~INNOVATION AND OPPORTUNITY~~Investment Act (WIOA);

3. A program under Section 236 of the Trade Act of 1974 (19 USC 2296, “Trade Adjustment Assistance”);
 4. Workfare under Section 20 of the Food Stamp Act, as amended.
- C. The limit of three (3) months in a thirty-six (36) month period shall not apply to individuals who are:
1. Under eighteen (18) or fifty (50) years of age or older;
 2. PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT INCLUDING THOSE THAT ARE CHRONICALLY HOMELESS, DEFINED AS LACKING NIGHTTIME RESIDENCE; Medically certified as physically or mentally unfit for employment;;
 3. IS RESIDING IN A HOUSEHOLD WHERE A HOUSEHOLD MEMBER IS UNDER AGE 18, EVEN IF THE HOUSEHOLD MEMBER WHO IS UNDER 18 IS NOT HIMSELF ELIGIBLE FOR FOOD STAMPS; A parent or other member of a household with responsibility for a dependent child under the age of eighteen (18);
 4. Pregnant;
 5. Exempt from work registration under the exemptions listed in Section 4.310.3;
 6. Exempt under a waiver approved by the USDA, FNS. Counties may request such a waiver through the Food Assistance Programs Division (FAPD). FAPD will also consult with Employment First and submit requests for counties or areas that the State Department considers as meeting this requirement. All affected counties will be notified by written correspondence.

The waiver from these requirements can be requested when the area has an unemployment rate of ten percent (10%) or the area does not have a sufficient number of jobs to provide employment for the individuals.

D. Regaining Eligibility

1. An individual who is denied eligibility under this provision can regain eligibility if in a thirty (30) calendar day period, the individual is employed eighty (80) or more hours, participates in and complies with the requirements of a work program for eighty (80) or more hours as determined by Employment First, or participates and complies with Section 20 Workfare.
2. The individual will be reinstated the month following the month of compliance if otherwise eligible and will continue to be eligible as long as compliance with these requirements continues or the individual becomes exempt.
3. If an individual regains eligibility but then fails to continue meeting these requirements, the individual shall remain eligible for a consecutive three-month period after the individual notifies the county department. The individual can only have this provision apply for a single three-month period in any thirty-six (36) month period.

4.310.3 Exemptions from Work Registration

A. Persons Under Age Eighteen (18)

A person age sixteen (16) or seventeen (17) who is not the head of a household is exempt. A sixteen (16) or seventeen (17) year-old head of household who is attending school, or enrolled in an employment training program on at least a half-time basis is exempt from work registration.

B. Persons Caring for Children and Incapacitated Household Members

The able-bodied parent or other household member who is responsible for the care of a dependent child under the age of six (6) or an incapacitated person is exempt from work registration.

If the child reaches his or her sixth (6th) birthday within a certification period, the individual responsible for care of the child shall register for work at the next scheduled certification, unless the individual qualifies for another exemption.

C. Physically or Mentally Unfit for Employment

PERSONS PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT ARE EXEMPT FROM WORK REGISTRATION. IF THE DETERMINATION OF UNFIT FOR WORK IS NOT OBVIOUS, VERIFICATION MAY BE REQUIRED. PERSONS MAY PROVIDE A STATEMENT FROM A PHYSICIAN, PHYSICIAN'S ASSISTANT, NURSE, NURSE PRACTITIONER, DESIGNATED REPRESENTATIVE OF THE PHYSICIAN'S OFFICE, A LICENSED OR CERTIFIED PSYCHOLOGIST, A SOCIAL WORKER, OR ANY OTHER MEDICAL PERSONNEL THE COUNTY AGENCY DETERMINES APPROPRIATE, THAT HE OR SHE IS PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT.

~~Persons physically or mentally unfit for employment are exempt from work registration. If physical or mental unfitness is claimed and is not evident to the local office, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or of a statement from a physician or licensed psychologist. Individuals who are eighteen (18) years of age through forty-nine (49) years of age, who are subject to work requirements as set out in Section 4.310.2 shall provide a medical certification of disability.~~

D. Eligible Students

Eligible students are those enrolled at least half-time, as defined by the educational facility, in any recognized school or training program, and those in an institution of higher education who have met the eligibility conditions in Section 4.306 are exempt from work registration. Eligible students shall remain exempt from work registration during normal periods of class attendance, vacation, and recess.

Persons who are not enrolled at least half-time or who experience a break in their enrollment status due to graduation, expulsion, suspension, or who drop out or otherwise do not intend to register for the next normal school term (other than summer), shall not be considered students for the purpose of qualifying for this

exemption.

E. Employed and Self-Employed

Employed or self-employed individuals who are working a minimum of thirty (30) hours per week or receiving weekly earnings at least equal to the federal minimum wage multiplied by thirty (30) hours are exempt from work registration. This shall include migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within thirty (30) days.

Persons working in Action programs (including VISTA) are exempt from work registration if they work at least thirty (30) hours per week even if compensation is not consistent with prevailing community wage, since an employer-employee relationship can be documented. Those engaged in volunteer work or hobby activity cannot be considered gainfully employed unless the income is consistent with thirty (30) hours employment as herein defined, regardless of the time spent in such endeavor.

F. Unemployment Compensation Benefits

A person applying for or receiving Unemployment Insurance Benefits (UIB) shall be exempt from work registration requirements. The local office shall verify application for or receipt of UIB, if questionable. A person who has been denied UIB and who is appealing the decision is exempt.

4.310.5 Requirements of Work Registrants

Persons work-registered by the local office shall:

- A. Participate in Employment First ~~if MANDATED including reporting for all appointments and classes and~~ meeting all ~~other~~ program requirements as detailed in the participation contract.
- B. Provide Employment First with sufficient information to allow Employment First to determine the employment status or job availability of the individual.
- C. Report to an employer in an appropriate manner and be prepared to accept an offer of suitable employment.

4.310.6 Disqualification Period for ~~Employment First~~ MANDATORY EMPLOYMENT FIRST WORK REGISTRANTS

- A. If the local office determines that an individual has refused to register for work or failed without good cause to comply with Employment First requirements, that individual shall be ineligible to participate in the Food Assistance Program and shall be treated as a disqualified member. If the disqualified member joins another household, the disqualification period for that individual shall continue until the disqualification period is completed.

4.310.9 Requirements for County Participation in the Food Assistance Employment and Training Program

In Colorado, the employment and training program under the Food and Nutrition Act of 2008, as amended, is called Employment First. The purpose of the program is to assist members of households participating in the Food Assistance Program in gaining skills, training, work, or experience that will increase their ability to obtain ~~regular~~-LIVABLE employment. All counties shall operate an Employment First program unless they can demonstrate their county has a ten percent (10%) unemployment rate or there is an insufficient number of jobs available.

A county department ~~CHOOSING~~wishing to or required to administer an Employment First program shall submit a ~~COUNTY-start-up~~ plan in a format prescribed by the State Department to the Colorado Department of Human Services, ~~EMPLOYMENT AND BENEFITS DIVISION~~Food and ~~Energy Division~~, Employment First Program, for approval. EACH COUNTY SHALL INCLUDE A DESCRIPTION OF THEIR PROGRAM OPERATION. COUNTIES OPERATING AN EMPLOYMENT FIRST PROGRAM ARE REQUIRED TO SERVE ABAWDS. Upon approval of the plan, the state department shall notify the county department of such approval, plus any conditions or limitations required for the approval. The State Department shall keep on file official copies of Food Assistance Employment First plans for public inspection.

An annual Employment First Plan of Operation is required for a county to maintain Employment and Training status. The annual plan will be submitted in a format prescribed by the state. Operation of an Employment First program is contingent on approval of the county plan of operation.

A county department may enter into a contractual agreement for all or any part of the Employment First program service delivery. These contractual agreements shall be reviewed by the State Department for adherence to program requirements before implementation. The only exception is that the Section 20 workfare, Colorado Workfare, may only be operated by a public or private non-profit agency. Employment First funds shall not be used to supplant funds used for existing services and activities that promote the purpose of any component.

Every Employment First program shall monitor participants who work at least twenty (20) hours a week, averaged monthly, but who do not yet work thirty (30) hours a week or earn wages equal to at least thirty (30) hours a week multiplied by the prevailing federal minimum wage.

- A. A county shall also provide each non-exempt eighteen (18) to fifty (50) year old work registrant who is not working at least twenty (20) hours a week, a Section 20 workfare program, or other component or combination of components that equal a minimum of twenty (20) hours of participation weekly. Allowable components include the following:
 - 1. Educational programs or activities to improve basic skills and literacy or otherwise improve employability, including, but not limited to, General Equivalency Degree (GED), adult basic education, English as a Second Language, vocational training, and employability training.
 - 2. Community service program participation.

3. A program designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment.
4. A program under the Workforce INNOVATION AND OPPORTUNITY~~Investment~~ Act (WIOA).
5. A program under Section 236 of the Trade Act of 1974.
6. A county may also provide those individuals who are exempt from the eighteen (18) to fifty (50) year old work requirements in Section 4.310.2 with a job seeking skills component approved by the state office.

B. FOR ALL MANDATORY WORK REGISTRANTS, €The local Employment First provider shall:

1. Schedule the first appointment with Employment First within fourteen (14) calendar days from the date referred from the local office;
2. Enter required information from the work registration form into the Employment First automated system for each person referred from the local office to the Employment First;
3. Create a case file for each individual referred by the local office to Employment First;
4. Complete an assessment as prescribed by the state office and provide appropriate service for each referred, non-exempt participant who reports to Employment First;
5. Complete a participant contract for each individual enrolled in an Employment First activity;
6. Notify the local office of the determination of non-compliance without good cause;
7. Compile data and submit required reports within prescribed timeframes;
8. Coordinate program operations with the state Employment First staff;
9. Ensure that participants receive the appropriate reimbursement for participation;
10. Utilize required forms as prescribed or approved by the state;
11. Attend scheduled Employment First program meetings and training as required;
12. Ensure that all funds expended are allowable program costs;
13. Ensure program services are not suspended for longer than fourteen (14) consecutive days for any reason;

14. At a minimum, maintain monthly contact with each Employment First participant; and,
15. Verify all reported employment.

4.310.21 Referral to Employment First/Workfare

~~The local office shall provide the Food Assistance Workfare Counselor with the case name, case number, names of workfare-eligible household members, address, certification period, and the amount of the allotment the household is receiving. Any part-time work by a member shall also be indicated.~~

The Food Assistance Workfare Counselor shall notify any workfare participant of where and when the participant is to report, to whom the participant is to report, a brief description of duties for the particular placement, and the number of hours to be worked.

4.310.24 Disqualification for Failure to Comply with a Workfare Assignment

~~FOR MANDATORY WORK REGISTRANTS, §~~The Workfare Counselor shall notify the local office of noncompliance with workfare by providing a description of the particular act of noncompliance committed. The determination of failure to comply with the workfare program is handled in the same manner as with the Employment First determination. The sanction process for Title IV-A/IV-F employment program participants shall be governed by Title IV-A/IV-F rules and IS the responsibility of the Title IV-A/IV-F case manager.

The local office and the Workfare Counselor shall consider the facts and circumstances, including information submitted by the household member involved and the employer, to determine whether good cause for the noncompliance exists. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of that member, a household emergency, the unavailability of transportation, conflict due to compliance with Unemployment Insurance or Title IV-A/IV-F requirements.

4.403 COUNTABLE EARNED INCOME

The following shall be considered as earned income.

A. Wages and Salaries

1. All payments for services as an employee, including garnishments, or money payments legally obligated to the employee and diverted to a third party for the employee's household expenses.

Countable income from employment received by students in institutions of higher education while participating in state work-study programs or a

fellowship with a work requirement shall not be considered as earned income.

2. Earned income includes government payments from Agricultural Stabilization and Conservation Service and wages of AmeriCorps Volunteers in Service to America (VISTA) workers. VISTA payments are excluded if the client was receiving Food Assistance when he or she joined VISTA. If the client was not receiving Food Assistance when he or she joined VISTA, the VISTA payments shall count as earned income. Temporary interruptions in Food Assistance participation shall not alter the exclusion once an initial determination has been made (see Section 4.405.2, A, 3). Temporary interruptions shall be defined as a period of time where a household or individual missed a full month of benefits, excluding instances where the lapse in benefits is due to the local office not taking timely action in accordance with the processing standards outlined in Sections 4.604, 4.205, or 4.209.1.
3. Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received, if reasonably anticipated. However, wages held by the employer as a general practice shall not be counted as income unless the household anticipates that it will receive income from such wages previously withheld by the employer.

When an advance on wages is subsequently repaid from current wages, only the amount of wages received is considered as income. The amount of repayment is disregarded, even if the wage earner was not a Food Assistance participant at the time of the advance.

4. Payment for sick leave, vacation pay, and bonus pay shall be considered as earned income, if the person was still employed while receiving the pay.

B. Training Allowances

1. Payments from vocational and rehabilitation programs recognized by federal, state, or local governments, such as the Job Opportunities and Basic Skills (JOBS) Program, to the extent they are not a reimbursement except for allowances paid under the Workforce INNOVATION AND OPPORTUNITY Investment Act (WIOA).
2. Earned income will include earnings to individuals who are participating in the on-the-job training under Section 204(5), Title II, of the Workforce INNOVATION AND OPPORTUNITY Investment Act (WIOA). This provision does not apply to household members under nineteen (19) years of age who are under the parental control of another adult member. Earnings include monies paid by the Workforce INNOVATION AND OPPORTUNITY Investment Act (WIOA) and monies paid by an employer.

C. Title I Monies

Payments received under Title I (VISTA-University Year of Action) of the Domestic Volunteer Service Act of 1973 shall be considered earned income and subject to the earned income deduction, excluding payments made to those households specified in

Section 4.405.2.

D. Income of Strikers

Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike was not occurring. Eligibility at the time of application shall be determined by comparing the striking member's income as of the day before the strike to the striking member's current income and adding the higher of the two to the current income of the non-striking household members during the month of application.

E. Self-Employment

The method of ascertaining the self-employment income to be considered for Food Assistance purposes is often difficult and the guidelines set forth in Sections 4.403.1-4.403.12 are meant to clarify and aid the process.

In determining gross self-employment income, all income received by the self-employment household must be considered. Self-employment income includes:

1. Monies received from rental or lease of self-employment property. Rental property shall be considered a self-employment enterprise. However, the income will be considered as earned income only if the household member (or disqualified person) actively manages the property at least an average of twenty (20) hours per week.
2. Monies received from the sale of capital goods, services, and property connected to the self-employment enterprise. Proceeds of sales from capital goods or equipment are to be treated as income rather than as capital gains.

The term "capital gains", as used by the Internal Revenue Service (IRS), describes the handling of the profit from the sale of capital assets such as, but not limited to, computers and other electronic devices, office furniture, vehicles, and equipment used in a self-employment enterprise; or securities, real estate, or other real property held as an investment for a set period of time. For Food Assistance purposes, the total amount received from the sale of capital goods shall be counted as income to the household.

3. Income from roomers/boarders (see paragraph G below).

F. Owners of Limited Liability Corporations (LLC) and S-Corporations

For Food Assistance Program purposes, owners of LLCs or S-Corporations are considered employees of the corporation and, therefore, cannot be considered self-employed. Because they are not considered self-employed, they are not entitled to the exclusion of allowable costs of producing self-employment income. The income from these types of corporations should be treated as regular earned income, not self-employment income.

4.405.2 Income Excluded by Other Federal Statutes

The following government payments are received for a specific purpose and are excluded as income by federal law. Federal regulations and laws have been incorporated below. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203.

A. General

1. P.L. No. 89-642, Section 11(b) of the Child Nutrition Act of 1966, as amended, excludes the value of assistance to children under this Act.
2. Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, (P.L. No. 91-646, Section 216).
3. Any payment to volunteers under Title II (RSVP, Foster Grandparents and others) of the Domestic Volunteer Services Act of 1972, as amended, (P.L. No. 93-113).

Payments under Title I (AmeriCorps Volunteers in the Service of America/VISTA - including University Year for Action and Urban Crime Prevention Program) to volunteers shall be excluded for those individuals receiving Food Assistance or public assistance at the time they joined the Title I Program, except that households which are receiving an income exclusion for a VISTA or other Title I Subsistence Allowance at the time of conversion to the Food Assistance Act of 1977 shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in Food Assistance participation shall not alter the exclusion once an initial determination has been made. New applicants who are not receiving public assistance or Food Assistance at the time they joined VISTA shall have these volunteer payments included as earned income.

4. P.L. No. 101-610, Section 17(d), 11/16/90, National and Community Service Act (NCSA) of 1990, as amended, provides that Section 142(b) of the JTPA applies to projects conducted under Title I of the NCSA as if such projects were conducted under the JTPA. Title I includes three Acts:
 - a. Serve-America: the Community Service, Schools and Service-Learning Act of 1990, as amended.
 - b. American Conservation and Youth Service Corps Act of 1990, as amended.
 - c. National and Community Service Act, as amended.

There are approximately forty-seven (47) different NCSA programs and they vary by state. Most of the payments are made as a weekly stipend or for

educational assistance. The Higher Education Service-Learning program and the AmeriCorps umbrella program come under this title. The National Civilian Community Corps (NCCC) is a federally managed AmeriCorps program. The Summer for Safety program is an AmeriCorps program under which participants earn a stipend and a one thousand dollar (\$1,000) post-service educational award. The National and Community Service Trust Act of 1993 (P.L. No. 103-82, 9/23/93) amended the National and Community Services Act of 1990, but did not change the exclusion.

5. P.L. No. 93-288, Section 312(d), the Disaster Relief Act of 1974, as amended by P.L. No. 100-707, Section 105(i), the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income for Food Assistance purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

A major disaster is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood, or explosion, which the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

An emergency is any occasion or instance for which the President determines that Federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

Payments made to homeless people with funds from Federal Emergency Management Assistance (FEMA) to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are not excluded under this provision.

6. Payments, allowances and earnings under the Workforce ~~Investment~~ INNOVATION AND OPPORTUNITY Act (WIOA) are excluded as income. Earnings paid for on-the-job training are still counted for the Food Assistance Program. On-the-job training payments for members under nineteen (19) years of age who are participating in WIOA Programs and are under the parental control of an adult member of the household shall be excluded as income. The exclusion shall apply regardless of school attendance and/or enrollment as outlined in Section 4.405, C. On-the-job training payments under the Summer Youth Employment and Training Program are excluded from income.
7. P.L. No. 99-425, Section(e), the Low-Income Home Energy Assistance Act, 1986. Payments or allowances made under any federal laws for the purpose of energy assistance.

P.L. No. 104-193 states that any payment or allowances made for the purpose of providing energy assistance under a federal law other than Part A of Title IV of the Social Security Act (42 U.S.C. 601, et seq.), or a one-time payment, or allowance made under federal or state law for the cost of weatherization, or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device is

excluded from income.

8. Payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and under the Title IV of the Comprehensive Employment and Training Act Amendments of 1978 (P.L. No. 95-524).

Title of Proposed Rule: Employment First Modernization

CDHS Tracking #: 17-05-09-01

Office, Division, & Program:
OES, FEAD

Rule Author:
Glenn Robinson

Phone: 303-866-2751

E-Mail:
glenn.robinson@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

The Supplemental Nutrition Assistance Program (SNAP) provides food assistance benefits to eligible individuals and families who are experiencing food insecurity. A component of the SNAP program is the SNAP Employment and Training (E&T) program known as Employment First in Colorado, designed to help SNAP recipients gain and/or advance their employment, and reduce SNAP dependency. All states are required to operate an E&T program, however, states are given flexibility in how they structure and operate these programs.

Colorado currently operates the Employment First program under what is called mandatory program guidelines from a federal perspective. Colorado pledges to serve ABAWD's while mandating work registrants between the ages of 18-49 to participate in Employment First.

Operationally, this binds Counties to operating a mandatory Employment First program eliminating flexibility and adding increased fiscal and administrative burdens to Counties.

Additionally, current rules do not align with Federal regulations which create discrepancies with how rules are applied. Clarifications have been made to include homeless customers under the persons physically or mentally unfit for employment exemption.

Changes have also been made to update the term of "WIA" (Workforce Investment Act) to "WIOA" (Workforce Innovation and Opportunity Act). Implementation for the proposed changes will begin October 1, 2017 to align with the Federal Fiscal year.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2016)	State Board to promulgate rules
26-1-109, C.R.S. (2016)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2016)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
CRF(B)(II)(C)(273)(C)(273.7)(7)(e)	<i>Employment and training programs.</i> Work registrants not otherwise exempted by the State agency are subject to the E&T program participation requirements imposed by the State agency. Such individuals are referred to in this section as E&T mandatory participants. Requirements may vary among participants. Failure to comply without good cause with the requirements imposed by the State agency will result in disqualification as specified in paragraph (f)(2) of this section.

Does the rule incorporate material by reference?

☐ Yes

☒ No

Does this rule repeat language found in statute?

☐ Yes

☒ No

If yes, please explain.

--

Title of Proposed Rule: Employment First Modernization

CDHS Tracking #: 17-05-09-01

Office, Division, & Program:
OES, FEAD

Rule Author:
Glenn Robinson

Phone: 303-866-2751

E-Mail:
glenn.robinson@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

- a) Work-registrants receiving food assistance in the state of Colorado
- b) The dependents of those individuals, and all members of the food assistance unit impacted by the sanctioning of food assistance for non-compliance with mandated work components;
- c) Able-bodied adults without dependents (ABAWDs) receiving food assistance in the state of Colorado who are mentally or physically unfit for work, including those experiencing chronic homelessness;
- d) All other program work-registrants receiving food assistance in the state of Colorado who are not subject to proposed rule changes, but who will benefit from increases to county service capacity and resources as a result of these rule changes;
- e) County departments of human services responsible for administration of the Employment First program;
- f) Sub-contractors to County Departments of Human Services responsible for administration of the Employment First program;
- g) The state agency responsible for supervisory oversight of the Employment First program, and for all federal reporting, system support, and allocations and program budgets;
- h) Community-based organization and advocacy groups that serve populations affected by these rule changes, to include food pantries, homeless shelters, and similar entities;
- i) Local area grocers and economies which are otherwise impacted by a reduction in food assistance benefits within a community.

2. Describe the qualitative and quantitative impact.

Qualitative Impact:

The change will result in increased food security for individuals, reduced administrative efforts and a reduction in worker time spent on sanctioning and disqualifying SNAP recipients. A decrease in overall program caseloads is also anticipated, which will in turn reduce the demand on limited program budgets. County departments and their sub-contractors will be able to focus strategically on a more targeted population, and increase employability services for that population which will, in turn, result in improved employment entry and reduced dependency. Further, county and state agencies will experience positive improvement in error rates associated with noticing and the application of sanctions and disqualifications.

Quantitative Impact: Without formal data collection in place, quantitative impact analysis can only be provided through the utilization of reasonable estimates, and comparable data. Actual data is provided wherever feasible.

Colorado has roughly 37,000 work registrants receiving SNAP in a year. However, this number is decreased when work requirements and time limits are in effect. Meaning, individuals who do not meet requirements become disqualified and lose their SNAP benefits.

Title of Proposed Rule: Employment First Modernization**CDHS Tracking #: 17-05-09-01**Office, Division, & Program:
OES, FEADRule Author:
Glenn Robinson

Phone: 303-866-2751

E-Mail:
glenn.robinson@state.co.us**3. Fiscal Impact****County, State, and Federal Fiscal impact-**

The chart below displays the seven funding sources for Employment First. These sources are allocated at different times during the FFY.

Chart 1:

Funding	FY 2015-16	FY 2016-17
Beginning 100% Funds	\$1,063,196	\$1,101,230
80/20 Participant Funds	\$259,216	\$259,216
50/50 administrative cap	\$3,719,318	\$8,538,538
50/50 participant cap	\$907,674	\$1,249,476
Beginning ABAWD Pledge	\$2,302,158 (11.51%*)	\$849,598 (4.25%*)
Reallocated Funds	\$1,500,000	\$0
Enhanced Funding	\$1,848,031	\$1,903,979
Total Program	\$11,599,593	\$13,052,439

4. Data Description

Data was derived from the Colorado Benefits Management System (CBMS) to the degree available.

5. Alternatives to this Rule-making

Many alternatives were explored by a workgroup consisting of State and County representatives. Data was gathered from previous years, multiple states, and counties in Colorado to ensure the workgroup had enough information to determine the best way of administering the program. Federally, Employment First allows states to operate a mandatory or voluntary program. In Colorado, counties concluded that they want to continue to serve ABAWDS yet value “flexibility in determining if they will provide services to all work registrants with limited federal funds to do so. This is allowable via Federal rule and makes sense in Colorado as it provides a way to help reduce administrative burdens in a federally underfunded program. The changes made are as follows:

Federal alignment changes include: changing “WIA” or Workforce Investment Act to “WIOA” or Workforce Innovation and Opportunity Act and clarification of persons physically or mentally unfit for employment and who can provide acceptable verification. Rule changes require counties include county plans that identify how they will operate the program. Last, rules consistently address that Colorado will serve ABAWDs.

Title of Proposed Rule: Employment First Modernization**CDHS Tracking #: 17-05-09-01**Office, Division, & Program:
OES, FEADRule Author:
Glenn Robinson

Phone:303-866-2751

E-Mail:
glenn.robinson@state.co.us**OVERVIEW OF PROPOSED RULE**

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
4.310.2(C)(2)	Does not align with Federal Regulations	The limit of three (3) months in a thirty-six (36) month period shall not apply to individuals who are: 1. Under eighteen (18) or fifty (50) years of age or older; 2. Medically certified as physically or mentally unfit for employment;	The limit of three (3) months in a thirty-six (36) month period shall not apply to individuals who are: 1. Under eighteen (18) or fifty (50) years of age or older; 2. Physically or mentally unfit for employment Including those that are chronically homeless, defined as lacking nighttime residence;	TO ALIGN WITH FEDERAL REGULATIONS	
4.310.3(C),	Does not align with Federal Regulations	Persons physically or mentally unfit for employment are exempt from work registration. If physical or mental unfitness is claimed and is not evident to the local office, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or of a statement from a physician or licensed psychologist. Individuals who are eighteen (18) years of age through forty-nine (49) years of age, who are subject to work requirements as set out in Section 4.310.2 shall provide a medical certification of disability.	Persons physically or mentally unfit for employment are exempt from work registration. If the determination of unfit for work is not obvious, verification may be required. Persons may provide a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel the County agency determines appropriate, that he or she is physically or mentally unfit for employment.	TO ALIGN WITH FEDERAL REGULATIONS	
4.306.1 (F) 4.310.2 (B)(2) 4.310.9 (A)(4) 4.403 (B)(1) 4.403 (B)(2) 4.405.2 (A)(6)		Workforce Investment Act (WIA)	All referenced Workforce Investment Act (WIA) should change to read: Workforce Innovation and Opportunity Act (WIOA)		
4.310.2 (C)(5)		Exemption from work registration under the exemptions listed in Section 4.310.3;	Exempt from Employment First participation under the exemptions listed in Section 4.310.3;		

Title of Proposed Rule: Employment First Modernization		
CDHS Tracking #: 17-05-09-01		
Office, Division, & Program: OES, FEAD	Rule Author: Glenn Robinson	Phone:303-866-2751 E-Mail: glenn.robinson@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
4.310.9		Requirements for County Participation in the Food Assistance Employment and Training Program In Colorado, the employment and training program under the Food and Nutrition Act of 2008, as amended, is called Employment First. The purpose of the program is to assist members of households participating in the Food Assistance Program in gaining skills, training, work, or experience that will increase their ability to obtain regular employment. All counties shall operate an Employment First program unless they can demonstrate their county has a ten percent (10%) unemployment rate or there is an insufficient number of jobs available. A county department wishing to or required to administer an Employment First program shall submit a start-up plan in a format prescribed by the State Department to the Colorado Department of Human Services, Food and Energy Division, Employment First Program, for approval. Upon approval of the plan, the state department shall notify the county department of such approval, plus any conditions or limitations required for the approval. The State Department shall keep on file official copies of Food Assistance Employment First plans for public inspection. An annual Employment First Plan of Operation is required for a county to maintain Employment and Training status. The annual plan will be submitted in a format prescribed by the state. Operation of an Employment First program is contingent on approval of the county plan of operation.	A county department choosing to or required to administer an Employment First program shall submit a county plan in a format prescribed by the State Department to the Colorado Department of Human Services, Employment and Benefits Division , Employment First Program, for approval. Each county shall include a description of their program operation. Counties operating an Employment First program are required to serve ABAWDs. Upon approval of the plan, the state department shall notify the county department of such approval, plus any conditions or limitations required for the approval. The State Department shall keep on file official copies of Food Assistance Employment First plans for public inspection. An annual Employment First Plan of Operation is required for a county to maintain Employment and Training status. The annual plan will be submitted in a format prescribed by the state. Operation of an Employment First program is contingent on approval of the county plan of operation.		

Title of Proposed Rule:		Employment First Modernization
CDHS Tracking #:		17-05-09-01
Office, Division, & Program:	Rule Author:	Phone:303-866-2751
OES, FEAD	Glenn Robinson	E-Mail: glenn.robinson@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
4.310.2 (C)(3)	Wording is more restrictive than Federal regulations	A parent or other member of a household with responsibility of a dependent child under the age of eighteen (18).	Is residing in a household where a household member is under age 18, even if the household member who is under 18 is not himself eligible for food stamps	TO ALIGN WITH FEDERAL REGULATIONS	

Title of Proposed Rule: Employment First Modernization

CDHS Tracking #: 17-05-09-01

Office, Division, & Program:
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Rule Author:
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STAKEHOLDER COMMENT SUMMARY

Development

Employment First Task Group Counties included:

Adams, Arapahoe, Bent, Denver, Douglas, Eagle, El Paso, Fremont, Jefferson, Larimer, Mesa, Park, Prowers, Rio Grande, Summit, Weld, and Yuma.

Other entities/groups include:

FNS
Sub-Pac
CCLP
AFDC Coalition
Hunger Free Colorado
CDHS - Employment and Benefits, Food and Energy Assistance, Accounting, and Performance Management Divisions.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

☐ Yes ☒ No

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

☒ Yes ☐ No

Name of Sub-PAC			
Date presented	05/04/2017		
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>

PAC

Have these rules been approved by PAC?

☐ Yes ☒ No

Date presented			
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.	Scheduled for June PAC		

Other Comments

Comments were received from stakeholders on the proposed rules:

☐ Yes ☐ No

Notice of Proposed Rulemaking

Tracking number

2017-00190

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-4

Rule title

CHILD WELFARE SERVICES

Rulemaking Hearing**Date**

07/07/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

Add language to require that each child in out-of-home care is accompanied to psychiatric appointments by an adult who has knowledge about the daily functioning and behaviors of the youth.

Add language for criteria and use of independent living arrangements for youth between ages 16-21.

Amend language to the emancipation transition plan for youth.

Statutory authority

26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)
CRF(B)(II)(C)(273)(C)(273.7) (7)(e)

Contact information**Name**

Dennis Desparrois

Title

Rule Author

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**DEPARTMENT OF HUMAN SERVICES
Social Services Rules**

CHILD WELFARE SERVICES

12 CCR 2509-4

7.304.62 Placement Activities

The county department shall:

- A. Give the provider a written record of the child's admission to the home at the time of placement.
- B. Give the provider a written procedure or authorization for obtaining medical care for the child and assure that the provider receives the child's state identification number and Medicaid card for Medicaid eligible children in a timely manner.
- C. Give the provider a copy of the Family Services Plan for the child at the time of placement or when it is completed following placement.
- D. Document the above placement activities in the case file.
- E. Add the placement in the Department's automated reporting system prior to the next payroll.
- F. Within four weeks of the initial placement, give the provider a complete medical history for the child. The medical history shall contain, to the maximum degree possible, the information listed in the Department of Human Services Health Passport.
- G. Provide the child with a full medical examination scheduled within fourteen (14) calendar days after placement and a full dental examination scheduled within eight (8) weeks after placement. The schedule of the appointments shall be documented in the case record. The county department shall maintain the medical and dental information in a record which is kept with the child during placement and upon return home, emancipation, or adoption. The county department shall document that ongoing medical and dental care is provided in a timely manner as defined by the department and by the health care provider. If the child received the required full medical examination at the time of the placement, then the regular schedule of appointments should be maintained in subsequent placements.
- H. Document the exceptional circumstances which require an emergency or temporary placement to last longer than sixty (60) calendar days.
- I. Except in emergency situations, make subsequent placements according to court order and shall notify all parties to the extent possible.
- J. Not move a child from one short-term emergency placement to another unless all reasonable efforts to return the child to the child's home or to place the child in a more permanent setting have been exhausted and are documented in the Family Services Plan.
- K. Not move a child more than twice unless such move results in a permanent placement or is determined to be in the best interests of the child and the reasons for the additional move are documented in the child's Family Services Plan.
- L. Notify the guardian ad litem, parent(s) or legal guardian within one (1) business day upon a child's placement into a foster care home. The guardian ad litem's contact information shall be provided to the foster parents.
- M. Provide notice of, and a right to be heard at, any Administrative Review to the child (if age

appropriate), foster parents, pre-adoptive parents, or relatives providing care to a child and, upon written request, a written notice of the court hearing, which identifies the following:

1. The child's current court case number;
 2. The date and time of the next court hearing; and,
 3. The name of the magistrate or judge and the court division to which the case was assigned.
- N. Not release personally identifying information. Upon receipt of written notice by a foster parent, employees of State and county departments, or others with the need to know, shall be prohibited from releasing personally identifiable information about a foster parent, other than the first name, to any adult member of the foster child's family, unless the foster parent subsequently provides written consent for the release of information.
- O. Refer to Section 7.406.1, F, for the applicable criteria when a child will be absent from the designated out-of-home placement and the county elects to reimburse the provider using the seven (7) day or thirty (30) day policy.
- P. Allow out-of-home care providers, who are trained in a reasonable and prudent parent standard, to authorize children and youth to participate in community-based activities without the need for a fingerprint-based criminal record background check for the adult(s) involved in the activities. A decision to allow participation shall be based on trained providers using a reasonable and prudent parent standard, as defined in Section 7.701.200, A (12 CCR 2509-1), and the procedures defined in Section 7.701.200 (12 CCR 2509-8).
- Q. Respond to issues related to human trafficking as outlined in Section 7.303.4.
- R. If a disqualifying factor (refer to Section 7.000.2 (12 CCR 2509-1)) is identified following the placement of a child and/or youth in a non-certified kinship care home, the county department of human or social services shall evaluate the appropriateness of continuing the placement. A plan shall be developed to address the concerns as soon as possible, and the concerns shall be remedied no later than two weeks after the date of placement. The following shall be documented in the state automated case management system in the contact log in the resource section or in the record:
1. The circumstances of the placement;
 2. The vulnerability of the child and/or youth, including age and development;
 3. Safety issues impacting the child and/or youth;
 4. Supports needed by the non-certified kinship caregiver(s);
 5. Identify alternative solutions to removal of the child and/or youth from the placement and document the solution in the family service plan including, but not limited to, the family's current status in the following domains:
 - a. Risk and safety;
 - b. Level of functioning;
 - c. Strengths;
 - d. Specific concerns to be addressed;

- e. Services and supports needed; and,
 - f. Changes that must occur to mitigate the concerns.
6. When the disqualifying factor cannot be mitigated, the alternative solution and plan does not resolve the concerns about appropriateness of the placement, or timeframes are not met, the county department shall remove the child and/or youth from the placement.

S. ASSURE THAT EACH CHILD OR YOUTH IN OUT-OF-HOME CARE IS ACCOMPANIED TO PSYCHIATRIC APPOINTMENTS BY AN ADULT WHO HAS KNOWLEDGE ABOUT THE DAILY FUNCTIONING AND BEHAVIOR OF THE CHILD OR YOUTH.

7.305.2 SPECIFIC PROCEDURES

- A. The county department shall assess all youth in foster care who have reached the age of fourteen (14) for independent living services and complete the independent living section of the Family Services Plan (FSP). This assessment and planning for independent living is required regardless of the specified permanency goal of the case plan.
- B. The county department's assessment shall include documentation of:
 - 1. The youth's capacity for self-sufficiency and self-support by reviewing daily living skills.
 - 2. An evaluation of individual, family, community, and financial support resources available to promote emancipation or semi-independent living.
- C. Following assessment, the Independent Living Plan (ILP) shall be developed in consultation with the youth, caseworker, care provider(s), and, at the option of the youth, up to two (2) other significant persons chosen by the youth who are not the foster parent or caseworker for the youth and documented in the FSP in the state automated system. If the county department of human or social services has good cause to believe an individual selected by the youth will not act in his or her best interest, the planning team may designate another advocate for the youth.
 - 1. The case plan and court report following a staffing or meeting shall describe the services to help the youth transition to successful adulthood including, but not limited to, participation in on-going opportunities to engage in age and developmentally appropriate activities, and, if the youth is pregnant and/or a parent, the supports provided to the youth.
 - 2. The case plan shall document the rights of the youth to education, health, visitation, court participation, the right to stay safe and avoid exploitation, and the right to receive a credit report annually. A signed acknowledgement that the youth was provided a copy of these rights and that they were explained in an age or developmentally appropriate way shall be included in the case plan.
- D. Criteria and Use of Independent Living Arrangements FOR YOUTH AGES 16 TO 21

The county department shall assess all youth in foster care who have reached the age of fourteen (14) for Independent Living Services and complete the independent living section of the Family Services Plan (FSP). This assessment and planning for independent living is required regardless of the specified permanency goal of the case plan.

THE COUNTY DEPARTMENT MAY MAKE AN INDEPENDENT LIVING ARRANGEMENT FOR YOUTH AGES 16 TO 21 WHEN THE FOLLOWING CRITERIA HAVE BEEN MET:

- 1. THE COUNTY DEPARTMENT HAS LEGAL AUTHORITY FOR PLACEMENT.

2. PLACEMENT IN THE INDEPENDENT LIVING ARRANGEMENT FOLLOWS A PERIOD IN OUT-OF-HOME CARE OR A PERIOD IN AN APPROVED CORE SERVICES PROGRAM PROVIDED OR PURCHASED BY THE COUNTY.
3. THE COUNTY DEPARTMENT SHALL ESTABLISH A WRITTEN POLICY FOR THE USE OF THE INDEPENDENT LIVING ARRANGEMENT STIPEND. THE POLICY SHALL ADDRESS THE FOLLOWING:
 - A. INDEPENDENT LIVING ARRANGEMENT FUNDS SHALL BE DETERMINED ACCORDING TO GOALS DOCUMENTED IN THE CASE PLAN AND A CURRENT SELF-SUFFICIENCY BUDGET DEVELOPED IN CONSULTATION WITH THE YOUTH.
 - B. DECISIONS TO WITHHOLD INDEPENDENT LIVING ARRANGEMENT FUNDS MUST BE CONSISTENT WITH THE PREVIOUSLY MENTIONED TREATMENT GOALS AND WITHHELD ACCORDING TO DEFINED GUIDELINES FOUND IN THE COUNTY POLICY.
 - C. TIMELY AND ADEQUATE WRITTEN APPEAL AND NOTIFICATION PROCEDURES FOR YOUTH WHOSE INDEPENDENT LIVING ARRANGEMENT FUNDS ARE WITHHELD.
4. A SIGNED COPY OF THE INDEPENDENT LIVING ARRANGEMENT CONTRACT AND A SIGNED ACKNOWLEDGEMENT THAT THE YOUTH WAS PROVIDED A COPY OF THE COUNTY GUIDELINES, AND THAT BOTH DOCUMENTS WERE EXPLAINED IN AN AGE OR DEVELOPMENTALLY APPROPRIATE WAY, SHALL BE INCLUDED IN THE CASE FILE.

E. Free Annual Credit Record Report for Youth Fourteen (14) Years of Age and Older in Foster Care

The following steps shall be taken:

1. The county department shall obtain free annual credit report information from the three credit reporting agencies designated by the Department for youth who are in foster care and are at least fourteen (14) years of age, and provide the information to the youth and Guardian ad Litem (GAL);
2. If the youth objects to obtaining the credit report, the county department shall inform the court and request that the court issue an order authorizing the county to obtain the credit report.
3. The county department shall maintain a copy of each credit report in the case record; and,
4. Should the annual report show evidence of any inaccuracies, the county department shall inform the court of the inaccuracies, refer the youth to a Colorado Department of Human Services approved governmental or non-profit entity to resolve the inaccuracies, and inform the GAL of the referral.

F. Emancipation Transition Plan

The youth, county department caseworker, CARE provider(s), and other representatives of the youth as appropriate AT THE OPTION OF THE YOUTH, UP TO TWO (2) OTHER SIGNIFICANT PERSONS CHOSEN BY THE YOUTH WHO ARE NOT THE FOSTER PARENT OR CASEWORKER, shall jointly develop a detailed, formal emancipation transition plan a minimum of ninety (90) business days prior to the projected emancipation date of the youth. The plan shall include, but not be limited to, the following:

1. Assurance that the plan meets the specific self-sufficiency/cost of living standard in the Proposed Rules 4

county or state where the youth plans to reside.

2. An individualized written assessment used to develop the plan that is as detailed as the youth elects, and is signed and dated by the youth and the parties that developed the plan.
3. Personalization at the direction of the youth to meet the individual emancipation needs in order to help prevent homelessness.
4. Copies of verifiable vital documents required in Section 7.305.5.
5. Specific options for:
 - a. Housing,
 - b. Health insurance and health care decision-making information,
 - c. Education,
 - d. Local opportunities for safe mentors,
 - e. Continuing after-care support services, and
 - f. Work force supports and employment services.
6. The plan shall be documented in the State Department's automated system in the Family Services Plan, and a copy given to the youth free of charge.

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.4

Office, Division, & Program:
OCYF, DCW

Rule Author:
Dennis Desparrois

Phone: 303-866-3632
Email: Dennis.Desparrois@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

Add language to require that each child in out-of- home care is accompanied to psychiatric appointments by an adult who has knowledge about the daily functioning and behaviors of the youth.

Add language for criteria and use of independent living arrangements for youth between ages 16-21.

Amend language to the emancipation transition plan for youth.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

None apply

Does the rule incorporate material by reference?

☐ Yes
☐ Yes

☒ No
☒ No

Does this rule repeat language found in statute?

If yes, please explain.

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Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.4

Office, Division, & Program:
OCYF, DCW

Rule Author:
Dennis Desparrois

Phone: 303-866-3632
Email: Dennis.Desparrois@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Child Placement Agency providers; CDHS 24 Hour Licensing and Monitoring staff members;
CDHS Audit Division, CDHS Child Welfare Foster and Kinship care staff members.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

For the short term, agencies and Counties may require a brief training by CDHS and time to learn the reporting functions and requirements.

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

None known

County Fiscal Impact

None known

Federal Fiscal Impact

None known

Other Fiscal Impact *(such as providers, local governments, etc.)*

None Known

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

None

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

There are no alternatives due to the counties and providers need for clarity of procedural expectations.

Title of Proposed Rule: <u>Child Placement Agency and Child Welfare Updates</u>		
CDHS Tracking #: <u>16-4-8-1.4</u>		
Office, Division, & Program: OCYF, DCW	Rule Author:	Phone: 303-866-3632
	Dennis Desparrois	Email: Dennis.Desparrois@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.304.62, S	Regulation update	Regulation addresses medical care of youth	Adds previous language back in that was deleted in error.	No
7.305.2 D	Regulation addition	None	Adds language to include criteria for the use of independent living arrangements for youth between the ages of 16-21. Deletes paragraph duplicated in 7.305.2 A.	No
7.305.2 F	Regulation addition	None	Adds language to include criteria for emancipations transition plans.	No

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Division of Child Welfare staff including the 24 hour monitoring and licensing team and the permanency team, child placement agencies, representatives from Fostering Colorado, CDHS Audit Division, County Departments of Human/Social Services, Residential Care providers, Day Treatment providers, Division of Youth Corrections. Meetings with stakeholders were held on 7/9/13, 8/13/13, 9/10/13, and 10/8/13. Four stakeholder conference calls, including the County Departments of Human/Social Services and child placement agencies, were held in January 2017 and February, 2017.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Colorado Association of Family and Children's Agencies (CAFCA), Colorado Coalition of Adoptive Families (COCAF), Colorado Department of Public Health and Environment, Colorado Human Services Directors Association (CHSDA), Colorado State Foster Parent Association, Colorado Trails User Group (CTUG), Foster Care and Adoption Agencies of Colorado, Fostering Colorado, Foster Care Coordinators, Colorado Kinship Alliance, Office of the Child's Representative (OCR), Rocky Mountain Children's Law Center, Child Protection Task Group, Permanency Task Group, Policy Advisory Committee (PAC), Child Welfare Sub-PAC, Treatment Foster Care Task Group, CDHS Administrative Review Division, the 24 Hour Licensing/Monitoring Team, Child Placement Agency providers, Office of the Child's Representative, and Rocky Mountain Children's Law Center.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

☐ Yes ☒ No

If yes, who was contacted and what was their input?

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Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

☒ Yes ☐ No

Name of Sub-PAC	Child Welfare		
Date presented	2.2.17, 3.2.17		
What issues were raised?	None for this section		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous	None	none
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

☒ Yes ☐ No

Date presented	3.2.17		
What issues were raised?	None for this section		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous	None	none
If not presented, explain why.			

Other Comments☒ Yes ☐ No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

7.305.2 An attorney representing children questioned how county departments could enter into contracts with youth who were not year 18, under the emancipation section. This was reviewed internally and the section of concern was removed from the proposed regulations.

Notice of Proposed Rulemaking

Tracking number

2017-00191

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-5

Rule title

RESOURCES, REIMBURSEMENT, REPORTING, AND PROVIDER REQUIREMENTS

Rulemaking Hearing**Date**

07/07/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

Revises rule pertaining to Emancipation Medicaid, to align with the Affordable Care Act.

Statutory authority

26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)

Contact information**Name**

Dennis Desparrois

Title

Rule Author

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DEPARTMENT OF HUMAN SERVICES

Social Services Rules

RESOURCES, REIMBURSEMENT, REPORTING, AND PROVIDER REQUIREMENTS

12 CCR 2509-5

7.402 MEDICAL RESOURCES

7.402.1 PROVISION OF SERVICES

Subject to certain income and resource limitations, AND CITIZENSHIP REQUIREMENTS, medical assistance through the Colorado Medicaid program must be provided to certain children and youth receiving child welfare services as follows:

- A. Children and youth for whom the county department is assuming full or partial financial responsibility.
 - 1. Children and youth in foster care, including those who are in independent living situations subsequent to being in foster care;
 - 2. Youth committed to the Department of Human Services, Division of Youth Corrections, who are placed in a non-secure community based residential facility or in independent living situations;
 - 3. Children and youth who have a current, signed subsidized adoption agreement;
 - 4. Children and youth receiving Core services who otherwise would be in foster care;
 - 5. Children and youth in subsidized adoption, including adoption placements out of state, who are IV-E eligible or where the state option is in effect until the receiving state can provide Medicaid;
 - 6. Children and youth from Colorado placed in an out of state out-of-home placement by a Colorado county. IV-E eligible children receive Colorado Medicaid until the receiving state can provide Medicaid;
 - 7. Children and youth eligible for Supplemental Security Income, even if they are not receiving cash benefits, who are placed in an out of state foster care setting until the receiving state can provide Medicaid.
 - 8. Children and youth who are eligible for the Relative Guardianship Assistance Program, including relative guardianship assistance placements out of state who are Title IV-E eligible, **UNTIL THE RECEIVING STATE CAN PROVIDE MEDICAID.**
- B. Certain children and youth from other states who are placed in Colorado by that state.
 - 1. Children and youth eligible for adoption assistance placed in Colorado by another state;
 - 2. Children and youth placed in an out-of-home placement in Colorado by another state;
 - 3. Children and youth who are eligible for Supplemental Security Income placed in an out-of-home placement in Colorado by another state.

4. Children and youth who are eligible for Relative Guardianship Assistance placed in Colorado by another state and who are Title IV-E eligible.
- C. Children and youth who are receiving child welfare services, living in their own home or the home of a designated relative, and the county department is not assuming full or partial financial responsibility for their care, may be eligible for coverage under other Colorado Medicaid programs for families and children.
- D. Former foster care or adoption assistance youth who emancipated from foster care or adoption assistance at age eighteen (18) or after and are under age twenty-one (21), and for whom the state made foster care or adoption assistance payments in the month the youth turned eighteen (18) years of age.
- E. A CHILD WHO HAS AN ACCEPTABLE NON-CITIZEN STATUS AS DEFINED IN 10 CCR 2505-10 SECTION 8.100.3.G AND IN THE CUSTODY OF DHS ARE ELIGIBLE FOR COLORADO MEDICAID. CHILDREN WITH AN ACCEPTABLE NON-CITIZEN STATUS NO LONGER NEED TO MEET THE FIVE-YEAR WAITING PERIOD TO BE ELIGIBLE FOR MEDICAID.
- F. BEGINNING JANUARY 1, 2014, former COLORADO foster care youth, WHO WERE UNDER THE STATE'S OR TRIBE'S RESPONSIBILITY, WHEN THEY emancipated from foster care at Age eighteen (18) or after, AND WHO WERE ENROLLED IN MEDICAID (IV-E OR NON-IV-E) UNDER COLORADO'S MEDICAID STATE PLAN AT THE TIME OF THEIR EMANCIPATION, and are under age twenty-SIX (26); ARE ELIGIBLE FOR COLORADO'S FORMER FOSTER CARE MEDICAID. ELIGIBLE PLACEMENT TYPES INCLUDES THE FOLLOWING:
- KINSHIP FAMILY FOSTER CARE
 - NON CERTIFIED KINSHIP CARE
 - FOSTER HOME CARE
 - GROUP HOME AND GROUP CENTER CARE
 - CHILDREN'S HABILITATION RESIDENTIAL PROGRAM (CHRP)
 - RESIDENTIAL CHILD CARE FACILITIES
 - INDEPENDENT LIVING PROGRAMS
 - YOUTH COMMITTED TO THE DIVISION OF YOUTH CORRECTIONS, LIVING IN ONE OF THE ABOVE, NON-SECURE PLACEMENTS.

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.5

Office, Division, & Program:
OCYF, DCY

Rule Author:
Dennis Desparrois

Phone: 303-866-3632
Email: Dennis.Desparrois@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

Revises rule pertaining to Emancipation Medicaid, to align with the Affordable Care Act.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
OM-CW-CW-2017-0002	Citizenship Language Update for Medicaid Eligibility

Does the rule incorporate material by reference?

☐

Yes

Does this rule repeat language found in statute?

☐

Yes

☒

No

☒

No

If yes, please explain.

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.5

Office, Division, & Program:
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Rule Author:
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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Child Placement Agency providers; CDHS 24 Hour Licensing and Monitoring staff members;
CDHS Audit Division, CDHS Child Welfare Foster and Kinship care staff members

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

For the short term, agencies and Counties may require a brief training by CDHS and time to learn the reporting functions and requirements.

For both short term and long term, Counties and CDHS could see an increase in Medicaid monies spent for medical services for youth.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

There could potentially be an increase in monies spent for medical services for youth.

County Fiscal Impact

There could potentially be an increase in monies spent for medical services for youth.

Federal Fiscal Impact

None known

Other Fiscal Impact *(such as providers, local governments, etc.)*

None Known

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

None

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

There are no alternatives due to the counties and providers need for clarity of procedural expectations.

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.5

Office, Division, & Program:

Rule Author:

Phone: 303-866-3632

OCYF, DCY

Dennis Desparrois

Email: Dennis.Desparrois@state.co.us

Title of Proposed Rule: <u>Child Placement Agency and Child Welfare Updates</u>		
CDHS Tracking #: <u>16-4-8-1.5</u>		
Office, Division, & Program:	Rule Author:	Phone: 303-866-3632
OCYF, DCY	Dennis Desparrois	Email: Dennis.Desparrois@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.402.1 and A, 8	Rule Addition	None	Adds language to include citizenship requirements. Adds language to clarify services must be provided until the receiving state provides the services.	No
7.402.1, E and F	Rule addition	None	Adds language to clarify previously ineligible youth are now eligible for Medicaid; adds language to show the eligibility of persons in foster care and the ability to receive Medicaid services; defines foster care placement types	No

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates**CDHS Tracking #: 16-4-8-1.5**Office, Division, & Program:
OCYF, DCYRule Author:
Dennis DesparroisPhone: 303-866-3632
Email: Dennis.Desparrois@state.co.us**STAKEHOLDER COMMENT SUMMARY****Development**

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Division of Child Welfare staff including the 24 hour monitoring and licensing team and the permanency team, child placement agencies, representatives from Fostering Colorado, CDHS Audit Division, County Departments of Human/Social Services, Residential Care providers, Day Treatment providers, Division of Youth Corrections. Meetings with stakeholders were held on 7/9/13, 8/13/13, 9/10/13, and 10/8/13. Four stakeholder conference calls, which included County Departments of Human/Social Services and child placement agencies, were held in January 2017 and February 2017.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Colorado Association of Family and Children's Agencies (CAFCA), Colorado Coalition of Adoptive Families (COCAF), Colorado Department of Public Health and Environment, Colorado Human Services Directors Association (CHSDA), Colorado State Foster Parent Association, Colorado Trails User Group (CTUG), Foster Care and Adoption Agencies of Colorado, Fostering Colorado, Foster Care Coordinators, Colorado Kinship Alliance, Office of the Child's Representative (OCR), Rocky Mountain Children's Law Center, Child Protection Task Group, Permanency Task Group, Policy Advisory Committee (PAC), Child Welfare Sub-PAC, Treatment Foster Care Task Group, CDHS Administrative Review Division, the 24 Hour Licensing/Monitoring Team, Child Placement Agency providers, Office of the Child's Representative, and Rocky Mountain Children's Law Center.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

☐ Yes ☒ No

If yes, who was contacted and what was their input?

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Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

☒ Yes ☐ No

Name of Sub-PAC	Child Welfare		
Date presented	2.2.17, 3.2.17		
What issues were raised?	Please see comments		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous	None	None
If not presented, explain why.			

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.5

Office, Division, & Program:
OCYF, DCY

Rule Author:
Dennis Desparrois

Phone: 303-866-3632
Email: Dennis.Desparrois@state.co.us

PAC

Have these rules been approved by PAC?

☒ Yes ☐ No

Date presented	3.2.17		
What issues were raised?	Questioned whether HCPF was involved in development of 7.402.1 D		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous	None	None
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

☒ Yes ☐ No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

7.402,1, D Attendees at Child Welfare SUBPAC were concerned about needing to provide health insurance policies for children who were not eligible for Medicaid, due to their immigration status. After research, it was determined that a Federal policy through Health Care Policy and Finance, along with Colorado Medicaid Services now makes non-citizen children who are lawfully present and in the custody for DHS eligible for Medicaid and the rule requiring counties to provide health insurance policies was deleted.

Notice of Proposed Rulemaking

Tracking number

2017-00192

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-6

Rule title

RESOURCE DEVELOPMENT

Rulemaking Hearing

Date

07/07/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

Revise multiple sections of these rules regarding home studies to reduce rules, provide consistency between foster care and adoption studies, and clarify responsibilities of staff performing and reviewing home studies.

Revise rules to eliminate the need for specific time frames for renewing foster home certifications.

Revise rules to allow additional time to complete provisional certificates for foster homes to ensure that all necessary certification requirements are met.

To add rules requiring a comparison search, using the Court Case Management System at the State Judicial in order to assure the safety of children and youth placed in out-of-home care. This is the Departments response to public concern raised in August 2014.

Revise rules for sexual offender and registry checks, to assure the safety of children and youth placed in out-of-home care. This is the Departments response to public concern raised in August 2014.

Statutory authority

26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)

Contact information**Name**

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DEPARTMENT OF HUMAN SERVICES

Social Services Rules

RESOURCE DEVELOPMENT

12 CCR 2509-6

7.500.2 ASSESSMENT OF FOSTER HOMES AND ADOPTIVE HOMES

A. Content of the Assessment

A family assessment, using the Structured Analysis Family Evaluation (SAFE) instrument, including Questionnaires One (1) and Two (2) and completion of the psychosocial inventory, to determine the character and suitability of the applicant(s), appropriateness of the home, and child care practices, must be completed by a staff member that has completed the two (2) day SAFE assessment training, and must be reviewed by a supervisor that has completed the two day SAFE assessment training and the one day supervisor training. The assessment shall include, but not be limited to, the following:

1. Background of the Family

Separate and joint interviews with the applicant(s), all adults residing in the home (both related and non-related to the applicant), all children residing in the home, and any individual that is considering a second parent adoption of the child(ren) (see Section 7.500.2, C, 4) regarding:

- a. Social history/background (adults and children), including childhood family adaptability, childhood family cohesion, childhood history of deprivation/trauma, childhood history of victimization, history of child abuse/neglect, history of alcohol/drug use, history of crime/allegations/violence, psychiatric history, occupational history, and marriage/domestic partner history.
- b. Personal characteristics of the family, including communication, commitment and responsibility, problem solving, interpersonal relations, health and physical stamina to include information about nutritious meals and snacks, self-esteem, acceptance of differences, coping skills, impulse control, mood, anger management and resolution, judgment, and adaptability.
- c. Marital and domestic partner relationship, including conflict resolution, emotional support, attitude toward spouse or partner, communication between couple, balance of power, stability of the marriage or partnership and sexual compatibility.
- d. Motivation for child placement, including a discussion of the child to be placed, attitudes toward foster care/adoption by applicants, other adults residing in the home, children, and others such as extended family, and discussion of fertility, if relevant. Assess the physical, mental and emotional capability of the applicant(s) to parent a child(ren) through adoption and their ability to reevaluate and readjust expectations.
- e. Children with special needs, including the applicant's interest, preparation and willingness to care for a child(ren) with disabilities such as emotional, mental and physical, and the ability to meet the special needs of the child(ren). The home study must include an assessment as to how the child(ren)'s special needs will impact the family and extended family.
- f. Extended family relationships, including extended family adaptability, extended

family cohesion, relationship with own extended family, and relationship with spouse's or partner's family.

- g. Physical and social environment, including cleanliness; orderliness and maintenance; safety; furnishings; play area, equipment and clothing; finances; support system; and, household pets.
- h. General parenting, including child development, parenting style, disciplinary methods, child supervision, learning experiences, parental role, child interactions, communication with child, basic care, and child's play.
- i. Specialized parenting, including expectations, effects of abuse or neglect, effects of sexual abuse, effects of separation and loss, structure, therapeutic and educational resources, birth sibling relationships, child background information, and birth parent issues.
- j. Adoption issues, including infertility, telling child about adoption, openness in adoption, and adoptive parent status.

A. THE FAMILY ASSESSMENT MUST BE COMPLETE USING THE STRUCTURED ANALYSIS FAMILY EVALUATION (SAFE) HOMES STUDY FORMAT. THE SAFE HOME STUDY TOOL ASSESSMENT MUST BE COMPLETED BY USING ALL TOOLS AND PROCESSES REQUIRED BY THE SAFE FORMAT. PERSONS COMPLETING THE HOME STUDIES MUST BE QUALIFIED, AS A MINIMUM, AS A PLACEMENT WORKER, WITH A BACHELOR'S DEGREE IN THE SOCIAL OR BEHAVIORAL SCIENCES, AND MUST COMPLETE THE DEPARTMENT-REQUIRED TRAINING PRIOR TO PERFORMING THE HOME STUDIES.

1. AS PART OF THE ASSESSMENT, THE HOME STUDY WORKER MUST:

- a. CONDUCT A MINIMUM OF ONE JOINT INTERVIEW WITH A COUPLE, ONE INDIVIDUAL INTERVIEW WITH EACH ADULT MEMBER OF THE HOUSEHOLD AND AN AGEN/DEVELOPMENTALLY APPROPRIATE INTERVIEW WITH ALL CHILDREN RESIDING IN THE HOME. FOR SINGLE APPLICANTS, A MINIMUM OF TWO (2) INTERVIEWS WILL BE REQUIRED.
- b. CONDUCT AT LEAST ONE (1) INTERVIEW IN THE APPLICANT'S HOME.
- c. ENSURE THE SECOND INTERVIEW, AND ANY SUBSEQUENT INTERVIEWS, OF THE ADULTS SHALL NOT BE PERFORMED UNTIL AT LEAST 3 CALENDAR DAYS AFTER THE PREVIOUS INTERVIEW.

2. Relationship with the County Department

Discuss the applicant's ability to work with the child welfare system, court, birth parents, and others in the child's life, including willingness to obtain help from professionals involved.

3. Post-Adoptive Services

The applicant's ability to assist with possible post-adoptive issues of the child, including, but not limited to:

- a. Questions about the birth family.
- b. Locating and obtaining non-identifying information about the birth family.
- c. Search and possible reunification of the adopted child with the birth family.

d. — Willingness to assist adopted child with counseling, if needed, related to adoption issues.

4. — Kinship Foster Care

The applicant's ability to provide a permanent home through adoption, guardianship or permanent custody. The ability to meet the individualized needs of the specified child(ren), and assessment of the relationship with birth parents and extended family members as they impact capacity of the applicants to care for the child(ren). The ability to set boundaries with birth parents to maintain safety for the child(ren) in care.

When completing the assessment, Section 7.708, "Rules Regulating Foster Care Homes" shall also apply.

B. — State Automated Case Management System, Colorado Bureau of Investigation (CBI), Federal Bureau of Investigation (FBI), and the Colorado State Courts Data Access

1. — Prior to full certification of a foster home, there shall be a review and documentation in the provider record of:

a. — Complete a background check for each adult living in the home for the following:

1) — Child abuse/neglect records check in every state where the adult has resided in the five (5) years immediately preceding the date of application for each adult (18 years and older) living in the home.

2) — A fingerprint-based criminal history record information check of CBI and FBI records; and,

3) — A comparison search on the court case management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. This search must be completed regardless of whether the CBI and FBI fingerprint history confirms or does not confirm a criminal history.

4) — The CBI sex offender registry and national sex offender public website operated by the United States Department of Justice by:

a) — Known names and addresses of each adult residing in the home; and,

b) — Address only of the home.

b. — Written statements from references;

c. — Health information;

d. — The review of existing agency case records, including the automated system, for prior foster home certifications or denials; and,

e. — Investigations of any concerns raised from the application and/or aforementioned sources of information.

f. — The results of the face-to-face interview on all members of the household.

2. Federal Bureau of Investigation (FBI) fingerprint-based criminal history record information checks shall be initiated for all prospective foster and adoptive parents and each adult eighteen (18) years and older living in the home. The FBI reports shall be made available to the county department of human or social services submitting the request for information.
3. All CBI and FBI fingerprint-based criminal record information reports, including court dispositions, if applicable, and results from the five-year child abuse and/or neglect checks shall remain confidential in the county department records, except as provided in Section 7.500.2, C, 3.
4. A county department of human or social services shall not place a child and/or youth in the home if the foster parent or any adult eighteen (18) years of age or older who resides in the home is a registered sex offender, or has a finding of child abuse and/or neglect in the state automated case management system or another state's child abuse and neglect registry, unless it is determined following a review of the finding that the placement is safe.

C. Other Requirements

1. Assessment of the ability of the applicant(s) to foster or adopt a child and to preserve continuity of the child's identity in a positive manner. Factors should include, but are not limited to, consideration of the child's family, community, neighborhood, faith or religious beliefs, school activities, friends, and child's and family's primary language. Documentation of the assessment of this requirement shall be in the case file.
2. The application for adoption or foster care shall be denied for reasons listed in Section 7.500.312, D, and may be denied for reasons listed in Section 7.500.312, E. If the applicant has ever been rejected as a prospective adoptive or foster parent or has been the subject of an unfavorable finding, the home study must address the reasons for the unfavorable finding and any resolution of disagreements concerning the finding.
3. For the purposes of conducting an adoptive home study, the county department, qualified individual, and child placement agencies shall be required to report to the court the results of a fingerprint-based criminal history records check when it reveals that the prospective adoptive parent was convicted of a felony or misdemeanor of:
 - a. Child abuse or neglect;
 - b. Any crime against a child, including child pornography;
 - c. Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as specified in Section 18-6-800.3, C.R.S.;
 - d. Violation of a protective order, as described in Section 18-6-803.5, C.R.S.;
 - e. Any crime involving violence, rape, sexual assault, or homicide;
 - f. Any felony drug-related conviction within, at a minimum, the past five (5) years.

No person convicted of a felony offense shall be allowed to adopt a child, except a person may be allowed to adopt a child if:

- 1) The applicant has had no further arrests or convictions subsequent to the original conviction;
- 2) The applicant has not been convicted of a pattern of misdemeanors, as defined by rule of the State Board of Human Services at Section 7.500.312, D, 4, a-c; and,

3. The court enters a finding consistent with Section 19-5-210(2)(d), C.R.S., that the adoption is in the best interest of the child.

4. As part of the assessment, the agency must:

- a. Conduct a minimum of one joint face-to-face interview with a couple, one individual face-to-face interview with each adult member of the household, and, if applicable, one individual face-to-face interview with any person considering a second parent adoption of the child(ren), and an age/developmental appropriate face-to-face interview with all children residing in the home. For single applicants, a minimum of two interviews will be required.
- b. Conduct at least one face-to-face interview in the applicant's home.
- c. Perform an on-site inspection for foster homes to determine compliance with the Rules and Regulations for Foster Homes, Section 7.708. Approval of local zoning, health, or fire departments must be documented in the foster home file when the situation warrants.
- d. Spread out interviews over a period of not less than seven (7) consecutive days.
- e. Complete an annual SAFE update. This shall include at least one home visit and a review of the current medical status. Applicants shall be questioned regarding any child abuse investigations during the previous year.

5. The application and medical records will be reviewed; any issues that are identified will be discussed with the applicants. No physical examination shall be required of any person who in good faith relies upon spiritual means or prayer in the free exercise of religion to prevent or cure a disease unless there is a reason to believe such person's physical condition is such that he/she would be unable to care for a child, or such person has a communicable illness.

6. The county department shall not perform a foster home or adoptive home assessment on a member of its own staff. The worker should check with the supervisor for county policies and procedures regarding completing assessments on county staff.

7. Water, if from any source other than a regular municipal water supply, shall be tested for compliance with water quality requirements.

8. A current photograph of the family shall be requested and maintained in the file.

9. For the purposes of conducting an adoptive home study, the home study is to be completed ninety (90) working days from receiving the completed background checks.

10. The county department shall not deny to any person the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin of the person, or of the child involved.

D. Additional Requirements

List characteristics of child(ren) the home is approved for: age, sex, race, legal risk, and special needs (such as medical, physical, emotional). Following the completion of the assessment, a narrative report that summarizes and evaluates the information obtained must be completed. It shall be attached to the SAFE questionnaires 1 and 2.

E. Assessment Update

1. If there are changes in the age, sex, and special characteristics of the child(ren) which will be considered for the family, a re-evaluation of the family will be completed and the assessment revised.
2. For any individual eighteen (18) years of age or older entering the home with the intent of residing in the home or providing caretaker services in the home, there shall be a review and documentation in the provider record of the following:
 - a. Child abuse or neglect records check in every state where the adult has resided in the previous five (5) years.
 - b. A fingerprint-based criminal history check completed for the CBI and FBI, and,
 - c. A comparison search in the Colorado State Courts Data Access, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older entering the home. The purpose is to determine any crime(s) for which the adult residing in the home was arrested or convicted and the disposition. This search must be completed regardless of whether the CBI and FBI fingerprint history confirms or does not confirm a criminal history.
- F. At any time after the placement of a child, the placing agency may review the written family assessment, home study, and background checks of the foster parents.
- G. County departments are required to share approved adoptive home assessments within the county system if there is a child(ren) whom the family wants to be considered for possible placement. The family shall make a request in writing providing the name of the county department or child placement agency, address and name of the person who is to receive the home assessment, and appropriate documents. When the county department or child placement agency that completed the home assessment receives the written request, the written home assessment and appropriate documents shall be sent to the other county within five (5) working days at no cost to the family. The county receiving the home assessment shall notify the family within five (5) days that the county department has received the information.

The county department placing the child for adoption will be responsible for post-placement supervision until the adoption is finalized, unless otherwise negotiated in the placement agreement between the county and the child placement agency.
- H. Child Placement Agencies (CPAs) shall share their home assessments with the county department when a CPA family is providing foster care and wants to be considered for a possible adoptive placement.
 1. The family shall make a written request to the Child Placement Agency, identifying the county department, and the name and address of the county contact that is to receive the home assessment and appropriate documents.
 2. When the Child Placement Agency receives the written request, the written home assessment and appropriate documents shall be sent to the identified county department within five (5) working days.
 3. The county department receiving the home assessment shall notify the prospective adoptive family within five (5) working days that the county department has received the information.
 4. The county department placing the child for adoption will be responsible for post placement supervision until the adoption is finalized, unless otherwise negotiated in the placement agreement between the county and the child placement agency.

7.500.315 Recertification Action [Rev. eff. 1/1/16]

- A. ~~Within ninety (90) calendar days of the~~ UPON receipt of a timely renewal application for a certificate, **AND PRIOR TO THE EXPIRATION OF THE CURRENT CERTIFICATE**, the county department of human or social services must complete the following action to determine if continued certification is appropriate:
1. Review the physician's plan.
 2. Complete searches on the CBI sex offender registry and national sex offender public website operated by the United States Department of Justice and include a copy in the provider record using the following criteria, at a minimum:
 - a. Known names and addresses of each adult residing in the home; and,
 - b. Address only, of the foster home.
 3. Review the following information, for the applicant(s) and all adults residing in the home:
 - a. Any child abuse and/or neglect allegations or investigations in the previous year;
 - b. Any arrest or conviction records in the previous year; and,
 - c. Any other involvement with the foster family with the county department of human or social services.
 4. If the foster parent or any adult living in the foster home left the state for three (3) consecutive months or longer, a new FBI fingerprint-based criminal history record information check shall be conducted.
 5. Evaluate the foster care homes' current and past compliance with the rules regulating foster homes.
 6. Conduct a supervisory visit in accordance with Section 7.500.313, A, 2-4;
 7. Complete a Structured Analysis Family Evaluation (S.A.F.E.) update to document the status of the foster family, including changes that have occurred.
 8. Complete a CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home"; and,
 9. A one year time-limited certificate shall be issued. The certificate issue date is the date that the foster home is in compliance with the "Rules Regulating Foster Care Homes"; or,
 10. A probationary certificate shall be issued with the specific reasons listed on the certificate and on the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home"; or,
 11. The renewal application for the certificate is denied. The process for denial of a renewal application is the same as the process for denial of an original application.
 12. The certificate information shall be entered into the state automated case management system.
- B. A foster home certificate is no longer valid whenever one of the following situations exists:

1. A certified foster family moves to a new address.
2. A foster family decides to withdraw from the foster home program and confirms the same in writing.
3. A certificate has been revoked or the renewal application has been denied.

7.500.316 Inter-county Transfer or Move of Foster Home [Rev. eff. 1/1/16]

- A. When a foster family moves to a new location within the county of residence or within a new county, the family must make a timely notification to the certifying county prior to the move by submission of an original application.
- B. When a foster family moves to a new residence in the same county, the county department shall inspect the new residence to assure compliance with the Rules Regulating Foster Care Homes, Section 7.708 (12 CCR 2509-8).

Certification action which results in issuance of a certificate shall be dated in the following fashion:

1. A certificate shall commence the date that the county department determines that there is compliance with the Minimum Rules and Regulations for Foster Homes, Section 7.708.
2. The county department may issue a provisional certificate if the home is temporarily unable to conform to all appropriate rules of the Rules Regulating Foster Care Homes, Section 7.708, upon proof by the foster parents that attempts are being made to comply with the appropriate regulations. The reasons for the issuance of the provisional certificate will be displayed on the certificate. The provisional certificate may not exceed ~~sixty~~ **NINETY (60 90)** calendar days from the date it is determined that time will be needed to meet the rules. Only one original provisional certificate may be issued to a foster home at one location address.
- C. When a foster family who has foster children in placement moves to another county, the county of original residence shall immediately forward to the county where the family moves the record on the foster home and children in placement, and ask that county to certify and supervise the home in the new location.
- D. When a foster family who has foster children in placement moves to an adjoining county, the county of original residence shall immediately notify the adjoining county and may ask permission to continue to certify and supervise the home. Upon notification from the second county of its approval, certification assessment of the foster home shall be completed by the original county, and a permanent or provisional certificate issued.

7.500.321 Application and Study for an Original License [Rev. eff. 4/1/12]

- A. If the county department establishes and plans to sponsor a specialized group facility and the governing body for the specialized group facility is the applicant for the license, both the county department and the governing body must sign the original application. An original application which is totally complete and a fee shall be submitted to the State Department, including a written plan for the supervision of the specialized group facility. The name of the supervisor for the specialized group facility must be identified on the application.
- B. The county department shall complete a study of the specialized group facility which shall consist of at least the following:
 1. An assessment of character and suitability of the primary caregivers, including at least a review of the State Department's automated system as to the applicant and persons who

reside with applicant in the facility, with written approval by such persons, receipt of statements from references and physician, review of existing case records, evaluation by a certified psychologist, psychiatrist or Licensed Clinical Social Worker documented by a written statement that includes all items listed at Section 7.709.22, J, 1-16; and documentation of the prior work experience of the primary caregiver with children in out-of-home care.

2. Statement from references and physician for each staff member working at the specialized group home or center.
 3. The State Department shall require any applicant or licensee and any person eighteen (18) years of age or older who resides with the applicant or licensee in the specialized group facility or who works in the specialized group facility to obtain and review:
 - a. ———Fingerprint-based criminal history **RECORD INFORMATION** checks from the CBI and the FBI as required in Section 7.701.33 in all circumstances.
 - b. ———Child abuse/neglect records in every state where the adult has resided in the five (5) years preceding the date of application; **and**;
 - e. ———**THE CBI SEX OFFENDER AND NATIONALSEX OFFENDER PUBLIC WEBSITE OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE BY:**
 - 1) **KNOWN NAMES AND ADDRESSES OF EACH ADULT RESIDING IN THE HOME; AND**
 - 2) **ADDRESS ONLY OF THE HOME**
 - ~~e.d. Information from the Colorado State Courts data access.Code of Colorado Regulations 19~~
 - 3) **A COMPARISON SEARCH ON THE COURT CASE MANAGEMENT SYSTEM AT THE STATE JUDICIAL DEPARTMENT, USING THE NAME AND DATE OF BIRTH WITH AVAILABLE CRIMINAL HISTORY INFORMATION FOR EACH ADULT EIGHTEEN (18) YEARS AND OLDER LIVING IN THE HOME. THE PURPOSE IS TO DETERMINE ANY CRIME(S) FOR WHICH AN APPLICANT OR OTHER ADULT RESIDING IN THE HOME WAS ARRESTED OR CONVICTED AND THE DISPOSITION. THIS SEARCH SHALL BE COMPLETED REGARDLESS OF WHETHER THE CBI AND FBI FINGERPRINT HISTORY AND RECORD CONFIRMS OR DOES NOT CONFIRM A CRIMINAL HISTORY. (SEE SECTION 7.500.24)**
 - 4) **ALL BACKGROUND CHECKS SHALL BE DOCUMENTED IN THE STATE**
- C. The group home primary caregivers who have not previously received twelve (12) hours of “core” training shall receive twelve (12) hours of training within the first twelve (12) months following the submission of the application.
- D. The application form requires that several attachments be submitted. The application is incomplete and the license cannot be issued until these are submitted. The county department must also submit the following with the application:
- 45.** An on-site facility inspection, documented in writing, which determines that the facility is in compliance with the Minimum Rules and Regulations for Specialized Group Facilities.
 - 56.** Written approval received by the county department from the local health, fire, and zoning departments.
 - 67.** A CWS-7A, Individual Provider Contract for Purchase of Foster Care Services and Foster Care Facility Agreement, shall be signed by the primary caregivers.
 - 78.** Completion of policies for the operation of the specialized group home.

1. Documentation of experience, the medical statement, reference statements and written statement from a certified psychologist, psychiatrist or Licensed Clinical Social Worker regarding the primary care giver.
 2. The name of each staff member, dates of receipt of medical statements and references.
 3. Written and dated documentation that an on-site home inspection has been made and the facility is in compliance with the Minimum Rules and Regulations for Specialized Group Facilities.
- E. The license will not be issued until the State Department has received an approving written report from the fire, health, and zoning departments as required by the General Rules for Child Care Facilities, Section 7.701.34. Approvals may be verified by signature of the inspector on the application form.

7.500.351 Applications and Adoption Services [Rev. eff. 3/2/11]

A. Recruiting and Inquiries

1. The county department recruits adoptive homes that reflect the racial, ethnic, cultural, and linguistic backgrounds for all waiting children. The county shall make reasonable efforts to recruit families of the same ethnic, cultural and racial background as the children waiting adoption.
2. The county department provides information about adoption services within the county department and services available through other adoption agencies and organizations. Requests for studies for children from private sources shall be referred to private agencies.
3. Families approved for international adoption and waiting for adoptive placement can be simultaneously approved for adoption with public and private adoption agencies as long as both agencies are aware of the arrangement.
 - a. The family shall inform the public agency of its current relationship with the private agency that approved it for an international adoption.
 - b. The family shall sign a release for information from the private agency to be provided to the county department of their choice. The released information shall include, but not be limited to, the following:
 - 1) Current home study completed in the Structured Analysis Family Evaluation (SAFE) format by the private agency;
 - 2) Documentation of training completed by the family.
 - c. The county shall do an update of the home study using the SAFE home study format and clarify the type of child for whom the family would be approved via the county's approval process.
 - d. The county must obtain the following new information from the family:
 - 1) References;
 - 2) Physicals;
 - 3) ~~CBI background checks;~~ **BACKGROUND CHECK FOR EACH ADULT EIGHTEEN (18) AND OLDER LIVING IN THE HOME, FOR THE**

FOLLOWING:

- FINGERPRINT-BASED CRIMINAL HISTORY CHECKS FROM THE CBI AND FBI AS REQUIRED IN SECTION 7.701.33 IN ALL CIRCUMSTANCES.
- CHILD ABUSE/NEGLECT RECORDS IN EVERY STATE WHERE THE ADULT HAS RESIDED IN THE FIVE (5) YEARS PRECEDING THE DATE OF APPLICATION.
- THE CBI SEX OFFENDER AND NATIONALSEX OFFENDER PUBLIC WEBSITE OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE BY:
 - KNOWN NAMES AND ADDRESSES OF EACH ADULT RESIDING IN THE HOME; AND
 - ADDRESS ONLY OF THE HOME
- A COMPARISON SEARCH ON THE COURT CASE MANAGEMENT SYSTEM AT THE STATE JUDICIAL DEPARTMENT, USING THE NAME AND DATE OF BIRTH WITH AVAILABLE CRIMINAL HISTORY INFORMATION FOR EACH ADULT EIGHTEEN (18) YEARS AND OLDER LIVING IN THE HOME. THE PURPOSE IS TO DETERMINE ANY CRIME(S) FOR WHICH AN APPLICANT OR OTHER ADULT RESIDING IN THE HOME WAS ARRESTED OR CONVICTED AND THE DISPOSITION. THIS SEARCH SHALL BE COMPLETED REGARDLES OF WHETHER THE CBI AND FBI FINGERPRINT HISTORY AND RECORD CONFIRMS OR DOES NOT CONFIRM A CRIMINIAL HISTORY (SEE SECTION 7.500.24)

4) ~~FBI background checks; and~~, ALL BACKGROUND CHECKS SHALL BE DOCUMENTED IN THE STATE AUTOMATED CASE MANAGEMENT SYSTEM.

3) — ~~Trails abuse/neglect background~~

- i. The county shall continue to follow its regular policies and procedures in considering the family for potential placements.
- ii. The family shall sign an agreement with both the public and private agency stating that the family shall inform either agency when there is a potential placement. The agreement shall state the following:
 1. All parties understand and agree that the agency not placing the child will put the family “on hold” for a minimum of six months following the date that the child is placed in the family’s home;
 2. At the end of the six month period “on hold”, all parties including the family, the two agencies and any other person or persons who have a vested interest in the adoptive placement of the child, shall meet to discuss whether or not the “on hold” period should continue and the reason(s) behind that decision;
 3. The placing agency shall complete a home study update using the SAFE format regarding the progress and appropriateness of the new placement

and make recommendations for further adoptive placements in the future;

4. The non-placing agency shall update its home study using the SAFE format, with the same criteria such that the non-placing agency has made its own recommendations for further placements.
- iii. The public agencies shall advise families that home studies completed for public agencies are not suitable to determine the appropriateness for placement with children from other countries.
- iv. The public agency shall assure that the required information is included in either the private agency's home study or in the update completed by the public agency.

4) Applications

- a. The county department accepts applications for the adoption of children only from persons who meet the requirements of the Colorado statute, who have expressed an interest in the placement of a child who might be available at the time of the application.
- b. The applicants shall be informed that submitting an application does not guarantee that an assessment shall be performed or a child placed with them.
- c. The county notifies the adoptive parent(s) of the disposition of the application in a timely manner.
- d. The county department of human/social services shall require verification of an individual's lawful presence in the United States, as provided in general eligibility requirements as found in Section 3.140.11 (9 CCR 2503-1), in order to approve an application for a child's adoption.
- e. The county department of human/social services shall require the individual applying to adopt a child(ren) to notify the Department when the Structure Analysis Family Evaluation (SAFE) home study will be used in the next six months for a second parent adoption.

5) Requirements for Adoption

- a. A single foster home or adoptive assessment as outlined in Section 7.500.2 must be completed prior to the child being placed with the intent of adoption.
- b. The assessment must include a visit to the home and a separate interview of the potential adoptive parents. Other adults living in the home shall be interviewed.

6) Qualifications for Completing Adoptive Home Study Reports

- a. In the application for inclusion as a vendor to complete adoptive home studies, each county department, qualified individual, or child placement agency must provide documentation concerning education, training, years of experience, and knowledge regarding adoptive placement and supportive services provided to children

with special needs or are being supervised by an individual who meets the qualifications.

- b. Any county department staff, qualified individual, or child placement agency staff shall meet the following qualifications or be supervised by an individual who meets the qualifications to conduct adoptive home studies for children in the custody of county departments being placed for adoption:
 - i. Bachelors, masters, or doctorate in a human service related field, such as psychology, sociology, child development, social work, health and education, from an accredited college or university; and, three years experience in child placement, child protection, foster care, or adoption.
 - ii. If the individual does not meet the experience requirement, an individual who meets the above criteria must supervise him or her.
 - iii. Individuals presently involved in the field who do not meet the above experience criteria or do not have access to direct supervision in their agency must purchase supervision time by someone who meets the above criteria. Individuals will be given three years from the date of enactment of this rule to obtain the necessary experience.
 - iv. Individuals who are current employees of the county or a child placement agency and have a BA or BS degree with a minor in psychology, sociology, mental health, rehabilitation, or education and five years of experience in human services, three of which must have been in child placement, child protection, foster care or adoption, may apply to be on the vendor list.
 - v. Individuals who are current employees of the county or a child placement agency with a BA or BS degree and ten years experience , three of which must have been in child placement, child protection, foster care or adoption, may apply to be on the vendor list.
 - vi. A designated qualified individual may conduct a SAFE home study for an individual that is planning a second parent adoption. An individual that is not an employee of a county department of human /social services or a licensed child placement agency, who is involved with the adoption of a child from a county department, must be approved and listed on the State Department's vendor list.

7) Approval

- a. The county department director or the director's designated agent shall approve adoptive assessments on the form, Approval of Adoptive Home. The assessment and the approval shall not be done by the same person.
- b. Applicants shall be kept aware of their status with the agency. If there are serious concerns during the assessment process which cannot be resolved, the study worker shall discuss these concerns and the decision of whether or not to proceed with the

family. The clients shall be encouraged to withdraw if this is advisable.

- c. When an adoptive assessment has been approved the county shall:
 - i. Inform the applicants in writing of the final decision regarding their applications within 15 working days from the date the decision is made.
 - ii. Send written notification to the applicant(s), which includes the following:
 - 1. That the application to adopt is approved.
 - 2. The age, sex, and any special characteristics of the child(ren) which will be considered for them.
 - 3. Any other conditions of the approval which pertain.
 - 4. That the adoptive assessment is available only for the adoption of a child(ren) placed by a Colorado county department of social services or a child(ren) placed in cooperation with an agency licensed to place children for adoption.
 - 5. The applicants' right to a review of the decision by the county director or the director's designee of the type of child for which the parent(s) is approved.
 - 6. The applicants' responsibility to inform the county department of significant changes of circumstances which could impact their adopting.

8) Denial of Applicant Based on Assessment

The decision to deny approval of the applicant(s) adoption assessment shall be a joint decision involving at least the worker and the supervisor. The county shall do the following:

- a. Send the applicant(s) written notice of the denial within fifteen working days of the decision.
- b. The county shall have a face-to-face interview to discuss the reasons for the denial if the family requests a meeting.
- c. Notify the applicant(s) of their right to a review by the county director or the director's designee if they are dissatisfied with the decision.

9) Reevaluation of Assessment

If a child has not been placed in the adoptive home within one year from the date of the approval of the adoption assessment, the assessment shall be reevaluated if the home is to remain active for consideration of a child, and annually thereafter until a placement is made or the case is closed. Reevaluation shall consist of at least the following:

- a. Statement every two years from a licensed doctor of medicine or osteopathy regarding the current physical condition of the applicants and others living in the home. The county department shall have the

discretion to require an updated medical report prior to the two year standard.

- b. Documentation of any changes in the home and family, i.e., finances, employment, housing, illnesses, pregnancy, and current information, where applicable, on growth, development, and activities of children in the home.
- c. Changes, if any, in the kind of child desired, the reason for the change, and the family's capacity to provide for the child currently requested.
- d. Determination of the appropriateness to continue approval of the home.

10) Second or Additional Assessments

If a family has previously adopted a child and applies to adopt an additional child, the assessment shall be a comprehensive study unless the original assessment is available. The second or any additional assessment shall include the following:

- a. A minimum of one personal contact with the applicant(s) in which the parents are interviewed alone, as well as together with the children in order to enable the worker to observe the interaction between the parent(s) and child(ren).
- b. An in-depth discussion of motivation for adoption of an additional child, changes in family relationships since the last assessment, the development of the applicant's child or children, the effect of another adoption on the children already in the family, kind of child to be considered, current family information, medicals, and photographs of the family.

11) Foster Parent Assessments

- a. The single assessment completed on a foster family for foster care will be accepted for adoption. The worker will check the adoption box on the single application form and, if appropriate, write a brief update.
- b. The worker shall discuss the subsidy program with the foster parents, focusing on the child's special needs and the family's ability to meet those needs.

12) Inter-country Adoption

- a. Non-public foreign adoptions shall comply with the Children's Code.
- b. County departments complete assessments for foreign adoption only on authorization of the state department adoption program supervisor.

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.6

Office, Division, & Program:
OCYF, DCW

Rule Author:
Dennis Desparrois

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STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

Revise multiple sections of these rules regarding home studies to reduce rules, provide consistency between foster care and adoption studies, and clarify responsibilities of staff performing and reviewing home studies.

Revise rules to eliminate the need for specific time frames for renewing foster home certifications.

Revise rules to allow additional time to complete provisional certificates for foster homes to ensure that all necessary certification requirements are met.

To add rules requiring a comparison search, using the Court Case Management System at the State Judicial in order to to assure the safety of children and youth placed in out-of-home care. This is the Department's response to public concern raised in August 2014.

Revise rules for sexual offender and registry checks, to assure the safety of children and youth placed in out-of-home care. This is the Department's response to public concern raised in August 2014.

Corrects misspellings.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

None apply

Code	Description

Does the rule incorporate material by reference?

☐

Yes

☒

No

Does this rule repeat language found in statute?

☐

Yes

☒

No

If yes, please explain.

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates**CDHS Tracking #: 16-4-8-1.6**Office, Division, & Program:
OCYF, DCWRule Author:
Dennis DesparroisPhone: 303-866-3632
Email: Dennis.Desparrois@state.co.us**REGULATORY ANALYSIS****1. List of groups impacted by this rule.***Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?*

Child Placement Agency providers; CDHS 24 Hour Licensing and Monitoring staff members;
CDHS Audit Division, CDHS Child Welfare Foster and Kinship care staff members

2. Describe the qualitative and quantitative impact.*How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?*

For the short term, agencies and Counties may require a brief training by CDHS and time to learn the reporting functions and requirements.

Children and youth can benefit from the national and state sexual offender registry checks required in sections 7.304.21; 7.500; 7.701.33; and 7.710.2, as it can provide additional background information regarding potential persons with whom children could be placed for out of home care. In SFY 2014, 9,609 children and youth were placed in out-of-home care.

Based on a point-in-time check in August 2014, there were 8,705 county family foster care and non-certified kinship care providers identified. Currently there is a process for completing sexual offender registry checks for all facilities licensed through 24 Hour Licensing and Monitoring, including foster homes certified by child placement agencies and this process is expected to continue. For the short and long-term, children and youth will have an additional safeguard established while they are in out-of-home care. For the short-term, county departments that did not complete sexual offender registry checks will be required to conduct the checks for existing family foster homes and non-certified kinship care providers. For the long-term, the workload for county departments and the Background Investigations Unit staff will increase four (4) minutes to complete both state and national sexual offender registries for each individual.

3. Fiscal Impact*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.*

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

County Fiscal Impact

There is a minimal increase for staff in the 64 county departments. The state and national registry checks require approximately two (2) minutes per individual checked.

Federal Fiscal Impact

None known

Other Fiscal Impact (such as providers, local governments, etc.)

Child Placement Agencies will absorb the time to perform the National and Colorado sex offender registry checks. It is estimated to be 3-5 minutes per individual being checked.

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.6

Office, Division, & Program:
OCYF, DCW

Rule Author:
Dennis Desparrois

Phone: 303-866-3632
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4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

State Automated Case Management System report regarding children and youth in out-of-home care in SFY 2014.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

There are no alternatives due to the counties and providers need for clarity of procedural expectations.

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates**CDHS Tracking #: 16-4-8-1.6**Office, Division, & Program:
OCYF, DCWRule Author:
Dennis DesparroisPhone: 303-866-3632
Email: Dennis.Desparrois@state.co.us**OVERVIEW OF PROPOSED RULE**

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.500.2	Regulation update	Assessment of the Foster Homes and Adoptive Homes	Deletes excess language and clarifies home study assessment	No- pending
7.500.31, E, 4	Regulation update	Regulation addresses foster home certification and conflict of interest	Corrects misspelled language	
7.500.315,A	Clarifies specific procedure	Recertification Action	Clarifies when recertification must be completed	No- pending
7.500.316, B, 2	Regulation update	Inter-country Transfer or Move of Foster Home	Changes language to allow 90 calendar days to meet the requirements from a provisional certificate	No- pending
7.500.321, B, 3, a	Regulation update	Background check requirements for special group facilities	Added National and CBI Sexual Offender Registry check to the background requirements	No- pending
7.500.321, B, 3, b	Regulation update	Background check requirements for special group facilities	Delete the word and	No- pending
7.500.321 B, 3, c	Regulation update	Background check requirements for special group facilities	Added National and CBI Sexual Offender Registry check to the background requirements	No- pending
7.500.321, B, 5-9	Regulation update	Background check requirements for special group facilities	Update order of numbers	No- pending
7.500.351, A, 3, d, 3, a-d,	Regulation update	Background check requirements for adoptive homes	Added National and CBI Sexual Offender Registry check to the background requirements	No- pending
7.500.351, A, 3, d, 4	Regulation update	Background check requirements for adoptive homes	Added National and CBI Sexual Offender Registry check to the background requirements	No- pending

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates**CDHS Tracking #: 16-4-8-1.6**Office, Division, & Program:
OCYF, DCWRule Author:
Dennis DesparroisPhone: 303-866-3632
Email: Dennis.Desparrois@state.co.us**STAKEHOLDER COMMENT SUMMARY****Development**

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Division of Child Welfare staff including the 24 hour monitoring and licensing team and the permanency team, child placement agencies, representatives from Fostering Colorado, CDHS Audit Division, County Departments of Human/Social Services, Residential Care providers, Day Treatment providers, Division of Youth Corrections. Meetings with stakeholders were held on 7/9/13, 8/13/13, 9/10/13, and 10/8/13. Four stakeholder conference calls, including County Departments of Human/Social Services and child placement agencies, were held January 2017 and February 2017.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Colorado Association of Family and Children's Agencies (CAFCA), Colorado Coalition of Adoptive Families (COCAF), Colorado Department of Public Health and Environment, Colorado Human Services Directors Association (CHSDA), Colorado State Foster Parent Association, Colorado Trails User Group (CTUG), Foster Care and Adoption Agencies of Colorado, Fostering Colorado, Foster Care Coordinators, Colorado Kinship Alliance, Office of the Child's Representative (OCR), Rocky Mountain Children's Law Center, Child Protection Task Group, Permanency Task Group, Policy Advisory Committee (PAC), Child Welfare Sub-PAC, Treatment Foster Care Task Group, CDHS Administrative Review Division, the 24 Hour Licensing/Monitoring Team, Child Placement Agency providers, Office of the Child's Representative, and Rocky Mountain Children's Law Center.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

☐ Yes ☒ No

If yes, who was contacted and what was their input?

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Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

☒ Yes ☐ No

Name of Sub-PAC	Child Welfare		
Date presented	2.2.17, 3.2.17		
What issues were raised?	None for this section		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous	None	none
If not presented, explain why.			

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.6

Office, Division, & Program:
OCYF, DCW

Rule Author:
Dennis Desparrois

Phone: 303-866-3632
Email: Dennis.Desparrois@state.co.us

PAC

Have these rules been approved by PAC?

☒ Yes ☐ No

Date presented	3.2.17		
What issues were raised?	None for this section		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.	Unanimous	None	None

Other Comments

Comments were received from stakeholders on the proposed rules:

☒ Yes ☐ No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

7.500. 2 - Stakeholder questioned why the SAFE home study in the CPA regulations did not fully match the SAFE home study regulations for the counties. Regulations in 7.500 series were adjusted to more closely align with CPA requirements for home studies.

Notice of Proposed Rulemaking

Tracking number

2017-00193

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-8

Rule title

CHILD CARE FACILITY LICENSING

Rulemaking Hearing

Date

07/07/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

Revise rule to follow reasonable and prudent parent standard for out-of-home care twenty-four hour care providers to allow youth normalized social, religious, and extra-curricular activities while in care.
allow for foster parents to use home canned foods.
better define the oversight responsibility for child placement agencies that supervise specialized group care facilities and foster homes, including fiscal oversight and fiduciary responsibility.
change the required qualifications for Placement Supervisor.
establish the capacity of foster homes where both adults with developmental disabilities and youth in care. Create rule to establish when adults with developmental disabilities must be background checked.
follow Federal Diligent Recruitment guidelines.
reduce rules, provide consistency between foster care and adoption studies, and clarify responsibilities of staff performing and reviewing home studies.

Create rules for agencies that host foreign children who may potentially be available for adoption.

Statutory authority

26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)

Contact information**Name**

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DEPARTMENT OF HUMAN SERVICES

Social Services Rules

CHILD CARE FACILITY LICENSING

12 CCR 2509-8

7.701.200 **The Reasonable And Prudent Parent Standard Requirements For Facilities
Providing Twenty-Four (24) Hour Out-Of-Home Care To Approve Activities For A Child Or
Youth In Foster Care**

Children and youth in foster care are entitled to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities as part of their well-being needs.

Providers shall use a “reasonable and prudent parent standard” when determining whether to allow a child or youth in foster care, under the responsibility of the county or in non-secure residential settings under the Division of Youth Corrections (DYC), to participate in such activities following the criteria in A and B:

- A. For an activity to be approved consistent with the reasonable and prudent parent standard, the activity must:
 - 1. Maintain the health, safety, and best interests of each child or youth;
 - 2. Encourage his/her emotional and developmental growth;
 - 3. Be age or developmentally appropriate; and,
 - 4. Is otherwise appropriate for the provider to approve.
- B. When applying the reasonable and prudent parent standard and prior to approval of the activity, the provider shall take reasonable steps to obtain or determine:
 - 1. Adequate information about the child or youth, including the youth’s particular religious, cultural, social, or behavioral attributes and preferences;
 - 2. Behavioral and/or mental health stability of the child or youth;
 - 3. The age or developmental appropriateness of the activity; and,
 - 4. Whether the risk of reasonably foreseeable harm involved in the activity is at an acceptable level.
- C. **THE OUT-OF-HOME CARE PROVIDERS OF CHILDREN AND/OR YOUTH PLACED IN THEIR CARE BY** the responsible county department of human or social services or DYC shall receive the same state training in applying the reasonable and prudent parent standard, and shall receive ongoing training by their respective certifying or sponsoring agencies or governing body, **as needed.**

- D. At least one trained (1) staff or administrator in a specialized group facility or Residential Child Care Facility (RCCF) shall be designated as authorized to apply the reasonable and prudent parent standard to decisions involving the participation of a child or youth in extracurricular, enrichment, cultural, or social activities.
- E. The rationale used to authorize an activity for a child or youth shall be clearly documented in the facility records and provided in a timely manner to the county department of human or social services or NYC using the contracted, written reporting format.
 - 1. The facility shall consult with and obtain a current copy of the policy from the responsible county department of human or social services or NYC regarding activities that are considered appropriate for the facility to approve.

The responsible county department of human or social services or NYC may restrict certain activities based upon the documented exceptional needs and circumstances of a child or youth in foster care, which impact his/her unique safety needs.
 - 2. The wishes of the parents/legal custodian shall be considered, including cultural implications, whenever practical.
 - 3. The facility may consult with the responsible agency for guidance about individual cases.
- F. Providers shall not incur liability to the State Department or to the county department of human or social services because of an extracurricular, enrichment, cultural, or social activity approved by the provider if the provider demonstrates compliance with the reasonable and prudent parent standard. In a child welfare investigation arising out of such an activity approved by the provider, the facility shall not be found for institutional neglect if the provider demonstrates compliance with the reasonable and prudent parent standard.

7.708.42 Food and Nutrition

- A. The foster care home shall provide nutritious foods in the variety and amounts as appropriate for the age, appetite, and activity of each foster child in care.
- B. At least three nourishing, wholesome, well-balanced meals a day shall be offered at regular intervals except when foster children receive their morning and/or noon meal(s) at school. No more than fourteen (14) hours shall elapse between the evening and morning meals. Nourishing snacks shall be part of the daily food provided.
- C. Family meals including all children and adults present in the home shall be provided whenever possible.
- D. Foster children shall be encouraged to eat a variety of the food served but shall not be subjected to undue coercion, including forced feeding, or punished for refusal to eat.
- E. All food shall be from sources approved or considered satisfactory by the health authority. All foods shall be stored, prepared, and served in such a manner as to be clean, wholesome, free from spoilage, and safe for human consumption. Only pasteurized milk shall be served. ~~Home pressure-canned fruits and vegetables and canned meats cannot be served because of the possible severe health concerns for foster children from botulism in unsafe canned foods.~~ Fruits, vegetables and meats may be frozen.
- F. There shall be a record made of the special diets prescribed and prepared for a foster child.

- G. Foster children must not be given foods that are contrary to their religious beliefs, or of their family, or are known to cause an allergic reaction or a health hazard.
- H. Water shall be readily accessible to foster children.
- I. Common drinking cups shall not be permitted

7.710 RULES AND REGULATIONS FOR CHILD PLACEMENT AGENCIES

All child placement agencies shall comply with the “General Rules for Child Care Facilities” and “Rules and Regulations for Child Placement Agencies” and shall comply with the “Rules Regulating Foster Care Homes” for any homes certified by the Child Placement Agency, “RULES REGULATING HOST FAMILY HOMES” FOR ANY HOST HOME CERTIFIED BY THE CHILD PLACEMENT AGENCY, and the “Specialized Group Facilities” rules for any Specialized Group Facility sponsored by the Child Placement Agency.

7.710.1 GENERAL DEFINITIONS

“Arrange for placement” means to act as an intermediary by assisting a parent or guardian or legal custodian to place or plan to place a child with other than persons related to the child for the purpose of foster care or for the purpose of adoption.

“Average sufficient cash reserve” means the computed monthly average cost over the recent ongoing twelve-(12) month period to determine the amounts spent on operating expenses for the agency including, but not limited to, staff salaries; contract reimbursements; employment, unemployment, and other taxes; insurance and retirement benefits; foster care payments; other provider reimbursement fees; health, therapy, transportation and support services for children in care; foreign country fees, office mortgage or rent payments; transportation costs; communications; or, any other expense needed for the agency to function, including a line of credit. The minimum allowable average sufficient cash reserve that an agency must maintain at all times is at least two months’ of the average monthly cost.

“BACKGROUND CHECKS” MEANS A SET OF REQUIRED RECORDS THAT ARE OBTAINED AND ANALYZED TO DETERMINE WHETHER THE HISTORY OF A PROSPECTIVE FOSTER PARENT, KINSHIP FOSTER PARENT, NON-CERTIFIED KIN, OR ADOPTIVE PARENT MEETS LEGAL AND SAFETY CRITERIA WHEN CONSIDERING THE PLACEMENT OR CONTINUED PLACEMENT OF CHILDREN AND IN THE CARE OF THE PERSON(S). THE CHECKS INCLUDE ALL ADULTS RESIDING IN THE HOME. THE FOLLOWING INDIVIDUAL CHECKS ARE REQUIRED PURSUANT TO 19-3-406 C.R.S, 19-3-407 C.R.S, AND 26-6-103, C.R.S:

1. CBI AND FBI FINGER-PRINT BASED CRIMINAL HISTORY RECORD INFORMATION;
2. COURT CASE MANAGEMENT SYSTEM;
3. STATE AUTOMATED CASE MANAGEMENT SYSTEM AND CHILD ABUSE AND/OR NEGLECT REGISTRIES IN ALL STATES THAT ADULTS LIVING IN THE HOME HAVE RESIDED IN THE FIVE YEARS PRECEDING THE DATE OF APPLICATION; AND,
4. THE CBI SEX OFFENDER REGISTRY AND NATIONAL SEX OFFENDER PUBLIC WEBSITE OPERATED BY THE UNITED STATES DEPARTMENT OF JUSTICE USING THE FOLLOWING MINIMUM CRITERIA:
 - a. KNOWN NAMES AND ADDRESSES OF EACH ADULT RESIDING IN THE HOME
 - b. ADDRESS ONLY OF THE RESIDENCE

“Bonding” means an insurance bond issued through a financial or insurance entity.

“Certification” means the process by which the county department of social/human services or a child placement agency approves the operation of a foster care home and/or a licensed host family home.

“Child placement” means to coordinate, arrange, and approve the process of a child entering an unrelated home or facility to be cared for on a temporary, long-term, or adoptive basis.

“Child Placement Agency (CPA)”, defined at Section 26-6-102(2), C.R.S., means any corporation, partnership, association, firm, agency, institution, or person unrelated to the child being placed, who places, facilitates placement for a fee, or who arranges for placement, any child under the age of eighteen (18) years with any family, person, or institution for the purposes of foster care, treatment and/or adoption. The natural or adoptive parents or legal guardian of any child who places that child for care with any facility licensed as a “family care home” or “child care center,” as defined by this section, shall not be deemed to be a CPA.

“Conflict of interest” means a situation that has the potential to undermine the impartiality of an individual because of the possibility of a clash between the individual’s self interest or other professional-interest.

“Cradle care home” means a facility that is certified by a child placement agency for the care of a child, or children in the case of multiple-birth siblings, who is twelve (12) months of age or younger, in a place of residence for the purpose of providing twenty-four (24) hour family care for six (6) months or less or children pursuant to Article 5 of Title 19, C.R.S., or while a county department prepares an expedited permanency plan for an infant in its custody.

“Current reference” means a reference dated within one (1) year of the time of application for employment with agency.

“Foster care home” (refer to Section 7.000.2 in 1 CCR 2509-1).

“Generally Accepted Accounting Principles” (GAAP) means the standard framework of guidelines for financial accounting.

“Licensed host family home” is defined AS A HOME THAT IS CERTIFIED BY THE COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY AS MEETING THE REQUIREMENTS FOR PROVIDING SHELTER TO HOMELESS YOUTH.

“Licensing” means the process by which the Colorado Department of Human Services approves a facility or agency for the purpose of conducting business as a child care facility or child placement agency.

“Multi-service agency” is an organization that provides additional community services and programs other than foster care and adoption.

“Program director in a multi-services agency” is the person responsible for overseeing the foster care and/or adoption program of the organization.

“Quality improvement program” means a review of the services and outcomes of such services provided to applicants and a procedure for tracking such outcomes to determine if changes need to be made to the system to improve delivery of such services.

“Relative”, except as used in the definition of foster care home, means any of the following relationships by blood, marriage, CIVIL UNION or adoption: parent, grandparent, son, daughter, grandson, granddaughter, brother, sister, stepparent, stepbrother, stepsister, stepson, stepdaughter, uncle, aunt, niece, nephew, or cousin.

“Risk assessment” means a review and assessment by an insurance or financial specialist to determine the liability an agency carries for the services it offers and the work it performs.

“SAFE (STRUCTURED ANALYSIS FAMILY EVALUATION)” IS THE TOOL USED TO CREATE A HOMESTUDY ASSESSMENT ON A FAMILY OR INDIVIDUAL, WHO ARE SEEKING TO PROVIDE FOSTER CARE OR ADOPT A CHILD.

“SAFE HOME STUDY ADDENDUM” IS THE FORMAT USED TO RECORD AND EVALUATE CHANGES TO THE HOME STUDY ASSESSMENT AS NEW INFORMATION IS KNOWN TO THE AGENCY.

“SAFE HOME STUDY UPDATE” IS THE FORMAT USED TO DOCUMENT THE ANNUAL AGENCY REVIEW AND EVALUATION OF THE HOME STUDY ASSESSMENT.

“Social and behavioral sciences” includes sociology, psychology, social work, criminal justice, human services, human development, and counseling.

“SPECIALIZED GROUP FACILITY SUPERVISOR” MEANS THE PROFESSIONAL, PAID STAFF MEMBER OF THE CHILD PLACEMENT AGENCY WHO OVERSEES THE SERVICES PROVIDED AND STAFF OF THE SPECIALIZED GROUP FACILITY.

“Unreasonably high” means the fees, wages, or salaries paid to the directors, officers, and employees of the agency are excessively high in relation to the services actually rendered, taking into account the area in which the services are provided and norms for compensation within the community, including factors such as the location, number, and qualifications of staff, workload requirements, budget; and size of the agency or person.

“WELL-BEING PLAN” MEANS A WRITTEN PLAN THAT LISTS THE TEMPORARY CHANGES TO THE CHILD'S OR YOUTH'S DAILY ROUTINES OR TREATMENT PLAN, DUE TO BEHAVIORAL, SAFETY, MEDICAL, OR MENTAL HEALTH NEEDS OF THE CHILD OR YOUTH. SUCH PLAN SHALL BE SIGNED BY MEMBERS OF THE TREATMENT TEAM, INCLUDING THE CHILD OR YOUTH, AND SHALL BE TIME LIMITED ONLY TO THE DURATION NEEDED TO ENSURE THE SAFETY OF THE CHILD OR YOUTH. SUCH PLAN SHALL BE REVIEWED DAILY AND OVERSEEN BY THE PLACEMENT SUPERVISOR.

7.710.2 GOVERNING BODY

- A. Any agency from out of state assisting with, facilitating for a fee, or placing a child within Colorado for the purpose of adoption must **MEET THE ICPC REQUIREMENTS OF THE OTHER STATE**, OR be licensed as a CPA by the Colorado Department of Human Services (the State Department) unless the placement services are coordinated with and provided by a county department of social services or a CPA licensed by the State of Colorado.
- B. A CPA may not be operated without a license, as required by law, which license is to be issued by the State Department in conformity with all rules and regulations contained within Section 7.710, et seq.
- C. Any **COLORADO** entity, other than a CPA licensed in Colorado, **OR INDIVIDUAL, OTHER THAN A BIOLOGICAL OR LEGAL PARENT OF A CHILD**, may not assist or arrange for the placement of a child with a Colorado family for the ultimate purpose of adoption without first being licensed as a CPA.

- D. A child placement agency may only accept applications from and certify families for foster care within the State of Colorado.
- E. The governing body shall be the corporation, partnership, association, firm, agency, institution or person in whom the ultimate authority and legal responsibility is vested for the conduct of the CPA.
- F. The governing body shall be identified by its legal name. Each not-for profit child placement agency shall have a board of directors. If the board has community members, such community members shall neither be employed by or contracted to the CPA, nor related to any individual employed by or contracted to the CPA. Persons whose children are currently in placement (either voluntarily or involuntarily) through the CPA may serve on the board, but may not vote on any measure or issue related to the care of their child during the time such children are in placement. Minutes from all board meetings shall be maintained for a period of at least five (5) years and must be available to the State Department upon request.
- G. The governing body of the CPA shall:
 - 1. Maintain the written purpose and policies for the general operation and management of the agency. When such purpose and policies are reviewed and revised, the State Department shall be advised of such changes. The purpose and policies as a minimum shall include:
 - a. Statement of purpose of the CPA as to what type of placement of children in which the agency intends to engage, the geographic area the agency expects to serve, the ages of children to be placed, and any other specific factors regarding the children to be placed or the homes in which the children shall be placed.
 - b. Personnel policy including, but not limited to, job description; qualifications for position; required documentation for position; requirement for both a criminal history fingerprint background check and (PER SECTION 7.701.33); a child abuse/neglect check through the State Department's designated database (per Section 7.701.332); AND A NAME AND ADDRESS CHECK OF BOTH THE NATIONAL AND CBI SEXUAL OFFENDER REGISTRIES (PER SECTION 7.701.33).
 - c. Foster care policy including, but not limited to, types of foster care homes to be certified; geographical area of proposed foster homes; DILIGENT recruitment EFFORTS FOR DEMOGRAPHICS OF CHILDREN TO BE SERVED IN COMPLIANCE WITH FEDERAL LAWS AND THE MULTIETHNIC/INTERETHNIC PLACEMENT ACT PURSANT TO SECTION 471 [U.S.C. 671] (a) (18) AND SECTION 422 [U.S.C. 622] (b) (7), assessment, training, certification, supervision and monitoring of certified foster homes.
 - d. Adoption policy which includes types of adoption in which the agency will participate and policy and procedure for each adoption program.
 - e. Fee policy.
 - f. VOLUNTEER POLICY
 - 2. Be responsible for the protection of the legal rights of children served by the CPA.
 - 3. Be responsible for approval of THE CPA BUDGET AND ANY BUDGETS FOR SPECIALIZED GROUP FACILITIES SPONSORED BY THE CPA, INCLUDING budget, obtaining funds and dispersal of funds: AS REQUIRED IN 7.710.21.

4. Appoint an executive director who meets requirements of Section 7.710.22 and be assured that staff members responsible for placement of children and/or certification of foster homes meet the requirements as stated in Section 7.710.22.
 5. The Board or Chief Operating Officer, in the case of a multi-service agency, in which the program director is the person responsible for overseeing the foster care and/or adoption program shall conduct an evaluation, at least annually, to determine if the executive director is fulfilling all responsibilities as required in Section 7.710.25.
 6. Inform the department, in writing, of:
 - a. A change in the executive director of the CPA; **AND**,
 - b. Each agency office or change of agency office in which child placement is carried out at that location; and,
 - c. The hours of operation that each CPA office is open each week and available for inspection of CPA records.
 7. **PROVIDE COPIES TO THE DEPARTMENT** OF any legal action brought against the CPA which affects any child or children in care, personnel or conduct of the CPA.
 8. Maintain professional liability insurance in amounts reasonable related to its exposure to risk. The agency must provide a current risk assessment to the State Department if requested.
 9. Maintain and monitor a quality improvement program appropriate to the size and circumstances of the agency through which it makes systemic efforts to improve services if needed.
 10. Ensure that the fees, wages, or salaries paid to the directors, employees, and officers of the agency not be unreasonably high in relation to the services actually rendered.
 11. Ensure that the agency's Chief Executive Officer, Chief Financial Officer, Executive Director, and other officers or employees with direct responsibility for financial transactions or financial responsibility be bonded.
 12. Ensure that the agency maintains an average sufficient cash reserve or assets to meet its operating expenses, less foster parent payments, for two (2) months, taking into account the agency's projected volume of cases and its size, scope, and financial commitments.
- H. The governing body shall be responsible for completing the licensing renewal requirements by:
1. Completing and submitting the license renewal application at least ninety (90) calendar days prior to the annual expiration date of the child placement agency license; and,
 2. Completing, signing and submitting the required verification of compliance form; and,
 3. Paying the prescribed fee pursuant to Section 7.701.4; and,
 4. Cooperating with on-site monitoring visit(s) to assess the agency's compliance with the **rules RULES** for child placement agencies.

I. THE GOVERNING BODY SHALL ENSURE WHEN THE CHILD PLACEMENT AGENCY

ACCESSES THE STATE AUTOMATED CASE MANAGEMENT SYSTEM AS PART OF THE
FOSTER HOME CERTIFICATION BACK GROUND INVESTIGATION, IT MUST DO SO ONLY
AS LISTED AT SECTION 19-1-307 C.R.S. ANY VIOLATION OF SUCH ACCESS MAY
RESULT IN INDIVIDUAL FINES AS LISTED AT SECTION 19-1-307 (1)(C) C.R.S. AND
AGENCY FINES AS LISTED AT SECTION 26-6-114 (1) C.R.S.

7.710.21 Financial Operation

- A. Each CPA shall develop an annual budget reflecting anticipated income by source and expenses by purpose, plus an accompanying balance sheet, which demonstrates that the CPA has assured resources to carry out its defined purpose. The budget shall be approved by the Board of Directors and recorded in the minutes of the Board of Directors. The first year's budget shall be submitted with the original license application.
- B. The purpose of these requirements is to provide assurance the CPA has adequate accounting and budgeting information available to allow management to maintain a financially viable enterprise and to demonstrate financial accountability to the County and State Departments of Human Services for the use of public funds.
- C. Each CPA must have a double entry accounting system and all financial transactions must be posted to this system. Financial statements, prepared from information provided by this system, shall be presented in conformity with U.S. Generally Accepted Accounting Principles (GAAP). Books and records of the CPA shall be subject, at any time the CPA office is open, to inspection, audit or copying by appropriate Federal, State or county personnel, or such independent auditors or accountants as may be designated by these personnel.
- D. Annual Audits

Each CPA whose total annual foster care or adoption expenditures are \$100,000 or more shall provide for an annual audit by an independent Certified Public Accountant in accordance with appropriate generally accepted auditing standards. CPAs with less than \$100,000 total annual expenditure may submit an audit as described above or may submit compiled or reviewed financial statements, prepared in accordance with generally accepted accounting principles. All Hague accredited international adoption agencies shall submit audits as required for Hague accreditation.

- 1. Every CPA shall submit supplementary information as prescribed by the state on the required supplementary information form and the administrative expenses for foster care as defined by the State Department.
- 2. The supplementary information submitted shall contain an affidavit signed by the CPA's Executive Director and an officer of its board attesting to the authenticity of the information. Submission of falsified information shall be grounds for suspension of the CPA license.
- 3. The audit and supplementary information shall be submitted to the State Department within six (6) months of the CPA's fiscal year end.

4. CPAs that are a subsidiary of a parent organization must submit separate audited financial statements for the subsidiary that detail each of the CPA's facilities or programs that provide services for the State or county department.
5. If a CPA does not submit its annual audit or refuses to disclose financial information regarding the operation of the program in a timely manner, the State Department may send notice to withhold payment until the audit and/or requested information is submitted.
6. Upon receipt of adequate written notice that a county department or the State Department plans to recover or withhold unallowable or misused funds from a CPA, a CPA may file a written request for review of the decision with the State Department.
 - a. The written request for review must be submitted within thirty (30) calendar days of the receipt of the notice to recover or withhold the misused funds.
 - b. The State Department shall convene a committee to review the written request from the CPA. The committee shall consist of three members representing:
 - 1) The State Department's Child Care Division; and,
 - 2) The State Department's Child Welfare Division; and,
 - 3) An independent representative of an auditor from another State Department or a certified independent accountant referred from the Colorado Society of Certified Public Accountants.
 - c. The State Department reserves the right to receive legal consultation regarding the written request for review.
 - d. The committee shall review all relevant information and make a decision within sixty (60) calendar days of receipt of the request.
 - e. The committee shall send its findings to the Executive Director of the State Department or his/her designee, who shall make the final agency decision for the State Department.

E. Allowable Expenditures

1. A Child Placement Agency expenditure shall be considered allowable if it meets all of the following criteria:
 - a. Reasonable

The expenditure is reasonable in nature or amount and does not exceed the cost that would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.
 - b. Ordinary and Necessary

The expenditure is of a type generally recognized as ordinary and necessary for the operation of a CPA or the performance of a contract for CPA services.
 - c. Prudent

The individuals concerned acted with prudence in the particular circumstances, considering their responsibilities to the CPA, its employees, clients, foster

families, foster children, the public at large, the State and the CPA's responsibilities pursuant to the contract for services, and must not be contrary to Federal or State law.

d. Documented

A CPA has the responsibility to ensure that proper documentation procedures are followed for the funds that they control, and to ensure that only authorized expenditures are made. Lack of appropriate documentation will be considered cause for non-payment or non-reimbursement of expenditures. Expenditures must be adequately documented in writing. Documentation requirements shall include all of the following information:

- 1) Descriptive verification that the expenditure was for a business purpose directly related to the foster care or adoption program.
- 2) Date of event for which the funds were used.
- 3) Names of persons attending when an expenditure has the "appearance of personal benefit".
- 4) Location of event or place where funds were spent.
- 5) When documentation includes purchases for multiple items and only some of the items relate to an appropriate expenditure for the CPA, a detailed itemization and reconciliation of the expenditures shall be evident on the face of the document.

e. Made in Accordance with GAAP

An expenditure must be recorded in accordance with Generally Accepted Accounting Principles (GAAP).

2. Generally Allowable Expenditures

The following list of expenditures shall be a general list of expenditures that would be permissible for CPAs to incur in order to further the goals and objectives of their agencies. This list includes, but is not limited to, the categories described below, and shall be used as a reference for guiding the expenditure of CPA funds.

When a specific expenditure is not listed, yet management deems it to be in the best interests of the CPA to make the expenditure of the funds, then the criteria above for an allowable expenditure shall be followed. The CPA shall document the purpose of the expenditure, as listed at 7.710.21, E, 1, d, so that a "reasonable person" test can be made in the event the expenditure is audited. Each CPA shall allocate expenditures in accordance with its internal policies.

- a. Salaries and wages, and related benefits, employment taxes, unemployment taxes, worker's compensation taxes, retirement benefits, and insurance benefits.
- b. Retention and recruitment of staff, contractors, foster care parents, and volunteers, including advertising, background checks and other evaluations, recruiting, relocation, recognition, and food bank administrative expenses.

- c. Foster care, including provider reimbursement, respite for foster parents, child enrichment, clothing, health services, therapy, transportation, and other supportive services.
- d. Professional fees, including audit and accounting fees, consulting, legal fees, and other professional fees. These fees must be consistent with what the market would pay if paid to a related party.
- e. Contracted services, including contract labor, human resource services, payroll services, and temporary employment agencies.
- f. Occupancy expenditures, including office rent comparable to given market rates, meeting room rental, electricity and gas, water and sewer, janitorial service, property repair and maintenance, storage unit rent, and waste removal. If the CPA owns the building, then reasonable depreciation shall be allowed based on the estimated useful life of the building.
- g. Depreciation and amortization, based on estimated useful life of the asset, and prorated if the CPA only uses a portion of that asset.
- h. Child care during client meetings, support groups, or training functions.
- i. Training for staff, foster parents, and volunteers, including honorariums and conference registration fees.
- j. Travel and transportation provided that there is some contemporaneous record to support the expense, including airfare, fuel, lodging, meals, mileage, parking, per diem, travel incidentals, vehicle rental, and vehicle repair and maintenance.
- k. Telephone, including cellular and paging, data communication services, and telephone services.
- l. Postage and shipping.
- m. Office services, including coffee, tea, and water.
- n. Printing and supply expenditures, including computer and office supplies, printing, and program supplies.
- o. Dues, memberships, licenses, and subscriptions, including accreditation fees, dues and memberships, licenses and fees, and subscriptions and publications.
- p. Insurance, including automobile, directors and officers, volunteer, general and professional liability commercial packages, and umbrella.
- q. Marketing and promotion, including advertising, booths and fairs, graphics and editorial, and printed material/mailing house.

F. Unallowable Expenditures

A CPA expenditure shall be unallowable if it does not meet the criteria and documentation requirements as specified under the definition of an allowable expenditure as referenced in Section 7.710.21, E, or is a direct violation of federal law.

G. Remedies

Remedy for unallowable expenditures may include any or all of the following solutions:

1. Repayment to the State or Counties of identified unallowable expenditures.
2. Reclassification of the accounting entry to record the expenditure correctly, if the transaction can be appropriately reallocated to another cost center of the CPA, or affiliated agency, parent company, etc.
3. "Adverse licensing action" which could result in the denial, suspension, or revocation of a license issued, pursuant to the Child Care Licensing Act or the demotion of such a license to a probationary license.
4. Any other appropriate remedy based upon the facts and circumstances of the unallowable expenditure.

H. Intentional Mis-Use of Funds

Intentional mis-use of funds implies that the individual(s) making the expenditure decision had deliberate, willful, and intentional disregard for the fiduciary responsibility for how public funds are to be used for purposes of placing children in foster care or adoptive homes, or arranging for the placement of children in foster care or adoptive homes, considering their responsibilities to the CPA, its employees, clients, foster families, foster children, the public at large, the State Department's and the CPA'S responsibilities pursuant to the contract for services.

These rules do not preclude the State or county department(s) from pursuing other remedies available at law; for example:

1. Referral for prosecution; or,
2. Referral to the Internal Revenue Service for issues that violate Internal Revenue codes; or,
3. Repayment to the State and/or counties of identified unallowable expenditures; or,
4. "Adverse licensing action" which could result in the denial, suspension, or revocation of a license issued, pursuant to the Child Care Licensing Act, or the demotion of such a license to a probationary license.

7.710.22 Personnel Requirements [Rev. eff. 6/1/12]

A. Each CPA shall have staff members in sufficient number to meet the needs of individuals served. Such staff members shall meet the following requirements:

1. The Executive Director and placement supervisor must:
 - a. Reside in Colorado.
 - b. Submit proof of qualifications and certified transcripts from a regionally accredited college or university to the State Department within thirty (30) calendar days of accepting the position.
2. The Executive Director or in a multi-services agency, the program director, shall possess a knowledge of the type of child welfare services in which the CPA engages and shall be able to demonstrate administrative skill and leadership qualities. The Executive Director must have:

- a. Graduated with a Bachelor's degree from a regionally accredited college or university with a minimum of thirty (30) semester credits or equivalent quarter credits in the social or behavioral sciences, and,
 - b. At least five (5) years' full time or equivalent part time work experience in an administrative capacity, **OBTAINED AFTER THE BACHELOR'S DEGREE WAS CONFERRED**, at least two (2) of which included supervision of professional staff and budget or fiscal management; or,
 - c. Graduated with a Master's degree or greater from a regionally accredited college or university with a minimum of thirty (30) semester credits or equivalent quarter credits in the social or behavioral sciences, and have two (2) years full time or equivalent part time work experience in an administrative capacity, all of which must have included supervision of professional staff and budget or fiscal management; **and, A MINIMUM OF NINE (9) SEMESTER HOURS OR EQUIVALENT QUARTER HOURS IN BUSINESS OR FINANCE CLASSES FROM A REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY MAY SUBSTITUTE FOR BUDGET OR FISCAL MANAGEMENT EXPERIENCE.**
 - ~~d. A minimum of nine (9) semester hours or equivalent quarter hours in business or finance classes from a regionally accredited college or university may substitute for budget or fiscal management experience.~~
3. Administrative capacity includes, but is not limited to, policy and procedure development and implementation, strategic planning, budget responsibility, fiscal management, quality assurance, networking, human resources management, program development and oversight, and business management.
4. The State Department must receive at least three (3) current written statements or telephone references from individuals unrelated to the applicant, at least one (1) of whom has been the employer or supervisor of the applicant, which describes the executive director's character, reliability, knowledge of child welfare services and ability to perform the tasks of the Executive Director as outlined in the duties of the Executive Director at Section 7.710.25, A. If the Executive Director or in a multi-service agency, the program director, is also to have responsibility for placement supervision, she/he shall also meet the requirements for placement supervisor as set forth in Section 7.710.22, A, 6.
5. References checked through a telephone call must include the:
 - a. Name and position of individual called; and,
 - b. Name and position of individual spoken with; and,
 - c. Agency; and,
 - d. Telephone number; and,
 - e. Time and date the call(s) was made; and,
 - f. Relationship of individual providing reference for prospective employee (all references must be from individuals unrelated to the applicant); and,
 - g. Whether this was a personal or professional reference; and,

- h. Summary of conversation that describes the character, reliability, knowledge, experience, and ability to perform the tasks of the position as outlined in the job description; and,
 - i. Name, position, date and signature of individual checking the reference.
6. Placement supervisors shall have, ~~AT A MINIMUM, Master of Social Work degree or a Master's degree in the social or behavioral sciences.~~ A BACHELOR'S DEGREE IN THE SOCIAL OR BEHAVIORAL SCIENCES, AND THREE (3) YEARS FULL TIME CHILD PLACEMENT EXPERIENCE OBTAINED AFTER THE BACHELOR'S DEGREE WAS CONFERRED.
- a. If the placement supervisor has ~~a Master of Social Work degree~~ MASTER'S DEGREE IN THE SOCIAL OR BEHAVIORAL SCIENCES, the placement supervisor must have a minimum of ~~two (2) years (3640 hours) full time or equivalent part time experience in the type of child welfare services in which the CPA engages, some of which must have included child placement.~~ ONE (1) YEAR OF CHILD PLACEMENT EXPERIENCE.
 - b. ~~If the placement supervisor is qualified by a Master's degree in social or behavioral science, the placement supervisor must have a minimum of two (2) years (3640 hours) full time or equivalent part time experience in child placement in the type of child welfare services in which the CPA engages. With at least two (2) years of child placement experience. The two (2) years experience in child placement shall have been supervised by a person holding a Master of Social Work degree, a licensed professional counselor, a licensed marriage and family therapist, a licensed social worker, or licensed psychologist.~~
 - 1. ~~a person holding a master of social work degree; or~~
 - 2. ~~A person holding a license in a social or behavioral science, and such license was current at the time the supervision occurred; or,~~
 - 3. ~~a person who was a department approved placement supervisor at the time the supervision occurred~~
- B. The State Department must receive at least three (3) current written statements from individuals unrelated to the applicant, one (1) of whom has been the employer or supervisor of the applicant, which describes the character, reliability, knowledge of child welfare services and the ability to perform the tasks of the placement supervisor as outlined in the duties for that position at Section 7.710.25, B.
7. If additional placement workers are necessary to fulfill the placement responsibilities of the agency, such workers shall be supervised by a qualified placement supervisor and shall hold a Bachelor degree in the social or behavioral sciences ~~FROM A REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY.~~ If an individual has a Bachelor's degree in a non-related field, he/she shall have at least two (2) years experience supervised by an individual with a Master of Social Work or other Master's degree in the social or behavioral sciences.

- B. There shall be a sufficient number of placement supervisors and placement workers to meet the needs of the individuals being served in a timely manner. Each placement supervisor shall not supervise more than nine (9) FTE.
- C. There shall be sufficient support staff to comply with record keeping, bookkeeping and reporting requirements as necessary.
- D. Foster care paraprofessionals, interns or trainees who do not meet placement worker qualifications may assist qualified placement workers, but may not complete family or child assessments or conduct home supervision. Qualifications shall be established by the CPA.
- E. THERE SHALL BE A SUFFICIENT NUMBER OF SPECIALIZED GROUP FACILITY SUPERVISORS TO MEET THE NEEDS OF THE INDIVIDUALS BEING SERVED IN THE GROUP FACILITIES IN A TIMELY MANNER. EACH SPECIALIZED GROUP SUPERVISOR SHALL NOT SUPERVISE MORE THAN FIVE (5) SPECIALIZED GROUP FACILITIES.

7.710.23 Personnel Policy

- A. A written statement of personnel policy shall be provided to each employee or qualified applicant. This statement shall, as a minimum, contain the following information: a job description which outlines the duties, responsibilities, qualifications; policy on outside agency employment; and educational requirements for the position, as well as an organizational chart for the agency.
- B. The Board of Directors must approve a conflict of interest policy regarding outside employment.
- C. If an individual is employed or contracted, as a placement supervisor at more than one (1) child placement agency, the total number of individuals supervised by the placement supervisor at all agencies may not exceed nine (9) FTE.
- D. THE AGENCY MUST HAVE A WRITTEN POLICY REGARDING THE USE OF VOLUNTEERS. THE POLICY MUST INCLUDE:
 - 1. THE DUTIES THE VOLUNTEERS MAY PERFORM;
 - 2. THE REQUIREMENT OF BACKGROUND CHECKS, INCLUDING CBI AND FBI CRIMINAL FINGERPRINT HISTORIES, CHILD ABUSE AND NEGLECT RECORDS, AND CBI AND NATIONAL SEXUAL OFFENDER REGISTRY CHECKS AS LISTED IN 7.701.32 AND .33;
 - 3. MANDATORY REPORTING OF CHILD ABUSE AND NEGLECT;
 - 4. THE REQUIREMENT TO MAINTAIN CONFIDENTIALITY.

7.710.24 Personnel File

- A. A personnel file shall be maintained for each employee and contract worker and shall be available to authorized representatives of the State Department.
- B. Each file FOR THE EMPLOYEES AND CONTRACT WORKERS shall include:
 - 1. Original certified transcript from a regionally accredited college or university if a degree is required by the position.

2. Employment application showing qualifications and experience.
3. A minimum of three (3) current written signed statements obtained from previous employers and personal references at the time of hire to show that the person has the qualifications required in Section 7.710.22.
4. Evaluations of job performance.
5. Results of the review of records and reports of child abuse or neglect as listed at Section 7.701.32 and criminal record check as listed at Section 7.701.33.

C. EACH FILE FOR THE VOLUNTEERS SHALL INCLUDE A SIGNED COPY OF THE AGENCY POLICY REGARDING THE USE OF VOLUNTEERS, A SIGNED COPY OF THE AGENCY CONFIDENTIALITY AGREEMENT, SIGNED MANDATORY ABUSE REPORTING REQUIREMENT FORM, AND COPIES OF THE CBI AND FBI FINGERPRINT HISTORY AND RECORD CHECKS, CHILD ABUSE AND NEGLECT BACKGROUND RECORDS CHECKS, AND CBI AND NATIONAL SEXUAL OFFENDER REGISTRY CHECKS AS APPLICABLE IN 7.701.32 AND .33.

7.710.25 Duties of the Executive Director, Placement Supervisor, Placement Worker, Paraprofessionals/Trainees

A. The responsibilities of the Executive Director are:

1. Human resources management; and,
2. Policy and procedures development and implementation; and,
3. Accountability for being in compliance with regulations; and,
4. Fiduciary requirements; and,
5. Quality assurance; and,
6. Regulatory compliance and accountability; and,
7. Overall professionalism of the agency; and,
8. Responsibility for the daily operation of the agency; and,
9. In a multi-service agency, the program director may have responsibility for administering the adoption and/or foster care unit and may not be responsible for the budget and accounting duties.

B. ~~The placement supervisor shall be responsible to oversee the~~ RESPONSIBILITIES OF THE PLACEMENT SUPERVISOR ARE:

1. **TO OVERSEE THE Sstudy** of potential foster or adoptive families using the Structured Analysis Family Evaluation (SAFE) instrument(s) to determine the character and suitability of the applicant(s), appropriateness of the home, and child care practices; and,
2. **TO ENSURE Ccertification** of foster care homes and placement of children in foster care homes; and **INTO SPECIALIZED GROUP FACILITIES SPONSORED BY THE CPA,** and/or,
3. **TO OVERSEE THE Sstudy** of the child for adoption; and,

4. **TO OVERSEE THE Placement** of children in homes for adoption; AND
 5. **TO COMPLETE THE SAFE SUPERVISOR TRAINING AND THEN Review, and sign, AND MAINTAIN FINAL AUTHORITY OF the SAFE assessment, post placement reports, and the issue certificate forms; placement supervisors who complete a SAFE assessment are not required to obtain an additional review or signature of another placement supervisor; and,**
 6. **TO ENSURE Oversight** of appropriate medical services for the children placed in the care of any facility certified or sponsored by the CPA; and,
 7. **TO PROVIDE Supervision** of placement workers at least monthly to review, at a minimum, all SAFE assessments in process, certifications in renewal status, and current placement activity; such supervision shall be documented in writing by the placement supervisor.
 8. **TO APPROVE AND MONITOR WELL BEING PLANS DEVELOPED FOR CHILDREN IN FOSTER HOMES OR GROUP FACILITIES.**
- C. The placement worker, under the direct supervision of the placement supervisor, is responsible for the monitoring and protection of children, and may:
1. Provide case management for individual children; and,
 2. Coordinate services for child(ren) and their family; and,
 3. Provide monitoring and support to foster homes; and,
 4. Conduct SAFE assessments to determine the ability of foster homes to meet children's needs.
- D. The placement worker in an adoption agency may function as an adoption caseworker or birth parent counselor as listed in 7.710.52.
- E. Foster care paraprofessionals, interns, or trainees may assess the physical environment for foster homes for compliance with regulations; act as a liaison with courts, schools, foster parents and all peripheral parties under the direct supervision of a placement supervisor or placement worker.

7.710.3 CERTIFICATION OF FOSTER CARE HOMES

7.710.31 Legal Base

- A. Licensed Child Placement Agencies are authorized UNDER Section 26-6-102, Colorado Revised Statutes, to certify foster care homes.
- B. A foster care home certified by a CPA may not accept placements from any source other than the certifying CPA as to each such child, unless the certifying CPA gives written consent and approval for the placement.
- C. A child placement agency shall complete a background check for foster care homes and kinship foster care homes pursuant to Sections 26-6-106.3(5), (6), and 19-3-406, C.R.S.; and the results shall be documented in the resource section of the state automated case management system. No children and/or youth may be placed in the foster care home or kinship foster care home until the checks have been completed. Failure to comply shall result in a corrective action process, and may result in sanctions described in Section 7.701.12. In addition, county departments of human or social services, as part of their contracting responsibilities, may take action to recoup

foster care payments from the agency if a background check was not completed pursuant to statute.

7.710.32 Minimum Regulations [Rev. eff. 5/1/10]

A. Operation

1. The regulations for operation of a foster care home shall be met before a certificate can be issued.
2. The CPA shall audit the foster care home files on an annual basis to verify that all required information is present in the file. The CPA shall attest in writing that the required information is present.
3. The CPA shall notify the Colorado Department of Human Services in writing within three (3) business days of the closure of a foster home because of receipt, either verbally or in writing OR VIA EMAIL, DUE TO of a confirmed report of child abuse or neglect.
4. The CPA shall notify the State Department THE COLORADO DEPARTMENT OF HUMAN SERVICES in writing within three (3) business days when a determination is made by the CPA to continue to certify a foster care home that the CPA has received notice, either verbally or in writing, of a confirmed report for medium to severe abuse or neglect. The written notice shall include the justification for continuing to certify the foster care home.

B. Certification

The law states that foster care certificates issued by CPAs are considered licenses; the regulations which are established by the State Department for foster care homes are therefore applicable to any such facility being certified by a licensed CPA. Copies of these rules shall be made available to each applicant for certification and to each foster care home.

C. Conflict of Interest

1. Staff members or members of the governing board or relatives of staff members or relatives of any officer, executive or member of the governing board of a CPA shall not be certified by the CPA to operate a foster care home, except for a person who is employed for the sole purpose of providing foster care and who serves in no other capacity for the agency.
2. No owner, officer, executive, member of the governing board, or employee of a CPA or any relative of said owner, officer, executive, member or employee shall hold a beneficial interest in any property operated or intended to be operated as a foster care home when the property is certified by the CPA as a foster care home.
3. A LICENSED CHILD PLACEMENT AGENCY MAY NOT PROVIDE BIRTH PARENT COUNSELING, HOME STUDY ASSESSMENTS, OR POST PLACEMENT ASSESSMENTS ON ANY OFFICER, OWNER, BOARD MEMBER, STAFF MEMBER, CONTRACT STAFF MEMBER, OR RELATIVES OF SUCH INDIVIDUALS.
4. AN INDIVIDUAL CERTIFIED FOR FOSTER CARE SERVICES BY A CHILD PLACEMENT AGENCY MAY NOT FUNCTION AS A STAFF MEMBER OR VOLUNTEER AT ANY SPECIALIZED GROUP FACILITY SPONSORED BY THE SAME CERTIFYING CHILD PLACEMENT AGENCY.

D. A CPA:

1. Must demonstrate to the State Department that it provides child placement services ethically and in accordance with Colorado state regulations and statutes, interstate compact requirements, intercountry requirements and Hague accreditation, as applicable, to ensure that foster and adoptive placements take place in the best interests of children.
2. Shall not knowingly and willfully:
 - a. Disseminate or cause directly or indirectly to be disseminated, statements regarding services which are untrue, deceptive, or misleading; or,
 - b. Make any statement or prepare or use any document that is known to be false; or,
 - c. Conceal or misrepresent any material fact in connection with the provision of services to birth parents, foster or adoptive parents, foster or adoptive parent applicants, or children.

7.710.33 Application and Inspection for Certification of Foster Care Homes

- A. Any application accepted by the CPA from an individual(s) or couple who wishes to be certified to operate a foster care home shall be on the Department approved form and shall include:
 1. The names and addresses of child placement agencies and county departments of social services that had previously certified the applicant. Information as to whether the applicant has been licensed or certified for child care in the past or is licensed or certified for child care at the time of the application, what agency issued the certificate or license, and the type of child care the license or certificate authorizes.
 2. Information about an applicant or individual living in the proposed foster care home who has been convicted of a felony or charged or convicted of child abuse or an unlawful sexual offense.
 3. Information about whether the applicant is currently licensed by the State Department to provide day care.
 4. Include a statement on the application for certification as a foster care home that states:

“Any applicant who knowingly or willfully makes a false statement of any material fact or thing in this application is guilty of perjury in the second (2nd) degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly.”
- B. No application shall **KNOWINGLY** be accepted from an individual who is currently certified by another county or CPA to operate a foster care home until that individual has terminated the certification by the other county or CPA., **OR THE CURRENT CERTIFYING CPA HAS GIVEN WRITTEN NOTICE TO THE FOSTER HOMES OF THE AGENCY'S CLOSURE.**
- C. No board member, director or staff member of a CPA shall **KNOWINGLY** contact or recruit foster homes currently certified by another county department or CPA.
- D. A CPA must take an application from an applicant(s) before the CPA has authority to complete the family assessment, AND background checks, **and training.**
- E. An applicant may apply to become a dual care provider to operate a family child care home as well as a foster care home. The foster home will be certified by the CPA and the family child care home will be licensed by the Colorado Department of Human Services. Both sets of standards shall be met. The CPA will monitor the foster care standards and the State Department will

monitor the family child care home standards. The CPA shall counsel the family if it believes such a situation is not in the best interest of any foster child who may be placed in the home. The CPA must approve the home to be licensed as a family child care home when the home is certified for foster care.

- F. A home that is licensed as a family child care home may only be certified for foster care for one child or for a group of siblings. A foster care home dually licensed as a family child care home shall not be certified as a host family home providing shelter to homeless youth.
- G. A CPA that has a foster/adoptive home that is certified for foster care and also licensed as a family child care home must notify the Division of Child Care when any of the following situations occur in the foster/adoptive home:

- 1. A complaint is received; or,
- 2. A child abuse investigation occurs; or,
- 3. A Stage II investigation occurs; or,
- 4. A foster/adoptive child is placed in the home; or,
- 5. A foster/adoptive child(ren) is removed from the home because of abuse allegations; or,
- 6. The foster home certificate is changed to probationary; or,
- 7. The foster home certificate is revoked or closed.

- H. A CPA that has a foster/adoptive home that is certified for foster care and also licensed as a family child care home must submit the following reports to the Division of Child Care:

- 1. All complaint investigation reports; and,
- 2. All child abuse investigation reports; and,
- 3. All Stage II investigation reports.

- I. Reference checks for the applicant and all adults residing in the home:

A CPA shall conduct a reference check of each applicant and all adults residing in the home by contacting all of the previous certifying authorities listed on the application or for whom an application was submitted before issuing the certification for that foster care home. The CPA shall sign an affidavit that, after reviewing all previous certifying information, certification is appropriate.

- J. Initial Training for Foster Care Homes

- 1. After the foster care application is received, Each applicant listed on the application must complete a minimum of twenty-seven (27) hours of initial training consisting of at least twelve (12) hours of core training prior to the certificate being issued and completion of the remaining training within three (3) months after the placement of a child. The training shall be provided through the statewide core curriculum training, by the CPA, or by a county department. The core training shall include the following ten primary topic areas:

- a. General overview of foster care; and,
- b. Administrative and legal issues; and,

- c. Why children get placed in out-of-home care; and,
- d. Parenting and family dynamics; and,
- e. Key concepts of child growth and development; and,
- f. Importance of the team approach; and,
- g. Individual differences such as ethnicity and culture; and,
- h. Discipline; and,
- i. Effects of fostering on the foster family; and,
- j. Working with the biological family; AND,

K. REASONABLE AND PRUDENT PARENT STANDARD

- 2. For homes dually certified as a family foster care home under this Section and Section 7.708, and a host family home under Section 7.721, an additional three (3) hours of training specifically related to the subject of providing shelter to the homeless youth populations is required.

K. ~~After the application to become a cradle care provider is received, e~~Each CRADLE CARE applicant listed on the application must complete a minimum of twenty (20) hours of initial training prior to the certificate being issued. The training shall include the following primary topic areas:

- 1. Attachment/bonding issues; and,
- 2. Loss and grief issues, as applicable for all parties to the adoption; and,
- 3. Adoption as a lifelong issue as it pertains to all parties to the adoption; and,
- 4. Key concepts of child growth and development; and,
- 5. Limit setting and safety; and,
- 6. Caring for a child of a different cultural or racial background, if applicable; and,
- 7. Understanding adoption laws and procedures, including termination of parental rights and the expedited relinquishment process pursuant to Section 19-5-103.5, C.R.S., if applicable; and,
- 8. Possible current and/or future use of community resources, including help with parenting techniques; and,
- 9. Infant care to include, but not be limited to, basic care and feeding of the infant and Shaken Baby Syndrome; and,
- 10. Fetal alcohol/substance abuse syndrome, if applicable; and,
- 11. General overview of the adoption process; and,
- 12. Why children get placed for adoption; and,
- 13. The importance of the team approach; and,

14. Effects of fostering on the cradle care family; and,
15. Potential communication with biological family and/or adoptive family.

The cradle care provider must also hold a current infant/toddler CPR and first aid card and complete four (4) hours of on-going training a year on topics related to adoption.

- L. After the application is received and prior to the certificate being issued, a family assessment using the Structured Analysis Family Evaluation (SAFE) instrument(s) to determine the character and suitability of the applicant(s), appropriateness of the home, **DETERMINATION OF THE BEHAVIORS, DIAGNOSES, AND DISABILITIES OF THE FOSTER CHILDREN THAT THE FOSTER PARENTS COULD CARE FOR**, and child care practices must be completed.
1. An assessment of character and suitability must include at least a review of the State Department's automated system as to applicants and persons who reside in the home of the applicants with written consent of the individuals. ~~Statements from references and physician must be obtained.~~ A review of all existing child placement agency and county department case records including the automated system must be completed. An investigation of any concerns raised from the application and/or the aforementioned sources of information and a personal assessment of the applicant must be conducted. **A REVIEW OF THE CBI AND NATIONAL SEXUAL OFFENDER REGISTRY MUST BE COMPLETED AS LISTED AT SECTION 7.701.33. A REVIEW OF THE ABUSE AND NEGLECT RECORDS MUST BE COMPLETED AS LISTED AT SECTION 7.701.32.**
 2. The agency will require any applicant or any person eighteen (18) years of age or older who resides **with the applicant** in the foster care home to submit a complete set of fingerprints taken by a qualified law enforcement agency. The fingerprints and appropriate processing fee must be submitted to the Colorado Bureau of Investigation (CBI) to obtain any record of arrest or conviction which is held by the CBI AND FBI.
 - a. The agency must send an applicant card (FD 258) to the individual required to provide fingerprints. The fingerprints must be taken by a police or sheriff's department. The individual or agency must send the card to the CBI with a certified check or money order for the amount of the current processing **fee FOR BOTH THE CBI AND FBI RECORDS**. The CBI report must be sent to the child placement agency certifying the foster home.
 - b. A certificate cannot be issued to a foster care home until the fingerprints and current processing fee are submitted to the CBI and a clearance or hit/match is received from BOTH the CBI AND THE FBI. If a hit/match with a criminal history arrest is received, the formal court disposition must be received and reviewed before a decision is made to issue a certificate.
 3. **A family assessment using the Structured Analysis Family Evaluation (SAFE) instrument(s), the — psychosocial inventory to determine the character and suitability of the applicant(s), appropriateness of the home, and child care practices must be completed by a staff member assessment training, and reviewed by a supervisor both which have completed the two (2) day SAFE assessment training THE FAMILY ASSESSMENT MUST BE COMPLETED USING THE STRUCTURED ANALYSIS FAMILY EVALUATION (SAFE) HOME STUDY FORMAT. THE SAFE HOME STUDY ASSESSMENT MUST BE COMPLETED BY USING ALL TOOLS AND PROCESSES REQUIRED BY THE SAFE FORMAT. PERSONS COMPLETING THE HOME STUDIES MUST BE QUALIFIED, AS A MINIMUM, AS A PLACEMENT WORKER, WITH A BACHELOR'S DEGREE IN THE SOCIAL OR BEHAVIORAL SCIENCES, AND MUST COMPLETE THE DEPARTMENT-REQUIRED TRAINING PRIOR TO PERFORMING THE HOME STUDIES. PERSONS APPROVING THE HOME STUDIES MUST BE**

QUALIFIED AS A PLACEMENT SUPERVISOR AND MUST COMPLY WITH THE DEPARTMENT-REQUIRED TRAINING PRIOR TO REVIEWING AND APPROVING THE HOME STUDIES.

- a. Social history/background (adults and children), including childhood family adaptability; childhood family cohesion; childhood history of deprivation and trauma; childhood history of victimization; history of child abuse or neglect; history of alcohol and drug use; history of crimes, allegations and violence; psychiatric history, occupational history, and marriage or domestic partner history.
- b. Personal characteristics of the family, including communication, commitment and responsibility, problem solving, interpersonal relations, health and physical stamina to include information about nutritious meals and snacks, self-esteem, acceptance of differences, coping skills, impulse control, mood, anger management and resolution, judgment, and adaptability.
- c. Marital/domestic partner relationship, including conflict resolution, emotional support, attitude toward spouse or partner, communication between couple, balance of power, stability of the marriage or partnership and sexual compatibility.
- d. Motivation for a child, including a discussion of the child to be placed, attitudes toward foster care/adoption by applicants, other adults residing in the home, children and others such as extended family and discussion of fertility, if relevant. Assess the physical, mental, and emotional capability of the applicant(s) to parent a child(ren) and the ability to reevaluate and readjust expectations.
- e. Children with Special Needs and/or Disabilities
 - The applicant's interest, preparation, and willingness to care for a child(ren) with disabilities such as emotional, mental and physical, and the ability to meet the special needs of the child(ren). The home study must include an assessment as to how the child(ren)'s special needs will impact the family and extended family.
- f. Extended family relationships, including extended family adaptability, extended family cohesion, relationship with own extended family, and relationship with spouse's or partner's family.
- g. Physical and social environment, including cleanliness, orderliness and maintenance, safety; furnishings; play area, equipment, and clothing; finances; support system; and, household pets.
- h. General parenting Including child development, parenting style, disciplinary methods, child supervision, learning experiences, parental role, and child interactions.

i. Specialized parenting, including expectations, effects of abuse or neglect, effects of sexual abuse, effects of separation and loss, structure, therapeutic and educational resources, birth sibling relationships, child background information, and birth parent issues.

j. For adoption only, issues including infertility, telling child about adoption, openness in adoption, and adoptive parent status.

4. Other Requirements

a. Discuss the applicant's ability to work with the child welfare system, court, birth parents, and others in the child's life, including willingness to obtain help from professionals involved.

b. Documentation of any previous emotional problems, mental illnesses, substance abuse issues, or marital/relationship problems that may have an impact on the case of a child(ren). Include any factors which would impact the safety and well-being of any child(ren) in the home.

c. The application and medical records must be reviewed; and any issues that are identified be discussed with the applicants. No physical examination shall be required of any person who in good faith relies upon spiritual means or prayer in the free exercise of religion to prevent or cure a disease unless there is a reason to believe such person's physical condition is such that he/she would be unable to care for a child, or such person has a communicable illness.

d. The agency shall not perform a family home assessment on its own staff member, board member, or family member of a staff member or board member OR RELATIVES OF SUCH.

e. A current photograph of the family shall be requested and maintained in the file.

f. In kinship care, the ability to provide a permanent home through adoption, guardianship or permanent custody, including the ability to meet the individualized needs of the specified child(ren), assessment of the relationship with birth parents and extended family members as they impact capacity of the applicants to care for the child(ren), and The ability to set boundaries with birth parents to maintain safety for the child(ren) in care.

g. STATEMENTS FROM REFERENCES AND PHYSICIAN MUST BE OBTAINED.

g. Assessment of the applicant's ability to foster or adopt a child of a different ethnic and cultural background, preserving continuity of the child's ethnic and cultural identity in a positive manner. Factors should include, but are not limited to, consideration of the child's family, community, neighborhood, faith or religious beliefs, school activities, friends, and child's and family's primary language. Documentation of the assessment of this requirement shall be in the case file.

5. The agency shall not deny to any person the opportunity to become a foster/adoptive parent on the basis of race, color or national origin of the person or of the child involved.

65. As part of the assessment, the agency must:

a. Conduct a minimum of one joint interview with a couple, one individual interview with each adult member of the household and an age/developmentally

appropriate interview with all children residing in the home. For single applicants, a minimum of two (2) interviews will be required.

b. Conduct at least one (1) interview in the applicant's home.

c. ENSURE THE SECOND INTERVIEW, AND ANY SUBSEQUENT INTERVIEWS, OF THE ADULTS SHALL NOT BE PERFORMED UNTIL AT LEAST 3 CALENDAR DAYS AFTER THE PREVIOUS INTERVIEW.

d. ~~Update the assessment annually in the form of an addendum. An addendum shall include at least one (1) home visit and a review of the current medical status. During each subsequent addendum applicants shall be questioned regarding any child abuse investigations during the previous year.~~

76. Following the completion of the assessment, a narrative report must be completed that summarizes and evaluates the information obtained and lists the characteristics of child(ren) the home is approved for. Age, sex, race, legal risk, and special needs (such as medical, physical, behavioral, emotional) and any limitations or restrictions on placement of a child(ren).

87. If there are CHANGES TO THE MARITAL OR CIVIL UNION STATUS, OR SIGNIFICANT CHANGE OF HEALTH STATUS FOR PERSONS IN THE FOSTER FAMILY, OR additions of new-adults or to the household, and/or additions of new-children to the household FOSTER FAMILY, A VISIT TO THE HOME MUST BE CONDUCTED AND THE SUCH PERSONS INTERVIEWED. A RE-EVALUATION OF THE FAMILY MUST BE COMPLETED AND THE SAFE ASSESSMENT REVISED IN THE FORM OF AN ADDENDUM. and/or IF THERE ARE changes in the age, sex, and special characteristics of child(ren) which will be considered for placement with the foster family, THE SAFE HOME STUDY ASSESSMENT MUST BE REVISED IN THE FORM OF AN ADDENDUM. a SAFE update/addendum of the family must be completed and the family assessment revised. SUCH ADDENDUMS SHALL BE SIGNED BY THE APPLICANTS OR A NOTICE PROVIDED TO THE APPLICANTS TO INFORM THEM OF THEIR OPTION TO REVIEW SUCH ADDENDUM.

98. An on site home inspection is required to determine its compliance with the Rules Regulating Foster Care Homes and, if the applicant is applying to be dually certified as a foster home and licensed as a family child care home, with the rules regulating Family Child Care Homes. Written documentation of the home inspection INCLUDING SQUARE FOOTAGE MEASUREMENTS OF THE SLEEPING AREAS shall be in the foster care home file at the child placement agency. Approval of local zoning, health or fire departments must be documented in writing when the situation warrants.

M. An annual on-site, unannounced, home inspection must be made to the foster care home to determine compliance with the Rules Regulating Foster Care Homes and, if the foster care home is dual certified, with the rules regulating Family Child Care Homes. A written report of the supervisory visit must be given to the foster parent and a copy maintained at the child placement agency. A written notice of noncompliance with the regulations will be left with the foster parents or sent to the foster parents within fifteen (15) calendar days of the supervisory visit if there is noncompliance. Compliance must be achieved within the time frames indicated on the written compliance notice.

7.710.34 Issuance/Denial of Certificate

A. After the completion of the family assessment/home study, one of the following certification actions must be taken:

1. A one (1) year time-limited certificate will be issued when it is determined that the applicant is competent, has completed the necessary training, and has met the Rules Regulating Foster Care Homes. The certificate issue date is the date that the assessment/study is completed and the foster home is in compliance with the Rules Regulating Foster Care Homes.
 2. A provisional certificate may be issued, upon the written approval of the State Department for a kinship foster care home or child specific placement when requested by a county department of social/human services.

The reasons for the issuance of a provisional certificate must be displayed on the certificate. The provisional certificate will be issued for up to ninety (90) calendar days from the date it is determined that time will be needed to comply with the appropriate kinship foster care home or child specific regulations. Only one original provisional certificate may be issued to a foster care home at one location address.
 3. The original application will be denied. The renewal application will not be acted upon. The applicant will not be certified as a foster home.
- B. Upon issuance of the certificate, the child placement agency shall submit data entry information to the department on forms prescribed by the State Department.
- C. The application will be withdrawn when the applicant no longer chooses to pursue certification.
- D. An applicant shall be denied if the person(s) applying for the certificate has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter an order pursuant to Part 3 or Part 4 of Article 14 of Title 15, C.R.S., or Section 27-65-109(4) or 27-65-127, C.R.S., specifically finding that the mental incompetency or insanity is of such degree that the applicant is incapable of operating a family child care home, foster care home, child care center, or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof. "Convicted" means a conviction by a jury or a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere for E, 1-6, below. This does not apply to a diversion, deferral or plea for a juvenile who participated in diversion (defined in 19-1-103(44), C.R.S.), and does not apply to an adult who successfully completed the child abuse and/or neglect diversion program (defined in 19-3-310, C.R.S.).
- E. The application must be denied if the person(s) applying for the certificate has been convicted of ANY ISSUES AS LISTED AT 7.701.33,D,7.
1. ~~Child abuse, as specified in Section 18-6-401, C.R.S.; or,~~
 2. ~~A crime of violence, as defined in Section 18-1.3-406, C.R.S.; or,~~
 3. ~~Any felony offenses involving unlawful sexual behavior, as defined in Section 16-22-102(9), C.R.S.; or,~~
 4. ~~Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.; or,,~~
 5. ~~Any felony involving physical assault, battery or a drug-related/alcohol-related offense within the five (5) years preceding the date of application for a license or certificate; or,~~
 6. ~~Any felony offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in numbers 2 to 4 of this section; or,~~

7. ——— For the purposes of these regulations, convicted means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

F. The application may be denied for one (1) or more of the following reasons if the applicant(s), an affiliate of the applicant, or any person living with or employed by the applicant(s) has:

1. **BEEN DETERMINED TO MEET ANY OF THE CRITERIA AS LISTED AT 7.701.33,F.**
Been convicted in Colorado or in any other state of any felony, or has entered into a deferred judgment agreement or a deferred prosecution agreement in Colorado or in any other state to any felony other than those offenses specified in Section 26-6-104(7), C.R.S., or child abuse, as specified in Section 18-6-401, C.R.S., the record of conviction being conclusive evidence thereof, notwithstanding Section 24-5-101, C.R.S.; or
2. **BEEN ASSESSED BY THE CERTIFYING AGENCY TO NOT MEET THE CHARACTER AND SUITABILITY REQUIREMENTS** Been convicted of third (3rd) degree assault, as described in Section 18-3-204, C.R.S., any misdemeanor, the underlying factual basis of which has been found by the court on any record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S., any misdemeanor violation of a restraining order, as described in Section 18-6-803.5, C.R.S., any misdemeanor offense of child abuse as defined in Section 18-6-401, C.R.S., or any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in this paragraph; or,
3. ——— Been determined to be insane or mentally incompetent by a court of competent jurisdiction and incapable of performing duties; or,
4. ——— Used any controlled substance as defined in Section 12-22-303(7), C.R.S., or consumed any alcoholic beverage or been under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility. This shall not apply to foster care homes, unless such use or consumption impairs the foster parent's ability to properly care for children; or,
5. ——— Been convicted of unlawful use of a controlled substance as specified in Section 18-18-404, C.R.S., unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance as specified in Section 18-18-405, C.R.S., or unlawful offenses relating to marijuana or marijuana concentrate as specified in Section 18-18-406, C.R.S.; or,
6. ——— Consistently failed to maintain standards prescribed and published by the Colorado Department of Human Services; or,
7. ——— Furnished or made any misleading or any false statement or report to the Colorado Department of Human Services; or,
8. ——— Refused to submit to the Colorado Department of Human Services any reports or refused to make available to the State Department any records required by it in making investigation of the facility for licensing purposes; or,
9. ——— Failed or refused to submit to an investigation or inspection by the Colorado Department of Human Services or to admit authorized representatives of the State Department at any reasonable time for the purpose of investigation or inspection; or,

10. — Failed to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services or by ordinances or regulations applicable to the location of the foster care home; or,
11. — Willfully or deliberately violated any of the provisions of the Child Care Licensing Act; or,
12. — Failed to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or,
13. — Been charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in Section 18-3-411(1), C.R.S., if:
 - a. — Such individual has admitted committing the act or offense and the admission is documented or uncontroverted; or,
 - b. — An Administrative Law Judge finds that such charge is supported by substantial evidence; or,
14. — Admitted to an act of child abuse or if substantial evidence is found that the licensee, person employed by the licensee, or person who resides with the licensee in the foster home has committed an act of child abuse, as defined at Section 19-1-103(1), C.R.S.; or,
15. — Been the subject of an adverse licensing action.

G. The denial of the original application must be carried out in accordance with the Colorado Revised Statutes, Section 26-6-108.

H. THE AGENCY SHALL NOT DENY TO ANY PERSON THE OPPORTUNITY TO BECOME A FOSTER/ADOPTIVE PARENT ON THE BASIS OF RACE, COLOR, RELIGION, SEX, AGE, SEXUAL ORIENTATION, GENDER IDENTITY, OR NATIONAL ORIGIN OF THE PERSON OR OF THE CHILD INVOLVED.

7.710.35 Renewal or Continuation Notice

A renewal notice must be sent to the foster parents at least ninety (90) calendar days prior to the expiration of the certificate.

- A. If the foster parents wish to continue to provide care, the renewal notice must be completed and returned to the child placement agency prior to the expiration of the certificate.
- B. If the renewal notice is received by the child placement agency prior to the expiration of the certificate, the renewal notice is timely, and the certificate continues valid until action is taken by the child placement agency.
- C. If the renewal notice is received after the expiration of the certificate, the renewal notice is untimely, and the certificate is no longer valid. The untimely renewal notice must be acted upon as an original application.

7.710.36 Recertification Action

- A. Within ninety (90) calendar days of the UPON receipt of a timely renewal application for a certificate, AND PRIOR TO THE EXPIRATION OF THE CURRENT CERTIFICATE, the child placement agency must complete the following actions:

1. Evaluate the foster care homes' current and past compliance with the Rules Regulating Foster Care Homes.
 2. Conduct an unannounced inspection of the foster care home in accordance with Section 7.710.33, M.
 3. Review the following information, for the applicants) and all individuals residing in the home, to determine if continued certification is appropriate:
 - a. Any child abuse allegations or investigations in the previous year;
 - b. Any arrest or conviction records in the previous year;
 - c. Any information from the local county department concerning county involvement with the foster family, including information from caseworkers;
 - d. Current health status **OF EACH HOUSEHOLD MEMBER**
 4. **Complete the SAFE family assessment narrative update/renewal template with changes that have occurred with the foster family. Questionnaires One (1) and Two (2), and the psychosocial inventory, must be completed on the first renewal if a full SAFE HOMESTUDY assessment has not been completed on the foster family. REVIEW AND UPDATE THE SAFE HOME STUDY ASSESSMENT IN THE FORM OF AN UPDATE. THE UPDATE SHALL INCLUDE AT LEAST ONE (1) HOME VISIT. SUCH UPDATES SHALL BE SIGNED BY THE APPLICANTS OR A NOTICE PROVIDED TO THE APPLICANTS TO INFORM THEM OF THEIR OPTION TO REVIEW SUCH UPDATE.**
 5. Conduct a search on the CBI sex offender registry and national sex offender public website operated by the United States Department of Justice, and include a copy in the provider record using the following criteria at a minimum:
 - a. Known names and addresses of each adult residing in the home; and,
 - b. Address only of the home.
 6. If the foster parent or any adult living in the foster home left the state for three (3) consecutive months or longer, a new FBI fingerprint-based criminal history record information check shall be conducted.
- B. At the time of the renewal of the certificate, one of the following must be completed:
1. A provisional certificate for a kinship or child specific placement will be changed to a one year time-limited certificate as soon as the foster family has completed the items listed as reasons for the provisional certificate.
 2. A new one (1) year time-limited certificate is issued. The certificate issue date will be the date that the foster care home is in compliance with the Rules Regulating Foster Care Homes, as found at Section 7.708.
 3. The renewal application for the certificate is denied. The process for denial of a renewal application is the same as the process for denial of an original application AS LISTED AT 7.710.34.
- C. Upon issuance of the one (1) year time-limited certificate, the child placement agency must submit data entry information to the department on forms prescribed by the department.

- D. A foster care home certificate is no longer valid whenever one of the following situations exists:
1. A certified foster family moves to a new address.
 2. A foster family decides to withdraw from the foster care home program and confirms same in writing.
 3. A certificate has been revoked or denied.

7.710.4 PLACEMENT OF CHILDREN IN FOSTER CARE

7.710.41 Acceptance of Children for Placement

- A. No agency shall accept a child for placement, except as provided in paragraph B below, from any source other than the child's parent(s) or guardian(s), a court of competent jurisdiction or a county or tribal department of social services and upon a specific written authorization by one of these to place the child, as only these have the right under the law to contract for a child's placement.
- B. If a law enforcement officer places a child in case of an emergency, when the parent or guardian cannot be located, in a facility which has been designated as a shelter facility in accordance with the law, and the law enforcement officer is unable to locate the child's parent, guardian or the persons with whom the child was living, the agency shall petition the appropriate court within forty-eight (48) hours for legal custody.
- C. If a child placement agency no longer chooses to place children in the foster care home, the child placement agency shall follow one of the following procedures:
1. A provisional certificate may be allowed to expire if the foster family chooses not to submit a renewal application; or,
 2. The child placement agency must send a written statement to the foster home explaining that the agency will no longer place children in the home for foster care, that the home must not accept any children for care from any other source; or,
 3. The child placement agency must meet with or send a letter to the foster parents requesting them to sign a statement that they are withdrawing from the foster home program.

7.710.42 The Placement Process

- A. In addition to an agency's responsibility to inspect and to supervise the ongoing operation of certified foster care homes, agencies shall comply with the following minimum standards applicable to the placement process.
- B. When accepting a referral, the agency shall conduct an assessment to determine whether placement of an individual child is appropriate and desirable. The following shall be included in this determination:
1. The reason(s) for placement; and,
 2. Information relating to the child's natural parents or family situation including religious, educational, economic and cultural background and other factors which should include, but are not limited to, consideration of the child's family, community, neighborhood, faith or religious beliefs, school activities, friends, and child's and family's primary language; and,

3. Information relating to the child's legal status, medical or health history, his/her physical condition, personality, school placement and adjustment, previous placements outside the home, attitude toward removal from the home, and family relationships, and preferences of the child when age and developmentally appropriate; and,
 4. Coordination with other social service agencies or departments which may have information relating to the child; and,
 5. Additional information, if any, designed to assist the agency in determining what type of placement, if any, will best meet the needs of such child.
- C. The agency must make available the original written family assessment, home study, and background checks of the foster parent(s) to the placing authority upon request. Updates to the family assessment, home study, and background checks must be sent to the placing authority.
 - D. A child who is to be placed in a foster care home or child care center pursuant to Sections 7.500.21 and 7.500.22 respectively shall only be placed in a home or center that is licensed by the State Department or certified by a licensed placement agency or a county department of social services.
 - E. The agency shall discuss information deemed necessary regarding a prospective foster child with foster parents as early as possible prior to placement. It is desirable for the child to visit and become familiar with the foster parents and other persons living therein prior to the time of placement.
 - F. At the time of foster placement, the agency shall complete a record of admission for the foster care home parents as outlined in, Section 7.708.51, C, and be assured that the foster care home parents have a copy of a signed authorization for foster parents to obtain emergency medical care for the foster child, if necessary.
 - G. No placement shall be continued where it is not in the best interest of the child.
 - H. If a child is placed in a family child care home, the placement agency shall be assured that the child's admission record and all admission procedures as stated Sections 7.707.5 and 7.707.51, are completed.

7.710.43 Responsibility of Placement Agency While the Child is in Care

- A. The placement agency shall work as closely as possible with the child's natural parent(s), guardian(s), individual or agency with legal responsibility for each child with the view to maintaining a child in his own home, placing the child in foster care temporarily or appropriate permanent substitute care.
- B. The placement agency shall be assured that care is provided the child in placement in accordance with the applicable regulations, which shall include but not be limited to applicable medical, dental and optical care, and participation in appropriate educational and recreation experiences.
- C. The placement agency shall require the foster home to maintain written documentation of all medical, dental, and optical care appointments of foster children, including the need for follow-up, next visit scheduled, and the reason the child was taken to the doctor. The written documentation shall be submitted by the foster home to the agency on at least a monthly basis. The agency is responsible to send the written documentation of the medical appointments to the caseworker for each foster child in care on a at least a monthly basis.

- D. The agency shall provide on-going training for foster care parents to help improve their ability to care for children in placement. The training may include orientation and group meetings, publications, institutes, workshops, and consultation with experts.
- E. Professional staff of the agency shall visit the home at least monthly to observe the interaction of the foster children with the foster parent(s) and to generally assess the safety of the home. **SUCH VISITS SHALL BE DOCUMENTED AND MAINTAINED IN EACH FOSTER CHILD'S FILE.**
- F. The agency is responsible to notify all placing agencies when a child is removed from care because of concern for the child's health, welfare, and safety and other children remain in care.
- G. The agency and/or the foster parent(s) shall attend Administrative Reviews in person or by conference call.
- H. The reimbursement rate for child maintenance agreed upon between the CPA and the county department shall be paid to the CPA foster parents for the care of the child.
- I. **THE REASONABLE AND PRUDENT PARENT STANDARD REQUIREMENTS FOR ANY FOSTER PARENT TO APPROVE ACTIVITIES FOR A CHILD OR YOUTH IN FOSTER CARE REQUIRES THE FOLLOWING ACTION:**
 - 1. **THE CHILD PLACEMENT AGENCY SHALL TRAIN FOSTER PARENTS HOW TO DETERMINE WHETHER TO APPROVE A CHILD'S OR YOUTH'S PARTICIPATION IN AN EXTRACURRICULAR, ENRICHMENT, CULTURAL, OR SOCIAL ACTIVITY CONSISTENT WITH THE REASONABLE AND PRUDENT PARENT STANDARD BASED UPON THE CRITERIA IN SECTION 7.701.200.]**
- J. **CHILD PLACEMENT AGENCIES CONTRACTING FOR FOSTER CARE SERVICES WHEN A COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES DOES NOT HAVE A FOSTER CARE CERTIFICATION PROGRAM AND IT INVOLVES THE PLACEMENT OF A CHILD OR YOUTH FOR FOSTER CARE THROUGH THE INTERSTATE COMPACT PLACEMENT FOR CHILDREN (ICPC) SHALL TAKE THE FOLLOWING STEPS:**
 - 1. **CONTRACT WITH THE SENDING STATE TO PROVIDE ALL SERVICES FOR A PRIVATE PLACEMENT; OR,**
 - 2. **ENTER INTO A WRITTEN AGREEMENT WITH THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES WITH ICPC RESPONSIBILITY, THAT INCLUDES BUT IS NOT LIMITED TO, THE SERVICES AND DURATION OF THE SERVICES TO BE PROVIDED BY THE CHILD PLACEMENT AGENCY.**

7.710.44 Termination of Placement

- A. The agency shall counsel and assist parent(s) or guardian(s), foster parents and foster children in preparing for the termination of placement.
- B. When a placement is terminated, the child shall be released only to his parent(s) or guardian(s) or to a court of competent jurisdiction. If a child has been received for care upon court order, the child shall be released only upon direction of the court.
- C. Upon termination of placement, the agency shall provide the parents or the agency receiving the child with pertinent health information and other records, such as school reports, which may be useful to persons with responsibility for such child.

7.710.45 Required Records

- A. A placement agency shall be responsible for maintaining an individual case record for each child accepted for care. **RECORDS FOR SIBLINGS IN CARE SHALL BE INDIVIDUAL AND NOT CO-MINGLED.** All records are confidential and shall be protected from unauthorized examination.
- B. The State Department staff shall have access to such records upon request,
- C. Foster care home parents are to receive necessary information regarding the foster child in care pursuant to Section 7.710.42; and such foster parents shall be given detailed instructions regarding the confidential nature of information which they receive.
- D. The agency record for each child shall contain as AT a minimum:
1. Report of the original intake study; and,
 2. An agreement signed by the parent or guardian authorizing the agency to place the child in foster care and consenting to necessary medical and surgical care. A court order transferring legal custody to the agency will fulfill this requirement; and,
 3. If the child is placed in a foster care home **OR SPECIALIZED GROUP FACILITY**, a copy of the record of admission form as required in Section 7.708.51, C; and,
 4. Documentation of the legal custody and responsibility for the child; and,
 5. Reports **COMPLETED BY THE CARE PROVIDER** of the child's progress under care; and,
 6. School reports including records of scholastic achievement and social adjustment; and,
 7. Individual medical records for each child including reports of the admission examination and a complete and continuous record of illness, immunization, communicable diseases and follow-up treatment and examination; and,
 8. Reports of psychological tests, psychological or psychiatric examination and follow-up treatment if obtained; and,
 9. Record of visits to the child and record of the contacts with child's own family and services to be provided or for which arrangements have been made; and,
 10. Copy of the treatment plan for the child **IN SPECIALIZED GROUP CARE, OR THE FAMILY SERVICES PLAN FOR THE CHILD IN FOSTER HOME CARE.**
- E. The record for each child placed by the agency in foster care shall be maintained at least three (3) years after foster care has been terminated.
- F. Each placement agency shall maintain a separate record for each foster care home certified by the agency. This record shall include: the application; all relevant information obtained at the time of certification and recertification summary reports of subsequent visits to the home; and, a list of the children placed in the home, including names, birth dates, dates of placement and reasons for removal. This record shall be available to the staff of the State Department for inspection.
- G. Records relating to foster care homes whose certificates have expired shall be retained for at least ~~three (3)~~ **FIVE (5)** years after the expiration of the last-issued certificate ~~and for a longer period if they contain information which would be relevant to a subsequent request for foster home certification.~~

7.710.46 PERSONNEL QUALIFICATIONS AND DUTIES AS SPONSORING AGENCY OF SPECIALIZED GROUP FACILITIES

- A. THE SPECIALIZED GROUP HOME OR CENTER SHALL BE SUPERVISED BY A PAID STAFF MEMBER OF THE AGENCY (SPECIALIZED GROUP FACILITY SUPERVISOR) WHO HOLDS A MASTER OF SOCIAL WORK DEGREE OR A MASTER'S DEGREE IN BEHAVIORAL SCIENCE WITH AN EMPHASIS IN CHILD DEVELOPMENT AND/OR FAMILY RELATIONS AND A MINIMUM OF TWO YEARS PAID FULL TIME OR EQUIVALENT PART-TIME EXPERIENCE IN SOCIAL WORK. IF THE STAFF MEMBER DOES NOT HAVE THE AFOREMENTIONED EDUCATION AND EXPERIENCE, THEN HE/SHE MUST HAVE A BACHELOR'S DEGREE WITH A MAJOR IN SOCIAL WORK, SOCIOLOGY, PSYCHOLOGY OR CLOSELY RELATED FIELD AND BE DIRECTLY SUPERVISED BY AN AGENCY STAFF MEMBER HOLDING THE MASTER DEGREE AND EXPERIENCE DESCRIBED ABOVE.
1. THE PLACEMENT SUPERVISOR MAY SERVE AS THE SPECIALIZED GROUP FACILITY SUPERVISOR.
 2. THE PLACEMENT SUPERVISOR IS RESPONSIBLE TO APPROVE ALL PLACEMENTS INTO THE SPECIALIZED GROUP FACILITY.
- B. THE SPECIALIZED GROUP FACILITY SUPERVISOR SHALL OBTAIN, PROVIDE AND/OR COORDINATE THE FOLLOWING SERVICES:
1. GROUP AND/OR INDIVIDUAL COUNSELING FOR CHILDREN IN CARE AND THEIR FAMILIES.
 2. FOR EACH CHILD, INTERMEDIATE, SHORT TERM, AND LONG TERM GOALS SHALL BE ESTABLISHED AND A CASE PLAN WRITTEN. THE GOALS AND CASE PLAN MUST INCLUDE A PLAN FOR DISCHARGE AND MUST BE DEVELOPED AND EVALUATED PURSUANT TO REGULATION SECTION 7.714.70, D. GOALS AND CASE PLAN FOR CHILDREN THREE AND FOUR YEARS OLD SHALL BE EVALUATED MONTHLY.
 3. STAFF RECORDS FOR THE HOME OR CENTER AS REQUIRED IN SECTION 7.709.27 26.
 4. PSYCHIATRIC, PSYCHOLOGICAL OR DEVELOPMENTAL EVALUATIONS AND CONSULTATIONS AS REQUIRED.
 5. SPECIALIZED EDUCATIONAL RESOURCES AS REQUIRED.
 6. CONSULTATION WITH THE HOME OR CENTER PARENTS OR PERSONNEL ABOUT METHODS OF WORK WITH THE CHILDREN.
 7. ASSESSMENT OF QUALITY OF CARE WITH THE HOME OR CENTER PARENTS OR PERSONNEL.
 8. CHILDREN'S RECORDS AS REQUIRED IN 7.714.932.

- C. THE SPECIALIZED GROUP FACILITY SUPERVISOR SHALL MEET WITH THE GROUP HOME OR CENTER PARENTS OR PRIMARY CAREGIVER A MINIMUM OF TWO HOURS PER WEEK EXCLUSIVE OF COUNSELING SERVICES, TO DISCUSS INDIVIDUAL CHILDREN, DISCHARGE PLANNING INCLUDING ANY BARRIERS, PROBLEMS, PROGRAM AND/OR SPECIAL NEEDS. SUCH SUPERVISION OF THE GROUP FACILITY SHALL BE DOCUMENTED IN WRITING BY THE SPECIALIZED GROUP SUPERVISOR AND SHALL BE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

7.710.47 ROLE OF A LICENSED CHILD PLACEMENT AGENCY TO ESTABLISH AND SUPERVISE A SPECIALIZED GROUP HOME OR CENTER

- A. THE SUPERVISORY RESPONSIBILITIES OF THE SPONSORING AGENCY ARE:
1. TO BE KNOWLEDGEABLE WITH THE RULES REGULATING SPECIALIZED GROUP FACILITIES;
 2. TO PARTICIPATE IN THE DEVELOPMENT AND APPLICATION PROCESS TO INCLUDE VERIFYING THAT THE ORIGINAL APPLICATION SUBMITTED IS COMPLETE WITH ALL REQUIRED SIGNATURES AND SUBMITTED IN A TIMELY MANNER;
 3. TO PROVIDE ONGOING ASSESSMENT OF THE SPECIALIZED GROUP FACILITY FOR QUALITY OF CARE ISSUES; AND
 4. PROVIDE ANNUAL EVALUATIONS OF THE GOVERNING BODY, UNLESS THE GOVERNING BODY AND THE SPONSORING AGENCY ARE THE SAME AGENCY.
 5. TO PROVIDE TRAINING TO ALL STAFF MEMBERS ON THE REASONABLE AND PRUDENT PARENT STANDARD TO APPROVE ACTIVITIES FOR A CHILD OR YOUTH IN CARE. SUCH TRAINING SHALL INCLUDE HOW TO DETERMINE WHETHER TO APPROVE A CHILD'S OR YOUTH'S PARTICIPATION IN AN EXTRACURRICULAR, ENRICHMENT, CULTURAL, OR SOCIAL ACTIVITY CONSISTENT WITH THE REASONABLE AND PRUDENT PARENT STANDARD BASED UPON THE CRITERIA IN SECTION 7.701.200.
- B. THE SPONSORING AGENCY SHALL BE RESPONSIBLE TO ENSURE THAT STATE RULES ARE FOLLOWED REGARDING:
1. HIRING, TRAINING AND SCHEDULING OF STAFF;
 2. PLACEMENT DECISIONS INCLUDING, BUT NOT LIMITED TO, APPROPRIATENESS OF PLACEMENT AND LEAST RESTRICTIVE ENVIRONMENT; AND
 3. DOCUMENTATION, REPORTING AND CORRECTIVE ACTION OF CRITICAL INCIDENTS.
- C. THE SPONSORING AGENCY, GOVERNING BODY, AND GROUP HOME OR CENTER PARENTS OR PRIMARY CAREGIVER SHALL DEVELOP AND ADHERE TO A STATEMENT OF PURPOSE AND FUNCTION, WHICH INCLUDES A DESCRIPTION OF THE CHARACTERISTICS OF THE CHILD OR YOUTH POPULATION WHICH IS TO BE SERVED BY THE FACILITY.
- D. THE SPONSORING AGENCY AND THE GROUP HOME OR CENTER PARENTS OR PRIMARY CAREGIVER SHALL DEVELOP AND ADHERE TO WRITTEN POLICIES AND

PROCEDURES REGARDING THE CARE OF CHILDREN WHICH SHALL BE REVIEWED ANNUALLY AND SHALL INCLUDE THE FOLLOWING:

1. PROVISION FOR EMERGENCY PROCEDURES INCLUDING ILLNESS, ACCIDENT, FATALITY AND FIRE; AND
 2. PARTICIPATION IN SPECIAL ACTIVITIES IN COMPLIANCE WITH SECTION 7.719.
- E. THE GROUP HOME OR CENTER PARENTS OR PERSONNEL AND THE SPONSORING AGENCY SHALL DEVELOP AND ADHERE TO WRITTEN POLICIES AND PROCEDURES REGARDING PERSONNEL INCLUDING: PAY, PROVISION OF RELIEF TIME AND VACATION TIME, ANNUAL PERFORMANCE EVALUATION, TRAINING OPPORTUNITIES, SELECTION OF PERSONNEL AND MAINTENANCE OF PERSONNEL RECORDS.
- F. FINANCIAL OPERATION AND OVERSIGHT OF THE SPONSORED SPECIALIZED GROUP FACILITIES SHALL INCLUDE:
1. EACH CHILD PLACEMENT AGENCY SHALL ENSURE THAT EACH SPECIALIZED GROUP FACILITY THAT IS SPONSORED BY THE CPA DEVELOPS AN ANNUAL BUDGET REFLECTING ANTICIPATED INCOME BY SOURCE AND EXPENSES BY PURPOSE, PLUS AN ACCOMPANYING BALANCE SHEET, WHICH DEMONSTRATES THAT THE SPECIALIZED GROUP FACILITY HAS RESOURCES TO CARRY OUT ITS DEFINED PURPOSE. THE BUDGET SHALL BE APPROVED BY THE EXECUTIVE DIRECTOR OF THE CHILD PLACEMENT AGENCY AND DOCUMENTATION OF SUCH MAINTAINED AT THE CHILD PLACEMENT AGENCY PRIMARY OFFICE. THE FIRST YEAR'S BUDGET SHALL BE SUBMITTED WITH THE ORIGINAL LICENSE APPLICATION AND TO THE CHILD PLACEMENT AGENCY ANNUALLY THEREAFTER AT THE TIME OF LICENSE CONTINUATION.
 2. EACH SPECIALIZED GROUP FACILITY SPONSORED BY A CHILD PLACEMENT AGENCY WHOSE TOTAL ANNUAL FOSTER CARE OR ADOPTION EXPENDITURES ARE \$100,000 OR MORE SHALL PROVIDE FOR AN ANNUAL AUDIT BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT IN ACCORDANCE WITH APPROPRIATE GENERALLY ACCEPTED AUDITING STANDARDS. SPECIALIZED GROUP FACILITIES SPONSORED BY A CHILD PLACEMENT AGENCY WITH LESS THAN \$100,000 TOTAL ANNUAL EXPENDITURE MAY SUBMIT AN AUDIT AS DESCRIBED ABOVE OR MAY SUBMIT COMPILED OR REVIEWED FINANCIAL STATEMENTS, PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.
 - A. THE SUPPLEMENTARY INFORMATION SUBMITTED SHALL CONTAIN AN AFFIDAVIT SIGNED BY THE CHILD PLACEMENT AGENCY EXECUTIVE DIRECTOR, THE PRIMARY CARE PROVIDER OF THE SPECIALIZED GROUP FACILITY, AND THE GOVERNING BODY AUTHORITY OF THE SPECIALIZED GROUP FACILITY ATTESTING TO THE AUTHENTICITY OF THE INFORMATION. SUBMISSION OF FALSIFIED INFORMATION SHALL BE GROUNDS FOR SUSPENSION OF THE CHILD PLACEMENT AGENCY AND SPECIALIZED GROUP FACILITY LICENSES.

- B. THE AUDIT AND SUPPLEMENTARY INFORMATION SHALL BE SUBMITTED TO THE STATE DEPARTMENT WITHIN SIX (6) MONTHS OF THE SPECIALIZED GROUP FACILITY'S FISCAL YEAR END.
 - C. IF A SPECIALIZED GROUP FACILITY SPONSORED BY A CHILD PLACEMENT AGENCY DOES NOT SUBMIT ITS ANNUAL AUDIT OR REFUSES TO DISCLOSE FINANCIAL INFORMATION REGARDING THE OPERATION OF THE PROGRAM IN A TIMELY MANNER, THE STATE DEPARTMENT MAY SEND NOTICE TO WITHHOLD PAYMENT UNTIL THE AUDIT AND/OR REQUESTED INFORMATION IS SUBMITTED.
 - D. UPON RECEIPT OF ADEQUATE WRITTEN NOTICE THAT A COUNTY DEPARTMENT OR THE STATE DEPARTMENT PLANS TO RECOVER OR WITHHOLD UNALLOWABLE OR MISUSED FUNDS FROM THE CPA SPONSORING A SPECIALIZED GROUP FACILITY, THE CHILD PLACEMENT AGENCY MAY FILE A WRITTEN REQUEST FOR A REVIEW OF THE DECISION WITH THE STATE DEPARTMENT AS LISTED AT 7.710.21, D, 6, A-E.
 - E. ALLOWABLE EXPENDITURES ARE LISTED AT 7.710.21, E.
 - F. UNALLOWABLE EXPENDITURES ARE LISTED AT 7.701.21, F.
 - G. REMEDIES ARE LISTED AT 7.710.21, G.
 - H. INTENTIONAL MISUSE OF FUNDS ARE LISTED AT 7.701.,21, H.
3. THE CHILD PLACEMENT AGENCY SHALL ENSURE PROPER VEHICLE, PROPERTY, AND BUSINESS INSURANCE FOR EACH SPECIALIZED GROUP FACILITIES THEY SPONSOR, AND MAINTAIN CURRENT COPIES OF SUCH AT THE LICENSED CHILD PLACEMENT AGENCY LOCATION.

7.710.48 RULES REGULATING THE CARE OF CHILDREN IN FOSTER HOMES WHEN CARE IS ALSO PROVIDED FOR ADULTS WITH DEVELOPMENTAL DISABILITIES

- A. NO AGENCY SHALL ACCEPT A CHILD FOR PLACEMENT FROM ANY SOURCE OTHER THAN THE CHILD'S PARENT(S) OR GUARDIAN(S), A COURT OF COMPETENT JURISDICTION OR A COUNTY OR TRIBAL DEPARTMENT OF SOCIAL/HUMAN SERVICES AND UPON A SPECIFIC WRITTEN AUTHORIZATION BY ONE OF THESE TO PLACE THE CHILD. SUCH WRITTEN AUTHORIZATION MUST CONTAIN NOTIFICATION THAT THE CHILD IS TO BE PLACED IN A FOSTER HOME WHERE ADULTS WITH DEVELOPMENTAL DISABILITIES ARE ALSO RECEIVING CARE
- B. THE FOSTER HOME SHALL MEET ALL REGULATIONS AS LISTED IN 7.710.33.
- C. THE CAPACITY OF THE FOSTER HOME WHEN ADULTS WITH DEVELOPMENTAL DISABILITIES ARE ALSO IN CARE SHALL NOT EXCEED A TOTAL OF FOUR PERSONS REQUIRING CARE.

1. WHEN A FOSTER CHILD TURNS EIGHTEEN AND IS ELIGIBLE FOR THE ADULT RESIDENTIAL SYSTEM THROUGH THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, THE CHILD SHALL BE CONSIDERED AN ADULT RECEIVING CARE FOR THE PURPOSE OF CAPACITY. IF THE COUNTY/STATE DEPARTMENT OF SOCIAL/HUMAN SERVICES HAS LEGAL RESPONSIBILITY FOR THE CARE AND PLACEMENT OF THE FOSTER CHILD TURNING EIGHTEEN, THE INDIVIDUAL WILL BE CONSIDERED A CHILD FOR THE PURPOSE OF CAPACITY.

2. FOR FOSTER CHILDREN/YOUTH ENROLLED IN THE CHILDREN'S HABILITATION RESIDENTIAL PROGRAM (CHRP), A MAXIMUM OF ONE CHILD IN CHRP, AND A TOTAL OF TWO OTHER PERSONS REQUIRING CARE, EITHER AN ADULT WITH DEVELOPMENTAL DISABILITIES OR A NON-CHRP CHILD IS ALLOWED.

3. ALL CHILDREN UNDER THE AGE OF EIGHTEEN RESIDING IN THE HOME COUNT IN THE TOTAL FOSTER HOME CAPACITY OF EIGHT (8) PEOPLE NEEDING CARE. ALSO REFER TO 7.708.1A.

D. WHEN A FOSTER CHILD IN THE HOME TURNS EIGHTEEN, IF SUCH CHILD IS ELIGIBLE FOR THE ADULT HOST SYSTEM, SUCH PERSON MUST COMPLETE BACKGROUND CHECKS AS LISTED AT 7.701.32 AND 7.701.33, AND A HOME STUDY ADDENDUM AS LISTED AT 7.710. 33, L, 7 MUST BE COMPLETED.

7.710.49 RULES REGULATING HOST FAMILY HOMES

CHILD PLACEMENT AGENCIES ARE AUTHORIZED TO CERTIFY HOST FAMILY HOMES TO PROVIDE SHELTER TO HOMELESS YOUTH. ALL CHILD PLACEMENT AGENCIES THAT CERTIFY HOST FAMILY HOMES MUST FOLLOW THE RULES REGULATING HOST FAMILY HOMES AS LISTED AT 7.721

7.710.5 PLACEMENT OF CHILDREN FOR ADOPTION

7.710.51 Legal Basis

- A. A CPA that places children or arranges for the placement of children for the purpose of adoption shall comply with the provisions of the Child Care Licensing Act, Sections 26-6-101 through 26-6-114, C.R.S., and the Colorado Children's Code, Sections 19-5-101 through 19-5-403, C.R.S.
- B. A CPA must be approved in writing by the State Department for the type of adoption in which it engages, either domestic and/or intercountry, prior to engaging in that type of adoption. The agency must have current written policies and qualified staff at all times if engaging in intercountry and/or domestic adoption.
- C. A CPA cannot work with a facilitator to place or arrange for the placement of a child if that facilitator is not licensed as an adoption agency in Colorado or the resident state of the birth mother or adoptive parent(s).
- D. In the case of intercountry adoptions, a child placement agency is permitted to work with an in-country coordinator who resides in the foreign country and is authorized by the foreign country to provide in-country services.
- E. ~~Hosting programs~~ FOREIGN VISITING CHILDREN'S PROGRAMS in which children who are eligible or may become eligible for adoption and who reside with Colorado families must comply with all APPLICABLE child placement agency rules and regulations. All families participating in such programs must meet all REQUIRED standards and be certified as foster parents during such time the children reside with them.

7.710.52 Adoption Definitions

“Adoption exchange” is an agency whose membership includes county departments and child placement agencies and is an organized means of sharing information among agencies about children for whom an adoptive resource is not immediately available and about potential adoptive families for whom an agency does not have a child waiting. The purpose of an exchange is to facilitate permanence as quickly as possible so that a child does not wait while an agency develops a resource.

“Administrative notice procedure” applies only to expedited relinquishments filed under Section 19-5-103.5, C.R.S., and allows the CPA counseling the birth mother to provide notice to the presumed Birth father of an anticipated expedited relinquishment prior to the filing of the relinquishment petition. The notice to the presumed birth father cannot be made more than sixty (60) days prior to the birth of the child.

“Agency adoption” means an adoptive placement in which the CPA is responsible to counsel the birth parent(s), place the child(ren), supervise the placement, and provide reports to the court as required by law. The CPA is granted custody of the child(ren) with the right to place for adoption either as legal risk placement or through relinquishment or termination of parental rights by court order and places the child(ren) for adoption with adoptive parent(s) who have a CPA approved adoptive family assessment.

An “adoption caseworker” must be qualified as a placement worker and may complete family assessments, place a child with a family, provide post placement supervision and training for adoptive parents, all under the direct supervision of a placement supervisor.

“Birth parent counseling”, here-in-after referred to as “counseling”, means the required decision making counseling that shall be provided to a birth parent(s) or legal parents prior to a decision regarding whether or not to relinquish a child(ren) as required at 7.710.57.

A “birth parent counselor” must be qualified as a placement worker and may have responsibility for relinquishment/decision making counseling with birth parent(s) dealing with an unplanned or crisis pregnancy or the relinquishment of a child, all under the direct supervision of a placement supervisor.

“Closed adoption” means an adoptive placement when the adoptive parent(s) and the birth parent(s) do not share identifying information or communicate with each other before or after the finalization of the adoption.

“Concurrent adoption” means more than one (1) adoption being processed simultaneously either through the same agency or multiple agencies.

“Convention” means the Convention on protection of children and cooperation in respect of intercountry adoption done at the Hague on May 29, 1993.

“Convention adoption” means the adoption of a child resident in a Convention country by a United States citizen or an adoption of a child resident in the United States by an individual or individuals residing in a Convention country when in connection with the adoption the child has moved or will move between the United States and the Convention country.

“Convention country” means a country that is a party to the Convention and with which the Convention is in force for the United States.

“Country of origin” means the country in which a child is a resident and from which a child is emigrating in connection with his or her adoption.

“Designated adoption” means an adoptive placement in which adoptive parent(s) have been designated by the birth parent(s) prior to either parties involvement with a CPA licensed for adoptions. The CPA is responsible for completing the birth parent(s) counseling and to ensure an adoptive family assessment is

completed for the designated parent(s). The CPA is granted temporary custody of the child for the purpose of placement.

“Dissolution” means the termination of the adoptive parent(s)’ parental rights after an adoption.

“Disrupted adoption” means the interruption of a placement for adoption during the post-placement period.

“Domestic adoptions” means collectively identified or designated adoptions, interstate adoptions, and intrastate adoptions.

“Expedited Relinquishment” means the legal process which a parent desiring to relinquish his or her child under one (1) year of age may follow to obtain an expedited order terminating his or her parent-child legal relationship without the necessity of a court hearing.

“Facilitator” means a person, partnership, corporation, association, firm, agency or institution, other than an adoption exchange, county department or child placement agency, who offers, gives, charges or receives any money or other consideration or thing of value in connection with locating or identifying for purposes of adoption any child, birth parent, expectant natural parent or prospective adoptive parent.

“Foreign national” means a child who was born outside the United States of America (U.S.A.), at the time of placement lacks U.S.A. citizenship, and is a resident outside the U.S.A.

“FOREIGN VISITING CHILDREN’S PROGRAM” MEANS A PROGRAM IN WHICH CHILDREN VISIT COLORADO FROM OTHER COUNTRIES AND MAY OR MAY NOT BE AVAILABLE FOR ADOPTION.

“Foster care adoption” means a placement in which the child(ren)’s parental rights have not been terminated at the time of the foster care placement. The placement is made as a long-term foster care placement with the intention of adoption if or when the parental rights are terminated.

“ICPC” means the Interstate Compact for the Placement of Children which is an agreement that has been enacted into law by all fifty (50) states in the United States and the District of Columbia, which controls the lawful movement of children from one state to another for the purposes of adoption. Both the originating state, where the child is born, and the receiving state, where the adoptive parents live and where the adoption of the child will take place, must approve the child’s movement in writing before the child can legally leave the originating state. This Compact regulates the interstate movement of both foster children and adoptive children. For further information or to obtain a copy of “Guide to the Interstate Compact on the Placement of Children”, contact the: American Public Human Services Association, 1133 Nineteenth Street, NW, Suite 400, Washington, DC 20036. Phone: 202-682-0100; Fax: 202-289-6555.

“Intercountry adoption” means the placement of children emigrating from their country of origin. The placement for the purpose of adoption of foreign national children with approved adoptive parents in Colorado is considered an incoming or immigrating case. The adoption may be finalized in Colorado or in the foreign country depending on the requirements of the foreign country. If the foreign country in this instance is party to the Hague Convention on Intercountry Adoption, the adoption must be in compliance with the Intercountry Adoption Act of 2000 and with federal regulations 22 CFR Parts 96, 97, and 98. U.S. children placed in a foreign country for the purpose of adoption is considered an outgoing or emigrating case. If the foreign country is party to the Hague Convention, the adoption must be in compliance with the Intercountry Adoption Act of 2000 and Federal Regulations 22 CFR Parts 96, 97, and 98.

“Interstate adoption” means a placement of a child into or from Colorado with a person(s) for the purpose of adoption. Placement shall be in conformity with Colorado Revised Statutes, including the Child Care Licensing Act, the Colorado Children’s Code and the Interstate Compact on Placement of Children. Services to the child and adoptive family shall be provided under the laws of each state.

“Intrastate adoption” means an adoptive placement of a Colorado child with a person(s) who is a resident of Colorado.

“Legal risk adoption” means an adoptive placement where parental rights have not been relinquished and/or terminated and the child(ren) is not yet legally free for adoption at the time of placement. This includes infants placed directly after birth. The child(ren) is placed in an approved adoptive home. If the adoptive family resides in Colorado, the home shall be certified as a foster home. The placement is with the intention of adoption when or if the child becomes available for adoption. The placement remains a legal risk placement until parental rights have been relinquished or terminated.

“Non-agency adoption” means a placement in which the child(ren) is placed by the birth parent(s) with person(s) unrelated to the child(ren). The placement is made with the intention of adoption. There has been no CPA participation, birth parent counseling, or adoptive family assessment completed before the placement of the child(ren). In order for the adoption to be finalized, the birth parent counseling and approved family assessment shall be completed by a CPA or county department of social services.

“Open adoption” means an adoptive placement where the adoptive parent(s) and the birth parent(s) choose to communicate with each other and share identifying information. The communication and sharing of information may occur before and/or after the finalization of the adoption. The degree of openness is determined by the parties involved.

“Relative adoption” means a placement for the purpose of adoption in which a child(ren) is placed with a person(s) related to the child(ren) as a grandparent(s), aunt, uncle, brother(s), or sister(s).

“Selected agency” means the non-public agency selected by, the State Department, pursuant to Section 19-5-205.5, C.R.S., to perform the administrative review and approval or denial functions required by the Interstate Compact on the Placement of Children (ICPC) and statutes governing foreign adoptions. Agencies selected by the State Department to provide these functions shall hereafter be referred to as “selected agencies”.

“Semi-open adoption” means an adoptive placement when the adoptive parent(s) and the birth parent(s) choose to share non-identifying information with each other either before and/or after the finalization of the adoption. The amount of information shared is determined by the parties involved. All information shared is sent to the adoption CPA.

“USCIS” means the United States CITIZENSHIP and Immigration Services.

7.710.53 Disclosure and Fee Information [Rev. eff. 6/1/12]

A. Prior to signing the adoption services contract or other specific agreement for adoptive services or payment of any fees, each agency must provide in writing the following information to any applicant(s) approaching the agency with an interest in adopting a child(ren). The information must be easily understandable to any applicant. Applicants must sign a statement affirming that they have received the following information:

1. The most current child care license for the agency; and,
2. The philosophical perspective and/or religious affiliation of the agency; and,
3. Information as to where any prospective adoptive parent may obtain:
 - a. A list of all licensed adoption agencies in the State of Colorado; and,
 - b. Information as to how to review the official licensing file for the agency; and,

- c. Information as to how to file a complaint regarding the agency with the Colorado Department of Human Services; and,
 - d. Information as to how to obtain the rules regulating child placement agencies in the State of Colorado.
- 4. For what programs the agency has been approved (foster care, domestic adoption, intercountry adoption) by the State Department including a detailed description of the services offered and the agency's role in those services; and,
- 5. A statement that parents are paying for services provided by the agency, not for children; and,
- 6. A copy of the most current annual report submitted to the State Department as found at Section 7.710.73, A; and,
- 7. A fee schedule listing all the costs of the adoption itemized by services; including incidental fees, additional expenses, and post-finalization fees if included in the cost for the adoption, as listed in Section 7.710.53, C; and,
- 8. Average time frame for the different services provided, including the family assessment and for the complete finalization of the adoption; and,
- 9. Description of required training for adoptive parents, as required in Section 7.710.55; and,
- 10. The process of sharing available information regarding the child and the birth family as provided in accordance with Colorado statute pertaining to identifying and non-identifying information; and,
- 11. Provide information about the birth parent contact preference form and the medical history statement that the birth parent can file with the State Registrar, including the ability of the birth parent to change the preference form at a later date; and,
- 12. Any policy that would result in the denial of services or would preclude placement of a child with an adoptive family; and,
- 13. The grievance/appeal process of the agency; and,
- 14. Post adoption services offered or required by the agency as found at Section 7.710.62 and the cost of such services; and,
- 15. The right to seek legal counsel to further understand Colorado adoption laws; and,
- 16. Process of record storage and maintenance in the event of closure of the agency; and,
- 17. Any service if provided or offered by the CPA is provided by another agency, entity, or individual; and,
- 18. That applicants who reside in Colorado and whose adoptions will be finalized in the State of Colorado must apply for and be certified as foster care parents until the finalization of the adoption; and,
- 19. The agency's policy on concurrent adoptions; and,

20. That only pregnancy related expenses may be paid to a birth parent and all payments made on behalf of a birth parent must be processed through the agency; and,
 21. The requirement of the agency to collect fees and submit court documents after the completion of an intercountry adoption to validate such adoption in the United States court.
- B. Prior to the provision of services, or for some items during the birth parent or legal parent counseling, each agency must provide the following information in writing to any parent(s) approaching the agency with an interest in the possible relinquishment of a child(ren) for the purpose of adoption. The written information must be easily understandable to any parents in language or manner they can understand. Disclosure items 1 through 8, below, must be provided prior to service. Disclosure items 9 through 18 may be provided to the parent(s) prior to service and/or during the parents' counseling process.
1. Information as to whether the birth or legal parent(s) is required to sign a contract or agreement with the agency.
 2. A list of birth or legal parent rights under current Colorado law including, but not limited to:
 - a. All of the legal options related to the relinquishment procedures presented in an accurate, competent, unbiased manner; and,
 - b. A fair and balanced picture of adoption presented; and,
 - c. Decision-making related to the possible relinquishment of a child in an atmosphere free from coercion and undue pressure; and,
 - d. Option, by law, to change the decision about relinquishment and to choose to parent the child. The decision can be changed at any time prior to the final order of relinquishment being signed by the court, unless otherwise limited by a court order if a court hearing is held; and,
 - e. Written grievance procedure for the agency; and,
 - f. Philosophy and/or religious affiliation of the agency; and,
 - g. Referral to helping organizations in the community if a decision is made to parent the child; and,
 - h. Termination of the relationship with the agency parent counselor at any point during the counseling relationship; and,
 - i. To seek independent counsel on any issue related to the relinquishment of a child(ren), including the right to seek independent counseling for an expedited relinquishment procedure.
 3. The following must also be provided to birth parents considering relinquishment of a newborn infant:
 - a. The right to receive a copy of any document signed by the birth parent(s) and to receive a copy of the original birth certificate; and,
 - b. The right to have all of the legal options related to a pregnancy presented in an unbiased manner; and,

- c. The right to receive, in writing, the process by which an expedited relinquishment affidavit is withdrawn, including a personal meeting with a representative of the agency and the signing of a statement of withdrawal which is witnessed and signed by an agency representative; a copy of the statement with original signatures must be provided to the birth parent(s); and,
 - d. The right to withdraw an affidavit for expedited relinquishment at any time before the affidavit is filed with the court. In the case of expedited relinquishment, the petition for relinquishment may not be filed until at least four (4) calendar days after the birth of the child.
- 4. Range of available adoptive families, to include religion, race and ethnicity.
- 5. Information as to where any parent considering relinquishing a child for adoption may obtain:
 - a. A list of all licensed adoption agencies in the State of Colorado.
 - b. Information as to how to review the official licensing file for the agency.
 - c. Information as to how to file a complaint regarding the agency with the Colorado Department of Human Services.
 - d. Information as to how to obtain the rules regulating child placement agencies in the State of Colorado.
- 6. Copy of the most current annual report submitted to the State Department as described in Section 7.710.74.
- 7. Policy regarding the payment of pregnancy related expenses and that only pregnancy related expenses may be paid to a birth parent. All payments made on behalf of a birth parent must be processed through the child placement agency.
- 8. Information about whether the birth parent(s) have the right to choose the adoptive family.
- 9. Requirement for birth parent counseling; topics covered.
- 10. Information about the different types of adoption services the agency provides.
- 11. Types of communication between birth parents and adoptive parents, including a statement that the adoption agency cannot enforce any voluntary agreements written or unwritten entered into between birth parent(s) and adoptive parent(s).
- 12. How parental rights are terminated in Colorado; legal process; mother and father, including the option of expedited relinquishment and administrative notice to the presumed birth father.
- 13. The process for identifying and serving legal, **ALLEGED**, and/or presumed birth father(s).
- 14. Any policy or requirement that would preclude the agency placing a child for adoption.
- 15. Provide information on the Birth Parent Contact Preference Form and Medical History Statement that can be filed with the State Registrar.
- 16. Process of record storage and maintenance in the event of closure of the agency.

17. The process of sharing available information regarding the child and the birth family as provided in accordance with Colorado statute, Section 19-5-301, C.R.S., pertaining to identifying and non-identifying information.
 18. The grievance and/or appeal process of the agency.
- C. The agency provides to all applicants, prior to application, a written schedule of expected itemized total fees and itemized total expenses, along with a written explanation of the conditions under which fees or expenses may be charged, waived, reduced, or refunded, and when and how the fees and expenses must be paid.
1. For intercountry adoptions, the agency must provide, in writing, a detailed listing of the following expenses:
 - a. **HOME STUDY** fee; and,
 - b. Adoption expenses in the United States; and,
 - c. The foreign country program expenses; and,
 - d. The care for the child in the foreign country expenses; and,
 - e. Translation and document expenses; and,
 - f. Contributions to humanitarian or other welfare services programs in the foreign country; and,
 - g. Post-placement and post-adoption report expenses; and,
 - h. A written explanation of when the fees may be charged, waived, reduced, or refunded; and,
 - i. To whom the fees are paid, and when must also be provided to the applicant.
 2. For intercountry adoptions, the agency may not customarily charge any additional fees and expenses beyond those disclosed in the adoption services contract and must have a written policy to this effect. In the event that unforeseen additional fees and expenses are incurred in the foreign country, the agency may charge such additional fees and expenses only when it notifies the prospective parents of such. The agency shall obtain specific written consent from the prospective parents prior to expending funds in excess of one thousand dollars (\$1,000) for which the agency will hold the adoptive parents responsible. The agency must provide written receipts to the prospective parents for fees and expenses paid directly by the agency, on behalf of the prospective parents, in the foreign country.
- D. The agency returns any funds to which the prospective adoptive parents may be entitled within sixty (60) days of the completion of the delivery of services.
- E. For intercountry adoptions, the agency must set up an escrow or other pass-through account for all monies that prospective adoptive applicants are required to pay directly to a foreign country to complete an intercountry adoption. These fees may not be deposited into any agency account or used for any purpose other than the foreign country fees. If the applicants request a refund of the monies to be paid to the foreign country, the agency must refund all monies paid by the applicants into the escrow or pass-through account, but not yet transferred to the foreign country, within thirty days of the applicant(s)' request for refund.

- F. For intercountry adoptions, the agency may only collect fees from the applicants for the actual services being rendered. Such fees may not be collected more than thirty (30) days prior to the event date of the service being initiated. All fees, scheduled payments, and anticipated completion dates of service must be in writing and provided to applicants at each time fees are paid.
- G. If the agency requires the prospective adoptive parents to sign a waiver of liability, the waiver shall be limited and specific, based on the risks that have been discussed with and explained in writing to the client in the adoption services contract or other written agreement for adoption services.

H. THE AGENCY SHALL PROVIDE TO ALL APPLICANTS FOR THE FOREIGN VISITING CHILDREN'S PROGRAM THE FOLLOWING INFORMATION:

1. THE TOTAL COST OF THE PROGRAM, INCLUDING ALL FEES FOR THE BACKGROUND CHECKS, HOME ASSESSMENT, AND CARE OF THE CHILDREN WHILE IN CARE OF THE APPLICANTS.
2. THE CHILD(REN) IN THE APPLICANT'S CARE MAY NOT BE AVAILABLE FOR ADOPTION, AND IF THE CHILD(REN) ARE AVAILABLE FOR ADOPTION, THE APPLICANTS MAY NOT BE THE FAMILY APPROVED TO ADOPT THE CHILDREN.
3. THE FOREIGN VISITING CHILDREN'S PROGRAM IS NOT AN ADOPTION PROGRAM AND IF THE APPLICANTS DESIRE TO ADOPT A CHILD, EITHER FROM THE VISITING CHILDREN'S PROGRAM, OR OTHER PROGRAM, THEY MUST APPLY AND COMPLETE THE ADOPTION PROCESS, WHICH INCLUDES A FULL HOME STUDY AND ASSESSMENT.
4. THE CHILD(REN) IN THE APPLICANT'S CARE MUST BE CARED FOR BY THE APPLICANTS AND ANY EMERGENCY CARE MUST BE APPROVED BY THE PLACEMENT SUPERVISOR.
5. THE APPLICANTS MUST BE CERTIFIED AS FOSTER PARENTS FOR THE DURATION OF THE TIME THE CHILDREN ARE IN CARE.

7.710.54 Adoption Procedure-

A. Adoptions Finalized in Colorado

For all adoptions to be finalized in Colorado in which a child is placed in Colorado with an adoptive applicant(s) residing in Colorado, the agency must:

1. Complete an assessment of each adoptive family in which a child is to be placed for adoption as detailed at Section 7.710.56.
2. Provide training to each adoptive family as detailed at Section 7.710.55.
3. Provide birth or legal parent counseling to any parent prior to a decision regarding whether or not to relinquish a child as detailed at Section 7.710.57.
4. Complete a study of the child for adoption as detailed at Section 7.710.58.
5. Provide all necessary services for the adoptive family while the family is present in the foreign country as detailed at Section 7.710.64.

6. Complete all requirements that must occur at the time of placement of a child for adoption as detailed at Section 7.710.59.
7. Provide post placement services to the adoptive family and child until a decree of adoption is granted as detailed at Section 7.710.6.
8. Receive a completed and signed State-approved foster care application from the adoptive family.
9. Submit a completed State-approved foster care certification form to the Division of Child Care prior to the child being placed in such adoptive home. A completed State-approved closure form must be submitted to the Division of Child Care upon finalization of the adoption.

B. Adoptions Finalized in a Foreign Country

For all adoptions of foreign nationals that will be finalized in the child's country of origin and jurisdiction, the agency must:

1. Complete an assessment of each adoptive family in which a child is to be placed for adoption as detailed at Section 7.710.56.
2. Provide training to each adoptive family as detailed at Section 7.710.55.
3. Complete a study of the child for adoption as detailed at Section 7.710.58.
4. Complete all requirements for United States Citizen and Immigration Services (USCIS) as detailed at Section 7.710.94.
5. Provide all necessary services related to the adoption while the family is present in the foreign country as detailed at Section 7.710.64. **SUCH SERVICES MAY BE PROVIDED BY ANOTHER LICENSED CHILD PLACEMENT AGENCY OR BY A CONTRACT STAFF MEMBER OR APPROVED ENTITY IN THE FOREIGN COUNTRY. IF THE SERVICES ARE PROVIDED BY ANOTHER LICENSED CHILD PLACEMENT AGENCY OR APPROVED ENTITY IN THE FOREIGN COUNTRY, A SIGNED AGREEMENT DETAILING THE SERVICES AND COSTS OF SUCH SERVICES MUST BE SIGNED BY BOTH THE COLORADO AGENCY AND THE OTHER AGENCY OR APPROVED ENTITY PRIOR TO THE ADOPTIVE FAMILY TRAVELING TO THE FOREIGN COUNTRY. SUCH SERVICES MUST BE DISCLOSED IN WRITING TO THE ADOPTIVE FAMILY AS LISTED AT 7.710.53, A, 17.**
6. Provide post adoption services to the adoptive family and child, if required by the foreign country, as detailed at Section 7.710.62.
7. Notify the selected agency when the family returns to Colorado with the child adopted in the foreign country.
8. Submit validation documentation to the Colorado court of jurisdiction after completion of intercountry adoption within thirty (30) days of the child arriving in Colorado.

C. United States Children Emigrating to a Foreign Country

For all adoptions in outgoing cases, the agency, if acting as the placing agency, must:

1. Be Hague accredited if the child is emigrating to a convention country.

2. Complete a child background study in compliance with Section 7.710.58 and with Federal Regulation 22 CFR Part 96 Section 96.53.
3. Ensure that all consents have been obtained in compliance with Federal Regulations 22 CFR Part 96, Section 96.53, and Colorado statutes; and meets all rules pertaining to birth parents and birth parent counseling as found in Section 7.710.57.
4. Except in the case of adoption by relatives or in cases in which the birth parents have identified specific prospective parents, make reasonable efforts to find a timely adoptive placement for the child in the U.S.
5. Take all appropriate measures to determine whether the placement will be in the best interest of the child.
6. Ensure that the home study on the prospective adoptive parent(s) is prepared in accordance with the laws of the receiving country, which includes:
 - a. Information on the prospective adoptive parent(s)' identity, eligibility, and suitability to adopt; and,
 - b. Background; and,
 - c. History; and,
 - d. Social environment; and,
 - e. Reasons for adoption; and,
 - f. Ability to undertake an intercountry adoption; and,
 - g. The characteristics of the children for whom they would be qualified to care; and,
 - h. The results of a criminal background check.

7.710.55 Training

- A. The adoptive agency shall verify and document that all adoptive applicants have completed in training provided or approved by the agency as a part of the adoption process.
 1. All adoptive applicants shall complete sixteen (16) core hours of training provided in face to face format.
 2. Reasonable effort must be made to complete all required hours of training prior to the placement of a child(ren).
 3. All training must be completed by each adoptive applicant prior to the finalization of the adoption.
 4. Applicants adopting children over twelve (12) months of age or completing an intercountry adoption must complete training topics as listed at Section 7.710.55, C.
 5. Training must be separate from and in addition to the family assessment.
 6. If an adoptive applicant(s) is completing a subsequent adoption through the same agency or has complete documented training from their previous agency, the core training need

not be repeated if documentation of the prior training is on record with the current agency.

7. All training must be documented in writing, including dates, number of hours and topics covered.

B. Core training must include all of the following topics:

1. Attachment/bonding issues.
2. Loss and grief issues, **INCLUDING INFERTILITY**, as applicable for all parties to the adoption.
3. Adoption as a life long issue as it pertains to all parties to the adoption.
4. Key concepts of child growth and development.
5. Boundary setting and discipline.
6. Parenting a child of a different cultural or racial background infancy through adulthood, if applicable.
7. Disclosure issues including the accuracy of family history information regarding the child and birth parent(s)' family, discussion with the child and sharing information with others.
8. Understanding adoption laws and procedures, including termination of parental rights and the expedited relinquishment process pursuant to Section 19-5-103.5, C.R.S., and the administrative notice for any other birth parent or possible birth parent pursuant to Section 19-5-103.7, C.R.S., if applicable.
9. On-going contact and/or communication of child and adoptive family with biological family and/or significant individuals, if applicable.
10. Possible current and/or future use of community resources, including help with parenting techniques.
11. Medical and health issues including, but not limited to, shaken baby syndrome, parental substance abuse, relevant environmental issues, and genetic risk factors.
12. Expectations of adoption and adoptive process.
13. Basic core and supervision appropriate to the age of the child.
14. **REASONABLE AND PRUDENT PARENT STANDARD.**

C. Additional Areas of Training

1. For families that will be adopting a child who is either medically fragile, over twelve (12) months of age or any intercountry adoption, four (4) additional hours from the following topics must be completed as applicable and appropriate for the age(s) of the child(ren) being adopted for a total of twenty (20) hours. These four (4) hours of training may be approved in formats other than face-to-face training at the agency's discretion.
 - a. Parenting a child that has been abused or neglected.
 - b. Parenting the physically, mentally, developmentally or emotionally delayed child.

- c. The impact of frequent moves and multiple caregivers on the development of a child.
- 2. For families that are just completing an intercountry adoption, an additional four (4) hours of training on all topic areas listed below must be completed as applicable for a total of twenty-four (24) hours. These four (4) hours of training may be provided in formats other than face-to-face at the discretion of the agency and must be completed prior to travel.
 - a. U.S. immigration requirements and the laws and procedures of the foreign country, including reporting requirements such as any post-placement or post-adoption reports required by the expected country of origin.
 - b. Cultural heritage of the child, including available community resources.
 - c. Information on the long term implications for a family that has become multicultural through intercountry adoption, including:
 - 1) The child's history and cultural, racial, religious, ethnic and linguistic background; and,
 - 2) The known health risks in the specific region or country where the child resides. Any general characteristics and needs of children awaiting adoption and the in-country conditions that affect children from the expected country of origin.
 - d. Any other medical, social and other data known about the particular child.
 - e. The impact of a child leaving familiar surroundings as appropriate to the expected age of child.
 - f. The impact of frequent moves and multiple caregivers on the development of a child and data on institutionalized children and the impact of institutionalization on children, including the effect on children depending on the length of time spent in an institution and of the type of care provided in the expected country of origin.

D. APPLICANTS PARTICIPATING IN THE FOREIGN CHILDREN'S VISITING PROGRAM MUST

COMPLETE TRAINING IN THE FOLLOWING AREAS PRIOR TO A CHILD BEING CARED FOR IN THE HOME:

1. CPR AND FIRST AID TRAINING FOR ALL ADULTS APPLICANTS IN THE HOME.

2. MANDATORY REPORTER TRAINING.

3. ANY KNOWN HEALTH RISKS IN THE SPECIFIC REGION OR COUNTRY WHERE THE CHILD RESIDES.

4. THE CHILD'S HISTORY, CULTURAL, RACIAL, RELIGIOUS, ETHNIC AND LINGUISTIC BACKGROUND.

7.710.56 Assessment of the Adoptive Family and Report [Rev. eff. 6/1/12]

- A. Any individual, couple or family who desires to be considered to have a child(ren) placed for the purpose of adoption or second parent adoption must participate in an assessment regarding his/her suitability, appropriateness, and readiness for an adoptive placement.
- B. Any individual that is planning a second parent adoption must notify the agency and include the individual involved with the second parent adoption to participate in the home study, if the home study will be used in the next six months for a second parent adoption.
- C. An agency must complete the assessment without regard to race, COLOR, RELIGIONethnicity, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, or national origin OF THE PERSON OR THE CHILD INVOLVED IN THE ADOPTION, except as provided in 7.710.12, C, and 19-5-206, C.R.S.
- D. The agency must include in the assessment all members of the household.
- E. The agency shall not conduct an assessment for any paid or volunteer member of its staff or any member of the board of directors for the agency.
- F. As part of the assessment, the agency must conduct a minimum of three face-to-face joint interviews with a couple, one face-to-face individual interview with each adult member in the household, and a face-to-face age/developmentally appropriate interview with all children residing in the home. For single applicants a minimum of three face-to-face interviews will be required.
- G. The agency must conduct at least one interview in the applicant's home.
- H. Interviews must be spread out over a period of not less than seven (7) consecutive days. A FAMILY ASSESSMENT SHALL BE COMPLETED USING THE STRUCTURED ANALYSIS FAMILY EVALUATION (SAFE) HOME STUDY FORMAT. THE SAFE HOME STUDY MUST BE COMPLETED BY USING ALL REQUIRED TOOLS AND PROCESSES REQUIRED BY THE SAFE FORMAT. PERSONS COMPLETING THE HOME STUDIES MUST BE QUALIFIED, AT A MINIMUM, AS A PLACEMENT WORKER, WITH A BACHELOR'S DEGREE IN THE SOCIAL OR BEHAVIORAL SCIENCES, AND MUST COMPLETE THE DEPARTMENT-REQUIRED TRAINING PRIOR TO PERFORMING THE HOME STUDIES. PERSONS APPROVING THE HOME STUDIES MUST BE QUALIFIED AS A PLACEMENT SUPERVISOR AND MUST COMPLY WITH THE DEPARTMENT-REQUIRED TRAINING PRIOR TO REVIEWING AND APPROVING THE HOME STUDIES.
 - 1. Joint interviews OF THE ADOPTIVE APPLICANTS must be held on separate days.
 - 2. The SAFE individual interviews with a couple to discuss Questionnaire Two (2) must be completed on the same date. THE SECOND INTERVIEW, AND ANY SUBSEQUENT INTERVIEWS, OF THE ADULTS SHALL NOT BE PERFORMED UNTIL AT LEAST 3 CALENDAR DAYS AFTER THE PREVIOUS INTERVIEW.
- I. The assessment for a domestic adoption shall be updated annually and the assessment for an international adoption shall be updated as required by UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES regulations in the form of an addendum. IF THE ASSESSMENT IS NOT REQUIRED TO BE UPDATED BY USCIS, THE INTERCOUNTRY ASSESSMENT SHALL BE UPDATED EVERY 24 MONTHS FROM THE TIME OF INITIAL APPROVAL. An addendum-UPDATE shall include at least one home visit and a review of the current medical status. During each subsequent addendum applicants shall be questioned regarding any child abuse investigations during the previous year. The update shall be completed using the prescribed format.

J. In each addendum the agency must document any changes in residence, marital status, criminal history, finances, or addition or deletion of family members. IF THERE ARE CHANGES IN ADULTS OR CHILDREN TO THE HOUSEHOLD, CHANGES IN THE RESIDENCE, MARITAL OR CIVIL UNION STATUS, CRIMINAL HISTORY, FINANCES, OR THE AGE, SEX, AND SPECIAL CHARACTERISTICS OF CHILD(REN) WHICH WILL BE CONSIDERED FOR PLACEMENT WITH THE ADOPTIVE FAMILY, A RE-EVALUATION OF THE FAMILY MUST BE COMPLETED AND THE FAMILY ASSESSMENT REVISED IN THE FORM OF AN ADDENDUM. SUCH ADDENDUMS SHALL BE SIGNED BY THE APPLICANTS OR A NOTICE PROVIDED TO THE APPLICANTS TO INFORM THEM OF THEIR OPTION TO REVIEW SUCH ADDENDUM

K. As a part of the family assessment the agency must obtain:

1. A completed, dated and signed formal application for adoption, including a signed fee agreement and a disclosure agreement as outlined at Section 7.710.53, A.
 2. A current photograph of all members of the household.
 3. A copy of a current marriage license OR CIVIL UNION LICENSE, if applicable.
 4. A copy of a divorce decree(s) OR CIVIL UNION DISSOLUTION, if applicable.
 5. The results of a current fingerprint-based criminal history record check through BOTH the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI) on all adult members of the household, PROCESSED THROUGH THE CURRENT COLORADO CHILD PLACEMENT AGENCY LICENSE NUMBER. THE RESULTS OF THE NATIONAL SEX OFFENDER REGISTRY CHECK ON ALL ADULTS IN THE HOUSEHOLD. The results of the child abuse or neglect records checks from the State Department and appropriate entity in each state in which the adult(s) in the household resided in the five years preceding the date of the application to adopt.
 - a. ~~For all adoptions where the home is required to be certified as a foster home prior to the finalization of the adoption, the results of a current fingerprint-based criminal history check for all adults eighteen (18) years of age and older through the FBI~~
 - b. ~~For intercountry adoptions where the adoption will be finalized in the foreign country, a copy of the results of a current fingerprint-based criminal history records check through the Colorado Bureau of Investigation (CBI) shall be processed through the current Colorado placing agency and the USCIS clearance.~~
- A. If adoptive applicants transfer from one Colorado agency to another, the new agency must process fingerprints through the applicant's license number prior to any certification or placement of children into a home.
- B. The agency shall report to the court any case in which a fingerprint-based criminal history record check reveals that the prospective adoptive parent was convicted at any time of a felony or misdemeanor in one of the following areas:
- 1) Child abuse or neglect; or,
 - 2) Spousal abuse; or,
 - 3) Any crime against a child, including child pornography; or,

- 4) Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.; or,
 - 5) Violation of a protective order, as described in Section 18-6-803.5, C.R.S.;
 - 6) Any crime involving violence, rape, sexual assault, or homicide;
 - 7) Any felony physical assault or battery conviction or felony drug-related conviction within, at a minimum, the past five years.
- C. No person convicted of a felony offense specified in items Section 7.710.56, K, 5, d, a shall be allowed to adopt a child, except a person may be allowed to adopt a child if:
- 1) The applicant has had no further arrests or convictions subsequent to the original conviction; and,
 - 2) The applicant has not been convicted of a pattern of misdemeanors, as defined by rule of the State Board of Human Services at Section 7.701.33, D, 7, f, 1-3; and,
 - 3) The court enters a finding consistent with Section 19-5-210(2)(d), C.R.S., that the adoption is in the best interest of the child.
6. A minimum of three (3) personal references from individuals, unrelated to the applicant(s), that have knowledge of the applicant(s) character and suitability to parent a child. The references must be obtained in writing using the prescribed SAFE format instrument for the type of adoption the applicant has requested.
7. Verification of current health insurance coverage or a statement of intent that health insurance coverage will be obtained for the child upon placement.
8. A dated physician's statement current within one year from the time of application for adoption for each member of the household, certifying that the applicant(s) and all members of the household are free from communicable disease or a physical condition that would impair his/her/their ability to care for children. Subsequent medical statements shall be required upon the written direction of the physician or within one year of the last dated and signed statement if not specified by a physician.
- No physical examination shall be required of any person who in good faith relies upon spiritual means or prayer in the free exercise of religion to prevent or cure disease unless there is a reason to believe such person's physical condition is such that he/she would be unable to care for a child.
- L. A family assessment using the Structured Analysis Family Evaluation (SAFE) instrument(s) shall be completed using the current and appropriate SAFE format for the type of adoption for which the applicant(s) has requested.
- M. If an applicant desires to be considered for another adoption with the same agency:
1. If the period of time since the last family assessment is within three (3) years of the **ORIGINAL** approval **DATE** of the original family assessment, a subsequent update using the SAFE instrument shall be completed. The assessment update shall include at least one joint interview, coupled with one documented individual interview with each adult

member of the household, and an age/developmentally appropriate interview with all children. At least one interview with the family must be conducted in the home. The individual interviews with the adoptive applicants must be completed on the same date.

2. If the period of time since the approval of the original family assessment is longer than three (3) years, a full and complete family assessment using the SAFE instrument shall be completed.
- N. The agency must update the previously completed family assessment in order to address significant changes in the time period subsequent to the original family assessment, including, but not limited to:
1. Criminal history charges or convictions; and,
 2. Child abuse investigations; and,
 3. Marital **OR CIVIL UNION** status; and,
 4. Changes in family structure; and,
 5. Employment/financial resources; and,
 6. Health changes/status; and,
 7. Place of residence; and,
 8. Other significant changes within the family.
- O. If an applicant desires to be considered for an adoption through a different licensed child placement agency, and the full SAFE assessment **IS received directly from the originating agency and ALONG WITH aN current update WITH AN APPROVAL DATE is- OF** less than one year old, the new agency may either complete:
1. An update of the original family assessment using the SAFE instrument that addresses all categories as listed in Section **7.710.33, L, 3 56,K; or,**
 2. A full SAFE assessment. If the assessment **OR UPDATE APPROVAL DATE** is more than one year old, a complete assessment using the SAFE instrument must be completed.
- P. Following the completion of the family assessment, a narrative report must be completed according to the SAFE instrument and training guidelines.
- Q. For families applying for an intercountry adoption, the agency must complete the adoptive family assessment using the international SAFE template and must:
1. Maintain on file at the agency a written copy of the home study requirements for each foreign country for which a child placement agency approves a family.
 2. Ensure that the family assessment submitted to the foreign country:
 - a. Is a reasonable, true, and responsible assessment of the family concerning the requirements of the foreign country; and,
 - b. Is provided to the foreign country, including any and all information obtained during the assessment process; and,

- c. Does not knowingly provide false or inaccurate information or knowingly withhold or exclude information from the foreign country, which is grounds for suspension of the child placement agency's license.
- R. At the conclusion of the family assessment process:
 1. The family shall be offered the opportunity to review the assessment **WITH AN AGENCY STAFF MEMBER** and submit corrections to the agency of any inaccuracies to the data contained in the assessment.
 2. ~~The agency may provide a copy of the final draft version of the home assessment to the family without the signature of the agency, and marked or water-marked draft on each page, so that the family may review the home study.~~
 32. The applicant(S) must either:
 - a. Sign a statement that they have been given the opportunity to read and review the final draft of the family assessment, excluding the confidential references, or
 - b. Sign the SAFE home study assessment section indicating they have read and reviewed the final draft of the home study.
- S. If at any time ~~during the adoption process~~ **AFTER THE RECEIPT OF A FORMAL APPLICATION** the agency becomes aware that it will not be able to continue to provide services or to recommend the applicant(s) for approval for an adoptive placement, or the adoptive family withdraws from the service provided by the agency, the agency must:
 1. Notify the applicant(s) in writing within five business days with the reason(s) for the discontinuation of services or confirmation of the family's request for withdrawal from services.
 - a. **IF THE AGENCY IS DISCONTINUING THE SERVICES, At the time of notification, applicants THE AGENCY shall be advised, in writing, INCLUDE WITH THE NOTIFICATION LETTER A COPY** of the agency's process for filing a grievance with the adoption process or assessment as required at Section 7.710.71; and,
 - b. That the agency shall submit a copy of the denial or withdrawal confirmation letter to the Division of **Child Care WELFARE** at the same time it is submitted to the applicants.
 2. In the case of an intercountry adoption with an approved I600A or I800A, the agency shall notify USCIS, the selected agency and the State Department.
- T. The approved SAFE family-assessment, signed ~~and notarized~~ by the placement **supervisor AND NOTARIZED**, and supporting documentation is a part of the official adoption record of the agency and shall be released upon the written authorization by the applicant(s):
 1. To another licensed adoption agency, a Colorado county department of social/human services, or ~~any corporation, partnership, association, firm, agency, institution, or person approved to operate in another state;~~ **AN ENTITY LICENSED IN OTHER STATES TO PROVIDE ADOPTIVE PLACEMENT SERVICES** or,
 2. When required by a foreign country to complete an intercountry adoption, to the adoptive

applicant(s), to accompany them when traveling to the foreign country, if each page of the family assessment contains the agency raised seal and the pages are numbered according to the full number of pages in the document; and,

3. Shall be transmitted within thirty (30) calendar days of the written request or of when the original agency receives full payment of all fees for services rendered by the agency.

U. If agency policy allows for prospective adoptive parent(s) to apply for concurrent adoptions within their agency, or through both their agency and another Colorado licensed CPA or county department of social/human services, the following applies:

1. At least one of the concurrent adoptions does not require the adoptive applicant(s) to be certified for foster care; and,
2. If two CPAs are providing services to the adoptive applicant(s), the applicant(s) shall sign a release of information for both CPAs prior to the agencies exchanging any information; and,
3. The family assessment completed for the initial adoption must be updated to address the reason(s) for the concurrent adoption; and,
4. All agencies involved are aware of the concurrent adoptions; and,
5. The assessment or update(s) shall be completed in the correct format for the type of concurrent adoption being pursued; and,
6. The assessment or update(s) completed for the second adoption shall:
 - a. Address the reason for the concurrent adoption; and,
 - b. The type of child the adoptive applicant(s) are approved for in the second adoption; and,
 - c. If more than one agency is involved, that both agencies are aware of the concurrent adoptions; and,
 - d. That the original assessment/update(s) may be shared with the second agency, with written approval from the adoptive applicants.
7. Updates to both assessments must be completed within one year of the original assessment if no adoptive placement has occurred.
8. Both assessments must be submitted separately for ICPC or USCIS approval, if applicable.
9. If one agency places a child(ren) for adoption, either foreign or domestic, the second agency shall:
 - a. Wait a minimum of six (6) months before placing another child(ren) into the home; and,
 - b. Complete a home study update to assess the appropriateness of placing an additional child(ren) into the home.
10. The agency placing the child(ren) into the home shall also complete a home study update to assess the ability of the family to adopt an additional child(ren).

11. The adoptive applicant(s) must sign a statement for each potential adoption agreeing to notify the other agency of when a placement of a child(ren) occurs.

V. THE AGENCY SHALL COMPLETE A HOME AND SAFETY CHECK ON ALL APPLICANTS FOR THE FOREIGN CHILDREN'S VISITING PROGRAM, WHICH SHALL INCLUDE, AT A MINIMUM:

1. AN INTERVIEW WITH ALL ADULTS AND CHILDREN WHO WILL RESIDE IN THE HOME DURING THE TIME THE CHILD IS IN CARE.
2. BACKGROUND CHECKS AS LISTED AT 7.710.56, K, 5.
3. A REVIEW OF THE HOUSE AND GROUNDS OF THE PROPERTY TO ENSURE THERE ARE NO SAFETY HAZARDS.
4. A DETERMINATION THAT ALL WEAPONS, INCLUDING GUNS, ARE STORED SEPARATELY FROM AMMUNITION. BOTH THE WEAPONS AND AMMUNITION MUST BE LOCKED AND INACCESSIBLE AT ALL TIMES THE CHILDREN ARE IN CARE.
5. ALL MEDICATIONS MUST BE STORED IN AREAS THAT ARE INACCESSIBLE TO CHILDREN.

7.710.57 Birth Parent Counseling and Report

- A. Any person who plans to petition the court for relinquishment of his/her child must obtain counseling about the relinquishment from a licensed Colorado child placement agency or a Colorado county department of social/human services. A court may refer a petitioner to a licensed child placement agency for counseling.
- B. An agency must provide counseling regarding possible relinquishment to birth parent(s) residing in Colorado in face to face interviews. In providing counseling services to an expectant parent(s), the agency must provide counseling prior to the birth of a child(ren) and following the birth of the child(ren).
- C. An agency must provide counseling to birth or legal parents without regard to age, race, color, national origin, religion, sex, or disability of either birth parent.
- D. An agency shall ensure that only pregnancy related expenses are paid on behalf of birth parent(s) by the CPA, the prospective adoptive parents, or agent acting on behalf of the prospective adoptive parents. All expenses paid on behalf of birth parents shall be processed through the

agency. An agency cannot require birth parent(s) to repay pregnancy related or cradle care expenses except in the case of criminal fraud.

- E. The agency must conduct a comprehensive and diligent search for the legal father and/or the presumed birth father, or the birth mother if applicable. The agency must take seriously and promptly investigate any claims of paternity prior to the final orders of relinquishment or termination. Efforts to locate the birth father or birth mother must be documented.
- F. The agency must include in the counseling the legal, alleged and/or presumed birth father(s) if he can be located and is willing and interested in participating in the counseling.
- G. At the beginning of the counseling, the agency must ascertain if the birth parent(s) is receiving counseling from any other agency in Colorado.
- H. At the beginning of the counseling, the agency must provide, in writing, to the birth parent(s) a list of birth parents rights as found at Section 7.710.53, B.
- I. The content of the counseling must include at least the following:
 - 1. Discussion of the birth parent(s) motivation to consider relinquishment of the child(ren).
 - 2. Discussion as to whether the birth parent(s) have been pressured or coerced to relinquish the child.
 - 3. Discussion as to whether the birth parent(s) have been promised or received money, goods, or services or anything of value to motivate the relinquishment of the child(ren).
 - 4. Discussion of alternatives to relinquishment and the resources available in the community if the birth parent(s) choose to parent the child(ren).
 - 5. Discussion of the permanency of the decision to relinquish a child(ren).
 - 6. Discussion of life long loss and grief issues that include, but are not limited to, helping the birth parent(s) identify and understand the present emotional impact of the relinquishment decision and gain an understanding of possible future grief-related emotions and behaviors.
 - 7. Discussion of the life changing effect of pregnancy and birth of a child.
 - 8. Discussion of the birth parent(s) and birth families social developmental history and medical history, including the gathering of information regarding previous losses and life stability.
 - 9. An assessment of the birth parent(s) ability to understand the consequences of the relinquishment decision and her/his ability to intellectually and emotionally understand the options.
 - 10. Discussion regarding the identification of the presumed birth father(s), the serious ramifications of failing to provide known information and the possible impact to the relinquishment and/or finalization of the adoption.
 - 11. Discussion of whether the birth mother or the presumed birth father is a member of or are eligible to be a member of a Native American Tribe and any applicable ramifications of such information.

12. Discussion that the birth mother may only be reimbursed by the agency for verified and documented pregnancy related expenses.
 13. Discussion of the legal relinquishment options available, including being present at the termination or relinquishment hearing or the expedited relinquishment procedure of filing an affidavit with the court without the possible necessity of a court hearing.
 14. Discussion of the time frame for withdrawal of the expedited relinquishment petition and affidavit, including that the petition for relinquishment may not be filed with the court until at least four calendar days after the birth of the child.
 15. Discussion of the administrative procedure that the birth parent(s) information will be released to a presumed birth father(s) or published in an official publication of the last known address of the presumed birth father(s).
 16. Discussion that the filing of the administrative procedure notice to the presumed birth father(s) does not obligate the birth mother to file a petition for relinquishment.
 17. Discussion of the right of the birth parent to complete the contact preference form and the right to change the form at any time.
 18. Discussion of the right of the birth parent to complete a medical history statement form to be filed with the State Registrar and the right to update this information every three years.
- J. The agency must submit an affidavit that includes a thorough written report of the counseling, directly to the court. The report must contain at least the following information:
1. Identifying information of the birth parent(s) including the legal and/or the alleged or presumed birth father(s), which shall include at least full name, address, and birth date of parent(s).
 2. The name, address and qualifications, including the level of education and the number of years of adoption experience, of the individual that provided the counseling.
 3. Confirmation that venue is appropriate.
 4. The dates and hours on each date that significant face to face counseling occurred, excluding labor and delivery. The agency must document the number of counseling hours provided pre and post delivery.
 5. The total number of hours of counseling. If under extenuating circumstances some counseling was done in a manner other than face to face, the agency must specify how the other counseling was provided and the number of hours of the other counseling.
 6. An individualized narrative description of the specific content of the counseling covering required topic areas listed at Section 7.710.57, I, that were discussed during the counseling.
 7. If the birth parent(s) choose the expedited relinquishment procedure, the counseling report and affidavit must include a statement that all legal options for relinquishment were presented including both the benefits and the detriments of attending the court relinquishment hearing or filing the expedited relinquishment petition with the court, including the time frame for withdrawal of the petition and affidavit if the birth parent(s) changes his/her mind.

8. Summary of social and medical history of the birth parent(s) and the reason for relinquishment.
9. Description of and documentation to support the diligent efforts of the agency to locate the alleged, legal, and/or presumed birth father or birth mother and the cooperation or lack of cooperation of that parent, including the results of the anticipated notice procedure to the presumed birth father(s) pursuant to 19-5-103.7(8), C.R.S.
10. The results of contact and counseling with the alleged, legal, and/or presumed father(s).
11. Whether the Indian Child Welfare Act as stated in Section 7.309 applies to the results of the agency's investigation, including the documentation of efforts made to locate or contact the tribe and the tribe's response.
12. An itemized account of all expenses, including financial and material aid, the agency paid to the birth parent(s); the agency must also report any financial or material aid if they became aware it was paid to the birth parent(s) by another individual. Documentation must include justification as to how each expense is pregnancy related.
13. The specific recommendation as to whether the relinquishment and/or termination should be granted by the court.

7.710.58 The Child Available for Adoption [Rev. eff. 5/1/10]

Available information shall be obtained on each child for adoption which shall include, but need not be limited to:

- A. For domestic adoptions and outgoing adoptions, a report of a physical examination performed within the six months prior to adoptive placement, documenting the current physical condition of the child.
- B. A history of the child including as much of the following information as can be obtained:
 1. Physical appearance
 2. Emotional, behavioral, and cognitive history
 3. Race or ethnic origin
 4. Religion
 5. Education
 6. Interest/hobbies/talents
 7. Developmental history
 8. Region of origin
 9. Personal qualities
 10. Placement history
 11. Any previous written assessments
 12. Health/medical history

- C. Statement documenting the chronological history of a child's family background in as much detail as available, including verification of the child's birth date and place and reasons for relinquishment or termination of the parent child legal relationships, as listed on the petition of relinquishment or international equivalent and signed by the birth or legal parent, including a personal description written by the birth parent(s), if available.
- D. The agency shall provide to the adoptive applicant(s) all non-identifying information that has been obtained by the agency or provided to the agency regarding the child or child's birth family.
- E. A social history of the child's birth family including birth parents, extended family and siblings as applicable, including as much of the following information as can be obtained:
 - 1. Physical appearance
 - 2. Health/medical history
 - 3. Race or ethnic origin
 - 4. Religion
 - 5. Education
 - 6. Occupation
 - 7. Hobbies/interests/talents
 - 8. Mental health
 - 9. Substance use/abuse
 - 10. Personal qualities

7.710.59 Placement [Rev. eff. 5/1/10]

- A. The assessment of the adoptive applicant(s), as required at Section 7.710.56, K, must be completed prior to placement.
- B. As permitted under Colorado law, prior to placement as much information as possible shall be obtained and disclosed in writing to the adoptive parent regarding the child(ren) as required at Section 7.710.58, B.
- C. An effort shall be made to place siblings with the same adoptive applicant(s). If the county department locates an appropriate, capable, willing, and available joint placement for all of the children in the sibling group, there should be a rebuttable presumption that placement of the entire sibling group in the joint placement is in the best interests of the child(ren). Such presumption may be rebutted by the county by a preponderance of evidence that placement of the entire sibling group in the joint placement is not in the best interest of a child or the children. If this cannot, or should not, be done in the best interests of the children involved, the record shall contain the reasons and supporting evidence for such separate placements.
- D. The agency shall not place a child in an adoptive home that would be detrimental to the child's well-being.
- E. The agency shall immediately inform the adoptive applicant(s) in writing of the relinquishing parent's decision to discontinue the adoption plan and the plan for returning the child to the birth or legal parent.

- F. A written contract between the placement agency and the adoptive applicant(s) shall be executed at the time of placement. The contract must include an agreement that the adoptive applicant(s) will:
1. File an adoption petition in accordance with Colorado law.
 2. Participate in supervision by the placement agency of the child(ren) in the adoptive home until such time as a decree of adoption becomes final.
 3. Agree to allow the placement agency to complete and submit a report to the court regarding the findings of the post-placement visits.
 4. Prior to finalization, the adoptive parent(s) must obtain permission of the placement agency or birth parent, as appropriate, prior to removing the child from the state.
 5. Agree that the child may be removed from the adoptive placement at the discretion of either the agency or the adoptive parent(s) with good cause before the finalization of the adoption.

7.710.6 RESPONSIBILITY OF THE AGENCY AFTER PLACEMENT [Rev. eff. 5/1/10]

- A. The placement agency having legal custody is responsible for the welfare of the child until a decree of adoption is granted and shall:
1. Assume financial and planning responsibility for the child in the event that a child's adoptive placement is disrupted.
 2. Assume financial and planning responsibility for the child where a court refuses to grant a decree of adoption.
 3. Maintain a copy of the final decree of adoption from the court in the agency file on each child.
- B. Placements shall be supervised from the time a child(ren) is placed until court finalization to ensure:
1. The physical and emotional well-being of the child(ren); and,
 2. Successful attachment between the child and parents; and,
 3. Positive adjustment of all family members; and,
 4. Adoption related issues are resolved as necessary.
- C. For adoptions to be finalized in Colorado the agency must provide post placement services until court finalization, and must provide at least a six (6) month period of post placement services between the time of placement and the finalization of the adoption and shall maintain at least monthly contact with the adoptive family and child(ren) until court finalization of the adoption. The supervision shall include:
1. For children of less than one (1) year of age at time of placement, no less than three (3) face-to-face supervisory visits, including at least two (2) visits to the adoptive home, one visit to the adoptive home must be within the first two weeks after placement. Visits in the adoptive home should include all adoptive family members.

2. For children of one (1) year of age or older at time of placement, at least one (1) visit per month with no less than half (1/2) of the visits as face-to-face visits in the adoptive home. The first (1st) visit must be within two (2) weeks after placement of the child(ren). Visits in the adoptive home should include all adoptive family members.
- D. During the period of supervision the placement agency shall maintain records that include:
1. Legible, well organized case/contact notes of all contacts. These must be placed in the adoptive applicant's case file in a timely manner and must be available for review by the State Department.
 2. Two (2) formal post placement reports shall be completed for the court, one (1) at three (3) months after placement and the second (2nd) at the time of finalization, or more frequently if required by the court, and must include information regarding:
 - a. The physical health and emotional well-being of the child.
 - b. Adjustments of the family and child to the adoption.
 - c. Financial changes.
 - d. Changes in family composition.
 - e. Other adoption issues that have arisen.
 - f. Recommendation on the continued placement of the child.
 - g. Recommendation on the finalization of the adoption.
- E. The agency may obtain a progress report, if appropriate or as necessary, from a school official or child care provider for each adoptive child that is attending child care or school.
- F. The placement supervisor of the Colorado CPA (Child Placement Agency) shall be responsible for removing the child from the home, at the request of the adoptive family, or in accordance with state law, if the placement is not in the best interests of the child.

7.710.61 Finalization [Rev. eff. 5/1/10]

- A. The agency that has custody of the child(ren) must provide written consent to the court for the adoption if it is in the best interest of the child.
- B. A certified copy of the final decree must be placed in the adoptive applicant's file at the placement agency.
- C. Send written notification of the final decree of adoption to the court in which relinquishment took place. Such notification shall not disclose the name or address of the adopting parents.

7.710.62 Post Adoption [Rev. eff. 5/1/10]

- A. If the agency does not provide post adoption services, the agency must provide resource and referral information regarding post adoption services available to the birth parent(s), adoptive family, and child, if appropriate.
- B. Post adoption services may include, but not be limited to:
 1. Consultation.

2. On-going support and education.
 3. Resources for counseling or medical needs.
 4. Search or reunification resources.
 5. Networking with other adoptive families.
 6. Adoption education and support groups.
 7. Providing to the adoptive family additional social and/or medical background information obtained after placement that could significantly impact the child.
- C. For intercountry adoptions, the agency must provide post adoption services including, but not limited to, completion of written reports on the adoptive family and child if required by the foreign country.

7.710.63 Interstate Adoptions [Rev. eff. 5/1/10]

- A. An agency may participate in an Interstate adoption under at least one (1) of the following conditions:
1. The adoptive placement is arranged and carried out by a child placement agency licensed by the state of residence of the child in accordance with Section 7.710.1, A, 1.
 2. The adoptive services are performed pursuant to an order of the court of jurisdiction of the child.
 3. The adoptive services for public adoptions are performed at the request of the State Department through the ICPC of children located at the State Department.
 4. The adoptive services for non-public adoptions are performed at the request of non-public agencies through the ICPC at the non-public agency selected and monitored by the State Department.
- B. An agency which participates in an interstate adoption shall perform at least the following:
1. Send all studies or reports for public adoptions through the ICPC at the State Department unless otherwise authorized.
 2. Send all studies or reports for non-public adoptions through the ICPC at the non-public agency selected and monitored by the State Department (see Interstate Non-Public Adoptions, Section 7.710.93).
 3. Comply with all rules and laws of the Interstate Compact on Placement of Children, as found at Section 24-60-1801, C.R.S. et seq., and Section 7.307 of the Program Area 7 rules (12 CCR 2509-4).
- C. Any agency which participates in an interstate adoption must have direct knowledge of and comply with all applicable laws and procedures of the other state in which they are working at all times.

7.710.64 Intercountry Adoptions [~~Rev. eff. 5/1/10~~]

- A. An agency that wants to provide intercountry adoption services must apply for, and be approved by the State Department, to provide intercountry adoptions prior to initiating such service with adoptive applicants.
- B. Agencies approved for intercountry adoptions must have a current, dated, written policy detailing:
 - 1. What services will be provided to or coordinated for the adoptive family while in the foreign country.
 - 2. Whether the adoptive family will owe additional fees to be paid in country for services.
 - 3. Whether the services will be provided or coordinated by the agency or by another United States licensed placement agency pursuant to an interagency contract.
- C. For each foreign country, agencies approved for intercountry adoptions must either:
 - 1. Have direct knowledge of and be able to comply with all applicable laws and procedures of the foreign national child's country of origin, and be able to provide services listed in Section 7.710.54, B; or,
 - 2. Have an interagency contract in writing with another United States licensed placement agency that:
 - a. States that the other agency is licensed as a placement agency in accordance with the laws of the state of their principle place of business, and attaches a copy of the license.
 - b. States that the other agency has direct knowledge of and is able to comply with all applicable laws and/or procedures of the child's country of origin.
 - c. States that the other agency is authorized to conduct adoptions in the foreign country and, if applicable, attaches a copy of any license or accreditation issued by the foreign country.
 - d. Lists in detail what services will be provided or coordinated by the other agency to the adoptive families while in the foreign country.
 - e. Lists what projected fees and expenses the adoptive family will owe for services provided to them while in the foreign country.
- D. For each country in which the agency is directly providing or coordinating all adoption services, the agency shall keep on file:
 - 1. An English language translation of any agreements entered into with the foreign government.
 - 2. An English language translation of any document that evidences approval, accreditation or certification by the foreign government to conduct adoptions, if required by the laws of the foreign country.
- E. For each country in which the agency is providing or coordinating services through an interagency agreement with a foreign provider, the agency shall keep on file the original signed interagency agreement and applicable attachments. The interagency agreement must include:

1. If the foreign provider is providing adoption services, it states that the foreign provider is authorized to provide adoption services in the foreign country, and, if applicable, attaches a copy of documents to verify authorization.
 2. List in detail what services will be provided or coordinated by the foreign provider.
 3. List what projected fees and expenses the adoptive family will owe for services provided to them by the foreign provider.
- F. Each agency that provides intercountry adoption services must have a separate pass-through or escrow account for which required foreign country fees paid by parents are maintained and available for refund if fees are not paid in the foreign country on behalf of the adoptive parents. Foreign country fees may not be co-mingled or otherwise used by the agency for any purpose other than direct payment to the foreign entities on behalf of the adoptive parents.
- G. Agencies providing adoption services for intercountry adoptions in Hague Convention countries, in either incoming or outgoing cases, must meet the federal regulations pertaining to intercountry adoptions with Hague countries.

7.710.7 GRIEVANCE PROCESS, CONFIDENTIALITY, RECORDS AND REPORTS

7.710.71 Grievance Process [Rev. eff. 5/1/10]

- A. Each agency must have a written grievance and appeal process for adoptive applicants and for birth parents that provides adequate due process. This information must be provided as required in the Disclosure and Fee Information found at Section 7.710.53, A-B.
- B. Reports of grievances filed and the outcome must be available to the State Department for review upon request.
- C. The agency must follow the grievance procedure without alteration, interference, or unreasonable delay.
- D. If a grievance is filed with the agency, the grievance shall be recorded in the adoptive family or birth parent file with the investigation findings and resulting action taken by the agency.

7.710.72 Confidentiality and Disposition of Adoptive Records [Rev. eff. 5/1/10]

- A. All records required by the foregoing sections shall be treated as confidential and shall be protected from unauthorized examination. They shall be immediately available to the staff of the State Department, and for non-public adoptions, they shall be available to the appropriate staff of the selected non-public agency upon request.
- B. When a child is legally free for adoption, legal documents and records must be maintained in accordance with Title 19, Article 5, C.R.S., "Relinquishment and Adoption".
- C. The records and papers in relinquishment and adoption proceedings are open for inspection only upon order of the court for good cause shown. The court and the agency are required to act in a manner so as to preserve the anonymity of birth parents, child, and adoptive parents except in the case of a designated adoption.

- D. An agency engaged in adoption placement of children shall not be licensed unless they possess adequate, secure storage facilities for records. Records shall be maintained in a locked, secured room.
- E. The agency shall develop and implement a written policy and procedure which assures that records are protected from destruction, loss and unauthorized removal or access.
- F. The agency shall develop and implement a written plan to ensure annual scanning of their adoption records, including birth parent, adoptive applicant, and children's records. The plan must address scanning any closed files already in storage. Scanned records must be maintained in a current State Department approved technological format for the purpose of transferring those records to the State Department upon closure of the agency.
- G. The agency record for any Colorado adoptive family shall contain as a minimum: the signed formal application for adoption; signed fee and disclosure agreement; medical examinations for all household members; a copy of a current marriage license; a copy of a divorce decree where applicable; the results of the State Department's automated abuse and neglect background system check for all adults residing in the household; the original home study assessment with updates as appropriate; any subsequent family assessments; and, all signed and dated adoption agreements or contracts.
 - 1. For adoptions finalized in the United States, the agency record shall also contain: signed petition for domestic adoption; post placement supervisory reports; post adoption correspondence, including any correspondence from the birth parent(s); the type of adoption and communication agreed upon at time of finalization; final decree of adoption; post-adoption reports if applicable; and, validation of foreign adoption if applicable.
 - 2. For adoptions finalized in a foreign country, the agency record shall also contain: all legal documents; all medical and social history information; all foreign documents; all post adoption reports; arrival notification to state-selected agency; consent of termination of parental rights; notification to central authority; USCIS Forms I800, I600, I600A, and I171H, as applicable; and, validation of foreign adoption if applicable.
 - 3. For all adoptions, the results of the CBI and FBI background checks for all adults, eighteen (18) years of age and older residing in the household. For intercountry adoptions finalized in the foreign country, a copy of the approval issued by USCIS may substitute for the FBI background check.
 - 4. The agency record for an adoptee shall contain at a minimum: social and medical histories; birth record; certified birth certificate; birth parent consent for placement; ICPC files; record of admission or intake summary of the child to be adopted.
 - 5. The agency record for a parent(s) relinquishing a child(ren) shall contain at a minimum: signed disclosure agreement and birth parent rights; intake forms; birth parent counseling report and/or counseling affidavit; case notes; the type of adoption completed and the communication agreed upon at time of finalization between the birth parents and adoptive parents, and a copy of such contract if available, including the preference form completed by the birth parent at the time of relinquishment; and, all legal documents related to the relinquishment.
 - 6. For Colorado child placement agencies that provide Intercountry adoption services for families who reside outside of Colorado, the agency must maintain a record that contains, at a minimum: the name, address, and phone number of the adoptive family; the name, address, phone number, and copy of the license of the agency or agencies used to complete the adoption; a copy of the USCIS form granting approval of the home study; a

copy of the final decree of adoption; the birth name, adoptive name and the date of birth of the adopted child.

7. Files must be indexed and cross referenced in the following sections:
 - a. Adoptive parent name; and,
 - b. Adoptive child name; and,
 - c. Adoptive child birth name; and,
 - d. Birth parent name; and,
 - e. Child's date of birth; and,
 - f. Year adoption is finalized.
- H. In the event that a child placement agency ceases operations, two (2) copies of all adoption records shall be forwarded to the State Department in a current State Department approved technological format of not less than 100 years storage capability.
- I. The records of birth parents, adoptive applicants and children, that do not result in an adoptive placement shall be maintained for a period of at least three (3) years.
- J. The agency shall have an appropriate secure procedure for confidential record destruction.
- K. The Colorado agency shall be responsible for maintaining a case record for each approved adoptive family, each parent who relinquishes a child for adoption, and each adoptee. The record for each client must be kept current from the point of intake to termination of completion of services. All correspondence and written communications including, but not limited to, e-mails, memos, and letters must be maintained in the file.
- L. The entire case file, including all worker notes or other documents, is the property of the agency and the entire case must be maintained in secure storage at the main office. Any and all duplicate files maintained by contract or staff worker(s) during the completion of an adoption must be maintained in locked secured storage at all times and all items, including worker notes or other documents, must be returned to the main office at the completion of services. Contract or staff workers may not keep duplicate copies of any documents.

7.710.74 Required Reports [Rev. eff. 5/1/10]

An annual report shall be made to the State Department regarding the adoption services provided by the agency. The report shall be submitted on the State prescribed form within sixty (60) days following the end of the calendar year and shall provide the following information:

- A. The types of adoptions, as defined at Section 7.710.52, in which the agency was involved, including the total number of:
 1. Agency adoptions:
 - a. Domestic (non-relative) adoptions finalized in Colorado.
 - b. Domestic adoptions finalized outside of Colorado.
 - c. Foreign national finalized outside United States and placed in Colorado.

- d. Foreign nationals finalized in Colorado.
 - e. Foreign nationals finalized outside United States and placed outside Colorado.
 - f. U.S. national finalized outside United States and placed outside United States.
 - g. Total number of adoptions involving Hague countries, incoming and outgoing.
 - h. Number of boys in domestic adoption.
 - i. Number of boys in foreign national adoption.
 - j. Number of girls in domestic adoption.
 - k. Number of girls in foreign national adoption.
- 2. Non-agency adoptions as required by the courts.
- 3. Domestic relative adoptions.
- B. The number of children whose domestic adoption was finalized within the previous calendar year as delineated by (do not duplicate numbers):
 - 1. White, not-Hispanic or Latino children.
 - 2. Hispanic or Latino children.
 - 3. Black/African American children, not Hispanic or Latino.
 - 4. Asian children.
 - 5. Native Hawaiian/Pacific Islander children.
 - 6. Alaskan/Native American children.
 - 7. Children that were of two (2) or more races.
- C. The total number of birth parent counseling cases completed by the agency in a calendar year delineated by:
 - 1. The total number of birth mothers counseled.
 - 2. The total number of presumed birth fathers counseled.
- D. The total number of birth mother counseling cases completed by the agency that resulted in relinquishment of a child(ren).
- E. The total number of approved SAFE home study assessments completed by the agency within the calendar year, including those completed for (do not duplicate number of applicants):
 - 1. White, not Hispanic or Latino applicant(s).
 - 2. Applicant(s) of Hispanic or Latino ethnicity.
 - 3. Black/African American, not Hispanic or Latino applicant(s).

4. Native Hawaiian/Pacific Islander applicant(s).
 5. Asian applicants
 6. Alaskan/Native American applicant(s).
 7. Applicants of two (2) or more races (please specify races).
- F. The total number of adoptive placements made by the Colorado agency within a calendar year which resulted in:
1. Disruption of the placement.
 2. Dissolution of the adoption.

7.710.8 IDENTIFYING AND NON-IDENTIFYING INFORMATION [Rev. eff. 5/1/10]

Release of identifying information may occur only as listed in current statute or by court order.

- A. Non-identifying information is defined as information which does not disclose the name, address, place of employment or any other material information which would lead to the identification of the birth parents. Non-identifying information includes only the following:
1. The physical description of the birth parents.
 2. The educational level achieved by the birth parents.
 3. The occupation of the birth parents at the time of the child's birth.
 4. Genetic information about the birth families.
 5. Medical information about the adult adoptee's birth.
- B. Child placement agencies authorized by the Colorado Department of Human Services, Division of Child Welfare, to release information shall be qualified as follows:
1. Any agency selected shall be a non-profit agency which has been licensed for at least five years by the State Department to provide adoptive services and is in good standing with the State Department.
 2. The agency will submit a written policy which includes the following:
 - a. A written statement, signed by the Executive Director of the agency, stating the agency shall maintain all information which identifies members of the birth family strictly confidential. In addition, the agency shall identify by name all staff involved in the provision of this service and shall furnish copies of statements agreeing to preserve confidentiality signed by members of the staff who will be handling the material.
 - b. Agreements for the physical security of any material.
 - c. Fees to be charged and a sliding fee schedule for low income persons.
 - d. Policy for releasing the information and type of material that is to be included. Information must be released in written form by placement workers on approval of the placement supervisor.

- e. Time frame for response to requests.
 - f. Development of written information to be given to the persons seeking non-identifying information prior to providing the service which outlines the agency's procedures and fees for these services.
- C. The agencies .selected shall agree to participate in any training provided by the State Department.
- D. The agencies selected will return to the State Department the record and a copy of the material released within thirty (30) calendar days of release of the information.

7.710.9 NON-PUBLIC INTERSTATE AND INTERCOUNTRY ADOPTIONS

7.710.91 Non-Public Agency

Pursuant to Section 19-5-205.5, C.R.S., the State ~~Department shall~~ **IS AUTHORIZED TO** select a non-public agency to perform the administrative review and approval or denial functions required by the Interstate Compact on the Placement of Children (ICPC) and statutes governing foreign adoptions. ~~Agencies~~ **THE AGENCY** selected by the State Department to provide these functions shall hereafter be referred to as "selected ~~agencies~~ **AGENCY**".

Agencies that perform or assist in obtaining adoptive placements shall hereafter be referred to as "placing agencies." The Interstate Compact defines the persons and agencies who, when they place a child from one state into another state, shall follow ICPC procedures. These persons and agencies are referred to as "sending agencies" (per Section 7.307.2, 12 CCR 2509-4)

7.710.92 Qualifying Criteria for Selection of a Non-Public Agency

- A. The agency selected to perform this administrative function shall be either a licensed child placement agency designated to facilitate adoptions or a non- public agency that meets the criteria to be a licensed child placement agency that facilitate adoptions.
- B. A designated placement supervisor or an individual who meets the criteria to be a designated placement supervisor shall sign documents related to interstate or ~~foreign~~ **INTERCOUNTRY** adoptions (see Section 7.710.22, A, 6).
- C. Supervision of the position(s) responsible for performing this administrative function shall be provided from within the selected agency by a position(s) that is a designated placement supervisor or meets ~~me~~ **THE** criteria to be a designated placement supervisor.
- D. The selected agency shall have been a licensed child placement agency in good standing with the State Department or have met the criteria to be a licensed child placement agency for at least five (5) years.
- E. ~~THE Sselected agencies~~ **AGENCY** shall not perform this administrative function regarding cases in ~~which they are~~ **IT IS** the placing ~~agencies~~ **AGENCY** or ~~have~~ **HAS** any other vested interest in the outcome of the administrative review since such action would constitute a conflict of interest.

The selected agency shall submit such cases to a non-public agency with which it subcontracts to perform the administrative function. The agency with which the selected agency subcontracts must meet the same qualifying criteria as a selected agency pursuant to this section.

7.710.93 Interstate Non-Public Adoptions

- A. Where and How to Send Adoptive Placement Request Packets

Adoptive placement request packets shall be sent in triplicate by the sending agency **OR OTHER STATE'S ICPC OFFICE** to the selected agency. The name and address of such agency shall be distributed by the State Department.

B. Time Frame for Processing Adoptive Placement Request Packets

1. Upon receipt of a ~~ee-~~ **COMPLETE REQUEST PACKET FOR AN ADOPTIVE PLACEMENT FROM ANOTHER STATE ICPC OFFICE INCLUDING THE FEE** for the administrative services of the selected agency, the selected agency shall review the request packets and shall grant or deny permission for the placement to occur within three business days, excluding weekends and holidays.
2. Upon receipt of a complete set of request packets from a Colorado local agency for an adoptive placement into another state, including the fee for the administrative services of the selected agency, the selected agency shall review the request packets for compliance with Colorado laws and procedures, and the packets, including the accompanying 100-A, signed and dated by the authorized signer or the designee of that authorized signer, shall be sent on to the receiving state ICPC office within three business days, excluding weekends and holidays.
3. Permission for the placement to occur or denial of the placement request shall be signified by the dated signature of the authorized signer or the designee of that authorized signer on the Form 100-A that accompanied the request packets. If verbal permission for placement of the child who is the subject of the placement request is initially given to the sending state ICPC office, it shall only be considered a valid form of permission for placement if such verbal permission is immediately followed by the properly signed 100-A being sent by facsimile process to the sending state ICPC office. Within twenty-four (24) hours of such facsimile being sent, copies of the original 100-A and an accompanying memo from the authorized signer of the 100-A that is written on the letterhead stationery of the selected agency shall be mailed to the sending state ICPC office and its local SENDING agency.
4. The authorized staff in the selected agency shall work with the sending state ICPC office, and/or with Colorado's local sending agency, and with other parties involved with a requested adoptive placement to assist the sending party in bringing the request packets into compliance with applicable statutes and/or rules and regulations. ~~As soon as possible, while such compliance issues are being clarified and potentially resolved, it shall be one option of the~~ selected agency **to MAY EITHER RETAIN THE SUBMITTED DOCUMENTS UNTIL COMPLIANCE IS ACHIEVED OR** return incomplete packets to the sending state ICPC office.

C. Materials Required in Adoptive Request Packets for Children for Whom an Adoptive Placement into Another State is Requested

1. Court documents showing the child is free for adoption. All birth parents who are residents of Colorado shall relinquish in a Colorado court and fulfill all Colorado statutory requirements for relinquishment. Adoption consent forms from other states signed by Colorado residents shall not be considered legal in Colorado.
2. Birth and discharge medical information on the child from the hospital where the child was born.
3. Birth Parent counseling report and affidavit from a licensed child placement agency in Colorado regarding the birth parents
4. Genetic/medical/social background information regarding the birth parents

5. Written study regarding the adoptive parent(s) that has been completed and approved by a Colorado licensed child placement agency or individual legally approved by the receiving state to perform such studies. Adoptive studies or their updates shall be no more than one year old.
 6. Itemized list of monies paid to attorneys, agencies and birth parents, including a statement that no money has been paid to locate for adoption the child who is the subject of the 100-A. This list shall separately specify all fees and costs charged for services associated with the review and approval of interstate adoptions.
 7. Documentation of compliance with the Indian Child Welfare Act.
 8. The name of any Colorado and/or out-of-state attorney involved in the requested placement.
 9. If legal rights have not been terminated or legally relinquished by both birth parents, a legal risk statement shall be signed by the adoptive parents, accompanied by documentation certifying the initiation of relinquishment or termination court procedures.
- D. Materials Required in Request Packets for Children to be Placed into Colorado from Another State

The materials required in request packets for children to be placed into Colorado from another state are identical to the materials described in Section 7.710.93, C, with the following exceptions. If the sending state does not require proof of relinquishment counseling, Colorado shall not require this in order to approve an adoptive placement into this state. The fulfillment of the sending state's requirements regarding consent forms shall satisfy Colorado's requirements for purposes of approval of the adoptive placement.

7.710.94 Non-Public ~~Foreign~~ INTERCOUNTRY Adoptions

- A. Requests for Approval of UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES Recommendation

For each adoptive family assessed for placement of a foreign national, the agency shall submit the following information to the selected agency:

1. Three (3) copies of the USCIS recommendation form with Section I completed, signed, and dated.
 2. Applicable fees.
 3. An adoptive family assessment completed in accordance with Section 7.710.56.
 4. Medical and/or legal documents of the foreign national, if available.
 5. A statement of affirmation signed by the Executive Director that the Colorado licensed child placement agency has documentation as required in Section 7.710.64, C, 2.
 6. Copies of any and all agreements that the Colorado licensed child placement agency has to verify compliance with Section 7.710.64, C and D.
 7. A copy of the foreign country's adoption eligibility requirements.
- B. Time Frames and Procedures for Processing Requests for Recommendations

The following case materials with the appropriate fees shall be forwarded to the selected agency for review. The name and address of the agency shall be distributed by the State Department.

1. Upon receipt of a properly completed recommendation form and attachments in accordance with Section 7.710.94, A, the selected agency shall review and grant or deny the approval within ~~twenty-four (24) hours~~ **THREE BUSINESS DAYS** of receipt, excluding weekends and holidays.
2. In the event of an unresolved concern or dispute between the sending Colorado agency and the selected agency regarding the role of the selected agency, the selected agency may refer the case to the Colorado State Department for review and resolution after reasonable attempts to obtain needed clarifications or additional information have been unsuccessful.
3. After approving the recommendation, the original plus one copy shall be returned to the Colorado agency.
4. **AUTHORIZED STAFF IN THE SELECTED AGENCY SHALL WORK WITH THE COLORADO SENDING AGENCY, THE FOREIGN COUNTRY AUTHORITIES, AND OTHER PARTIES INVOLVED WITH A REQUESTED ADOPTIVE PLACEMENT TO ASSIST WITH BRINGING THE REQUEST PACKETS INTO COMPLIANCE AS SOON AS POSSIBLE. WHILE SUCH COMPLIANCE ISSUES ARE BEING RESOLVED, THE SELECTED AGENCY MAY EITHER RETAIN THE SUBMITTED DOCUMENTS UNTIL COMPLIANCE IS ACHIEVED OR RETURN INCOMPLETE PACKETS TO THE COLORADO LOCAL SENDING AGENCY.**

C. Notice of Arrival

1. As soon as possible, but no later than six (6) months after arrival in the U.S., the Colorado agency shall send to the selected agency a notice of arrival which contains the following information:
 - a. The adoptive parent(s)' names and addresses.
 - b. The child's birth name, adoptive name, sex and date of birth.
 - c. If at any time in the process the licensed agency or prospective adoptive family becomes aware that the child's adoption will not be finalized in the foreign country, the family and agency are to notify the state in writing of the changes with an explanation as to the reasons for the change in status. If the child returns to the state and was not legally adopted in the foreign country, all documents concerning the child's legal status and the type of visa which was issued allowing entrance into the United States shall be submitted to the Colorado Department of Human Services, Division of Child Care, for review by appropriate entities. The licensed adoption agency shall ensure that the home is certified as a foster home.
 - d. The name of the county in which the adoption will be either finalized or validated.
2. The agency shall send the selected agency the following documents with the notice of arrival:
 - a. An English translation copy of the child's original birth certificate with child's birth name.

- b. An English translation copy of the foreign adoption decree or, if the adoption was not finalized in the foreign country, translated documents transferring guardianship to the agency and/or prospective adoptive parents.
3. Pursuant to Colorado statute, the selected agency shall generate a letter to the appropriate District Court and return the letter to the licensed agency for submission to the court.

7.710.95 Confidential Case Files and Data System

~~THE Sselected agencies~~AGENCY and the agencies with which they subcontract are prohibited from engaging in conflict of interest in the manner in which they conduct the administrative function associated with non-public interstate or intercountry adoptions and authorized by statute and rules. Conflict of interest is defined in Section EE of the Administrative Information that accompanies the contract between the Colorado Department of Human Services and the selected agency.

7.710.96 Conflict of Interest

~~THE Sselected agencies~~AGENCY and the agencies with which they subcontract are prohibited from engaging in conflict of interest in the manner in which they conduct the administrative function associated with non-public interstate or intercountry adoptions and authorized by statute and rules. Conflict of interest is defined in Section EE of the Administrative Information that accompanies the contract between the Colorado Department of Human Services and the selected agency.

7.710.97 Guidelines for Fees Charged by the Selected Agency to Provide the Administrative Function Associated with Non-Public Interstate or ~~Foreign~~ INTERCOUNTRY Adoptions ~~[Rev. eff. 5/1/10]~~

- A. The selected agency shall ~~not charge in excess of a \$250 flat~~ fee to provide the administrative function associated with non-public interstate and intercountry adoptions as authorized by statute and rules.
 1. For interstate placement requests, the ~~flat fee~~ shall include the processing of all required materials and providing procedures necessary to process the request.
 2. For ~~foreign~~ INTERCOUNTRY adoptive requests the ~~flat fee~~ shall include authorization review, ~~INS USCIS~~ recommendation, processing the arrival notice and the court letter, ~~if an approved family changes to another country AFTER INITIAL APPROVAL, requiring a new INS USCIS form~~ there may be an additional charge ~~not to exceed fifty dollars.~~
- B. The fee charged for this service shall reflect the cost to the selected agency of direct and indirect expenses associated with the provision of administrative services required by statute and rules for the review and approval of interstate and intercountry adoptive requests.
- C. The fee covers indirect costs associated with initial inquiries prior to the establishment of an adoptive placement request or other inquiries about interstate or intercountry requests.

7.710.98 Standards by which the Colorado Department of Human Services Shall Evaluate the Delivery of Services by the Selected Non-Public Agency

The Colorado Department of Human Services shall monitor the selected agency to determine compliance with Sections 7.710.91 - 7.710.97, in accordance with Section 19-5-205.5(2)(b), (I-X), C.R.S.

- A. The State Department shall conduct a site visit to the selected agency(ies) and review interstate and ~~foreign~~ INTERCOUNTRY adoption files that are a representative sample of pending, open and closed files.

- B. The State Department shall conduct a site visit on at least a semi-annual basis.
1. Within thirty (30) calendar days following each site visit, the State Department will provide the selected agency(ies) with a written evaluation that indicates the following:
 - a. Whether or not the agency is in compliance with rules.
 - b. What corrections, if any, are necessary in order to be in compliance.
 - c. If there are corrections to be made, the time frame within which these corrections are to be made.
 2. Failure by the selected agency(ies) to make corrections that have been indicated in the written evaluation of the site visit shall be grounds for the Colorado Department of Human Services to terminate the contract between it and the selected agency(ies).

7.721.921 Food and Nutrition

- A. The host family home shall provide nutritious foods in the variety and amounts as appropriate for the age, appetite, and activity of each youth.
- B. At least three nourishing, wholesome, well-balanced meals a day shall be offered at regular intervals. The host family home provider will document meals in a log to be audited by the child placement agency or county.
- C. Family meals including all children and adults present in the home shall be provided whenever possible.
- D. Youth shall be encouraged to eat a variety of the food served but shall not be subjected to undue coercion, including forced feeding, or punished for refusal to eat.
- E. All food shall be from sources approved or considered satisfactory by the health authority. All foods shall be stored, prepared, and served in such a manner as to be clean, wholesome, free from spoilage, and safe for human consumption. Only pasteurized milk shall be served. ~~Home pressure-canned fruits and vegetables and canned meats cannot be served because of the possible severe health concerns for youth from botulism in unsafe canned foods.~~ Fruits, vegetables and meats may be frozen.
- F. The child placement agency or county of the host family home shall inform providers of host family home of the special diets prescribed for youth including those that are contrary to their religious beliefs, or of their family, or are known to cause an allergic reaction or a health hazard.
- G. Water shall be readily accessible to youth by means of an approved water source. Youth will be provided clean single-service cup for administering medication and rinsing mouth in bathroom.

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates

CDHS Tracking #: 16-4-8-1.8

Office, Division, & Program:
OCYF, DCW

Rule Author:
Dennis Desparrois

Phone: 303-866-3632
Email: Dennis.Desparrois@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

Revise rule to

- follow reasonable and prudent parent standard for out-of-home care twenty-four hour care providers to allow youth normalized social, religious, and extra-curricular activities while in care.
- allow for foster parents to use home canned foods.
- better define the oversight responsibility for child placement agencies that supervise specialized group care facilities and foster homes, including fiscal oversight and fiduciary responsibility.
- change the required qualifications for Placement Supervisor.
- establish the capacity of foster homes where both adults with developmental disabilities and youth in care. Create rule to establish when adults with developmental disabilities must be background checked.
- follow Federal Diligent Recruitment guidelines.
- reduce rules, provide consistency between foster care and adoption studies, and clarify responsibilities of staff performing and reviewing home studies.

Create rules for agencies that host foreign children who may potentially be available for adoption.

Create rules for sexual offender registry checks, in response to public concern raised in August 2014.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities

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Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
Section 422 [42 U.S.C. 622] (b) (7)	Diligent Recruitment
Section 471 [42 U.S.C. 671] (a) (18)	Diligent Recruitment
19-1-307 (1)(C) C.R.S	Fines
26-6-114 (1) C.R.S.	Fines

Does the rule incorporate material by reference?
Does this rule repeat language found in statute?

☐
☐

Yes
Yes

☒
☒

No
No

If yes, please explain.

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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Child Placement Agency providers; CDHS 24 Hour Licensing and Monitoring staff members;
CDHS Audit Division, CDHS Child Welfare Foster and Kinship care staff members.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

Regarding the Reasonable and Prudent Parenting Standards, Child Placement Agencies will be required to complete an online training by CDHS and incorporate the training into their initial CORE, and annual training for foster parents. Youth in foster care will benefit from being able to participate in more activities, allowing them a more normalized experience

For direct care foster homes and rural host foster homes, they may now use home-canned food

For the short term, agencies may require technical assistance by CDHS staff to learn the reporting functions and requirements for oversight of specialized group facilities. For the long term, agencies which sponsor specialized group facilities will need policies and procedures to ensure proper oversight of the specialized group facilities and their finances.

Agencies may see an increase in time researching background checks for the National and Colorado sex offender registry checks. It is estimated to be 3 to 5 minutes per person to be checked.

Agencies which provide foreign hosting program services should see a decrease in their work load, as they will no longer need to appeal several regulations in order to operate their programs.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

None known

County Fiscal Impact

None known

Federal Fiscal Impact

None known

Other Fiscal Impact (such as providers, local governments, etc.)

Foster home providers and rural host foster home providers may see a decrease in their food costs, as they may now use home-canned food grown by them, or given to them.

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4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

None

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

Alternative for the rule change to allow foster homes to use their home-canned goods would be to continue to prohibit them from using their home-canned goods. This rule change was requested by many rural foster homes.

There are no alternatives for the other proposed rule changes due to the counties and providers need for clarity of procedural expectations.

Title of Proposed Rule: <u>Child Placement Agency and Child Welfare Updates</u>		
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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.701.200, C	Regulation update	Regulation addresses the Reasonable and Prudent Parent Standard Requirements for Facilities Providing Twenty-four (24) Hour Care	Revises language to clarify required training for out-of-home care providers by their certifying agency, sponsoring agency, or governing body	No
7.708.42, E	Regulation update	Current regulation prohibits the use of home canned goods in foster homes	Delete language that prohibits the use of home canned foods	No
7.710	Regulation addition	None	Add in language with regard to Host Family Foster Homes	No
7.710.1	Additional and updated Definitions	Definitions	Add definitions for background checks, licensed host family home, SAFE home study, SAFE home study addendum, SAFE home study update, specialized group home supervisor, add civil union under relative, and well-being plan	No
7.710.1	Additional and updated Definitions	Definitions and throughout document	Revises spelling of "homestudy" to "home study" to better align with other regulations	No
7.710.2, A,	Regulation addition	None	Add language to clarify ICPC requirements must be met; add language to clarify who can place a child	No
7.710.2, C	Regulation addition	None	Add language to clarify who is able to make placement of a child in to a CPA	No
7.710.2, G, 1, b	Regulation addition	None	Added National and CBI Sexual Offender Registry check to the requirements	No
7.710.2, G, 1, c	Regulation update	None	Changes language to reflect that the recruitment efforts must be the diligent recruitment efforts for the demographics of children to be served	No

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates**CDHS Tracking #: 16-4-8-1.8**Office, Division, & Program:
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Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.2, G,1, f	Regulation addition	None	Add volunteer policy	No
7.710.2, G, 3	Regulation addition	None	Add requirement to approve budgets of sponsored group facilities	No
7.710.2, G, 7	Regulation addition	None	Add requirement to provide copies of lawsuits to the department	No
7.710.2,I	Regulation addition	None	Creates rule to enforce statute related to CPA access to the State Automated Child Welfare System (Trails)	No
7.710.22, A, 2, b and c	Regulation update	Regulation addresses the qualifications of the Executive Director of the agency	Add language to confirm experience requirement is after a Bachelor's degree is obtained; moves language to appropriate section	No
7.710.22, A, 6, a	Regulation update	Placement supervisors were required to have a Master's degree in the social or behavioral sciences	Revises language to change the education requirements of the placement supervisor from a Master's degree to a Bachelor's degree	No
7.710.22, E	Regulation addition	None	Add language to require adequate supervision of specialized group facilities	No
7.710.23, D	Regulation addition	None	Add language to require a volunteer policy and background checks for volunteers	No
7.710.24, B	Regulation update	Agency staff members were the only staff required to have files	Add language to require a file for volunteer and contracted staff	No
7.710.24, C	Regulation addition	None	Add language to list what documents must be maintained in the volunteer file at the agency	No
7.710.25, B	Regulation update	Addresses placement supervisor duties	Revises language to clarify placement supervisor's duties with home study assessments and well-being plans for foster children	No
7.710.32,A, 3	Regulation update	Regulation addresses notification to CDHS	Change language to allow for email notification	No

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Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.32,A, 4	Regulation update	Regulation addressed notification to CDHS	Change language to the Colorado Department of Human Services and change for CPA's to report all confirmed reports of child abuse and neglect- previously listed as 7.710.32A4 (see above change for 7.710.32A2)	No
7.710.32, C,3	Regulation update	Regulation addresses conflict of interest for CPAs	Add to existing conflict of interest that an agency may not provide birth parent counseling, or home study assessment, or post placement assessments on officers, owners, board members, staff members, contract staff, or relatives of such individuals	No
7.710.32, C, 4	Regulation addition	None	Add language to conflict of interest that prevents a certified foster parent from also being employed at a group facility sponsored by the same certifying CPA	No
7.710.33, B and C	Regulation update	Regulation addresses when a CPA can accept an application and ensuring that a CPA does not recruit foster parents from other CPAs	Revises language to clarify when an application cannot be accepted by a CPA and when a CPA cannot recruit a foster home applicant	No
7.710.33, D	Regulation update	CPAs must have an application to provide training to any potential foster parents	Delete "training" allowing for a CPA to provide training prior to an application being received	No
7.710.33, I	Regulation update	Requires a CPA to review all information from previous certifying agencies	Deletes excess language regarding prior certifying authorities	No
7.710.33, J, 1	Regulation update	CPAs must take an application from potential foster parents before providing any training	Delete language to allow CPA's to provide training prior to a formal application being accepted.	No
7.710.J,1,k	Regulation addition	None	Add language for reasonable and prudent parent standard training	No

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Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.33, K	Regulation update	CPAs must have an application from potential cradle care parents before providing any training	Delete language to allow training for cradle care providers to be provided prior to a formal application being accepted.	No
7.710.33,L	Regulation update	Does not currently detail the need to assess the type of child and issues the foster family would be able to care for	Add language to ensure that foster parents are assessed on their ability to care for specific children	No
7.710.33, L, 1	Regulation update	Requires statements from references and physicians be reviewed. Is duplicate language to another section. Does not require the new mandatory sex offender registry checks as part of the home study assessment.	Deletes references and physician reports from this section. Added National and CBI Sexual Offender Registry check to the requirements; moves physical and references to new section; adds CPA access to State Automated Case Management System and notifies of fines for misuse	No
7.710.33, L, 2,	Regulation update	Did not list the requirement to send the fee for both CBI and FBI background checks	Add language to clarify both CBI and FBI background checks are required	No
7.710.33, L, 3	Regulation update	Has detailed and excess language regarding home study requirements that are duplicated in the SAFE assessment that agencies are required to use	Delete excess language; refer to department approved home study assessment for requirements	No
7.710.33, L, 4	Regulation update	Did not include language to ensure that agencies did not do home studies on relatives, due to the conflict of interest	Delete excess language; clarify CPAs may not perform study on relatives; physical and references information moved here	No
7.710.33, L, 5	Regulation update	Non-discrimination information	Deletes duplication; moved to another section	No

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Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.33, L, 6, c	Regulation update	Language was interpreted in two different ways regarding the time frame in which an agency could complete a home study assessment	Changes language to clarify the number of days between the visits made to families as part of the home study. Is renumbered due to deletion of regulation prior to it	No
7.710.33, L, 6, d	Regulation update	Lists the requirements of a home study update that is to be done annually	Deletes from this section and moves it to the recertification of foster homes section. Is renumbered due to deletion of regulation prior to it	No
7.710.33, L, 7	Regulation update	No change	Section is renumbered due to deletion of regulation prior to it	No
7.710.33, L, 8	Regulation update	Lists the reasons a home study addendum would need to be completed. Did not include the foster parents' right to review the home study addendum	Add language to include civil union information, health status of the foster family members, and how the addendum is completed. Add language to include the requirement to allow the foster parents to review the addendum. Is renumbered due to deletion of regulation prior to it.	No
7.710.33, L, 9	Regulation update	Lists the requirements of a home inspection prior to certifying the home.	Add language to include the square footage measurements of the bedrooms of the foster home to determine the capacity of the home	No
7.710.34, E	Regulation update	Lists the reasons a foster home application must be denied	Deletes excess and duplicate language and refers to the same language in the General Rules 7.701	No
7.710.34, F	Regulation update	Lists the reasons a foster home application may be denied	Deletes excess and duplicate language and refers to the same language in the General Rules 7.701	No
7.710.34, H	Regulation addition	None	Add language regarding non-discrimination of certifying foster homes	No
7.710.36, A	Regulation update	Defines when a recertification action must be taken on a foster home	Deletes and adds language to clarify when an agency must act upon a renewal application from the foster home	No
7.710.36, A, 3, d	Regulation update	Requires the health status be reviewed prior to recertifying the foster home	Add language to clarify the need to look at the health status of all family members	No

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Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.36, A,,4	Regulation update	Currently has prescriptive language on the home study update	Deletes prescriptive language and adds language from another section to detail the home study update process prior to recertifying the foster home	No
7.710.43, E	Regulation update	Lists the responsibility of the agency to visit the foster child when they are in care in a foster home	Add language to clarify visits to the child must be documented	No
7.710.43, I	Regulation addition	None	Add language regarding CPA's requirement to train foster parents in the prudent parent standard	No
7.710.43, J	Regulation addition	None	Add language to clarify the duties of the child placement agency when they are providing services to a county which does not have a foster care program	No
7.710.45,A	Regulation update	Regulation requires records of foster care children	Add language to ensure that records for siblings are completed individually to ensure that the individual needs of the children are being addressed	No
7.710.45, D, 3	Regulation update	Regulation requires records for children placed into foster homes	Add language to include records must be maintained for children who are placed in specialized group facilities that are sponsored by the CPA	No
7.710.45, D, 5	Regulation update	Regulation requires reports be completed on the children but does not list who must complete them	Add language to clarify that the reports are to be completed by the care provider	No
7.710.45, D, 10	Regulation update	Regulation requires treatment plans	Add language to clarify a treatment plan is required for youth in specialized group care and family service plans are acceptable for youth in a foster home	No
7.710.45,G	Regulations Update	Regulation requires records related to the foster home	Revise language to require records be maintained for five (5) years after the foster home certification closes. Delete excess language.	No

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Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.46	Regulation addition	None	Add a section and language to clarify the responsibilities of the CPA with sponsored group facilities; includes staff requirements, services to be provided, and planning meetings	No
7.710.47	Regulation addition	None	Add a section and language to clarify the supervisory responsibilities of the CPA for the group facilities; includes application, assessment, annual evaluations; policies and procedures, and financial oversight of the group facilities; insurance requirement	No
7.710.48	Regulation addition	None	Add a section and language to clarify the requirements of the foster home that also provides care for adults with developmental disabilities. Including placement of children into the home; capacity of home; and background checks when youth become adults	No
7.710.49	Regulation addition	None	Add a section and language that refers to host family foster homes at 7.710.21, allowing CPAs to certify the homes	No
7.710.51, E	Regulation update	Lists the legal basis for placing children for adoption	Changes language to correct terminology used for foreign children visiting	No
7.710.52	Regulation updates	Adoption Definitions	Add definition for foreign visiting children's program; edits definition for USCIS	No
7.710.53,B, 13	Regulation update	Regulations list types of birth fathers	Add language to included "alleged" as a type of birth father	No
7.710.53,C, 1,a	Regulation update	Regulation uses term "homestudy"	Revises spelling of "homestudy" to "home study" to better align with other regulations	No
7.710.53, H	Regulation addition	None	Add language to clarify foreign children's visiting program; fees for services; and foster parent certification requirement	No

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Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.54, B, 5	Regulation update	Regulation addresses that the CPA is responsible for services to the adoptive family when they are in a foreign country	Add language to clarify who may provide services to the adoptive family in the foreign country; disclosure of fees for such services	No
7.710.55, B, 2	Regulation update	Training topics	Add requirement of infertility as training topic for adoptive parents.	No
7.710.55, B, 14	Regulation update	Training topics	Add requirement of prudent parent standard training	No
7.710.55, D	Regulation update	Training topics	Add language clarifying training requirements for families in the foreign children's visiting program	No
7.710.56, C	Regulation update	Regulation addresses non-discrimination of adoption applicants	Add language to clarify non discrimination, to include color, religion, sex, sexual orientation, and gender identity. Clarifies that non-discrimination also applies to the child being adopted	No
7.710.56, H	Regulation update	Regulation addresses when visits are made for the home study assessment	Deletes language and revises remaining language to clarify when home study visits must be made; deletes and revises remaining language to clarify required home study assessment tool	No
7.710.56, I	Regulation update	Regulation addresses when a home study for an international adoption must be completed	Delete language related to a home study addendum, and add language to clarify that the study must be updated according to the schedule of the United States Citizenship and Immigration Services	No
7.710.56, J	Regulation update	Regulation address when a home study addendum must be completed	Delete excess language and add language to clarify when an addendum must be completed	
7.710.56, K 3, 4	Regulation update	Regulation addresses when marriage licenses and divorce decrees are required	Add language to include civil union licenses and dissolutions are required	

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates		
CDHS Tracking #: 16-4-8-1.8		
Office, Division, & Program:	Rule Author:	Phone: 303-866-3632
OCYF, DCW	Dennis Desparrois	Email:Dennis.Desparrois@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.56, K, 5	Regulation update	Regulation addresses background checks as part of the home study assessment	Add language to clarify that CBI and CBI background checks must be processed through the CPA license number; deletes excess language ; add language for Colorado and national sex offender registry checks	No
7.710.56, M	Regulation update	Regulation addresses when the home study must be updated	Add language to clarify when a new home study is required and when an update may be completed	No
7.710.56, N, 3	Regulation update	Regulation addresses updates with respect to marital status	Add language to include civil union status	
7.710.56, O	Regulation update	Regulation addresses when a new home study must be completed on a family who has previously completed a home study	Add language to clarify when a new home study is required and when an update may be completed. Changes language to refer to correct regulation number	No
7.710.56, R	Regulation update	Regulation currently allows the home study to be sent to families in a water-marked draft for review	Delete language that allows the home study be sent to families, to maintain the integrity of the study. Add language to clarify that the home study must be reviewed with an agency staff member	No
7.710.56, S	Regulation update	Regulation addresses when an agency ceases to provide services to an adoptive family	Revises language to clarify process when family has been denied or withdrawals from services	No
7.710.56, T	Regulation update	Regulation currently allows the release of the home study to non-agency or county departments of human services	Revises language to clarify to whom a home study may be released. Deletes entities not licensed to perform adoption services	No
7.710.56, V	Regulation addition	None	Add language to clarify home study process for foreign children's visiting program	No

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates		
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Office, Division, & Program:	Rule Author:	Phone: 303-866-3632
OCYF, DCW	Dennis Desparrois	Email: Dennis.Desparrois@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.91	Regulation update	Regulation addresses the non-public agency who is contracted with the Division of Child Welfare to review home studies for adoptive families	Revised language to correctly identify there is just one chosen agency	No
7.710.92, B	Regulation update	Regulation addresses the non-public agency who is contracted with the Division of Child Welfare to review home studies for adoptive families	Revises language to intercountry adoptions to reflect accurate terminology	No
7.710.92, E	Regulation update	Regulation addresses the non-public agency who is contracted with the Division of Child Welfare to review home studies for adoptive families	Revised language to correctly identify there is just one chosen agency	No
7.710.93,A	Regulation update	Regulation addresses how ICPC adoption between states are processed	Add language to clarify where ICPC request packets should be sent	No
7.710.93, B	Regulation update	Regulation addresses how ICPC adoption between states are processed	Add language to clarify all required documents and fee must be submitted for processing; adds language to clarify when the selected agency may return the documents	No
7.710.94	Regulation update	Regulation addresses how foreign adoptions are processed	Revises language to Non Public Intercountry Adoptions to reflect accurate terminology	No
7.710.94, A	Regulation update	Regulation addresses how foreign adoptions are processed	Revises language to clarify USCIS means United States Citizenship and Immigration Services	No
7.710.94, B	Regulation update	Regulation addresses how foreign adoptions are processed	Add language to clarify the processing of USCIS approvals	No

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates**CDHS Tracking #: 16-4-8-1.8**

Office, Division, & Program:

Rule Author:

Phone: 303-866-3632

OCYF, DCW

Dennis Desparrois

Email: Dennis.Desparrois@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.710.95	Regulation update	Regulation addresses confidentiality of the information by the selected agency who processes the ICPC and foreign adoption home studies	Clarifies language about agency	No
7.710.96	Regulation update	Regulation addresses the conflict of interest issues for the selected agency who processes the ICPC and foreign adoption home studies	Revises language to clarify there is only one selected agency	No
7.710.97	Regulation update	Guidelines for Fees Charged by the Selected Agency	Revises language to clarify fees to be charged, revises language to correct terminology	No
7.710.98, A	Regulation update	Standards for the selected agency who processed the ICPC and foreign adoption home studies	Revises language to reflect correct terminology	No
7.721.921, E	Regulation update	Regulation prohibits the use of home-canned goods in rural host foster homes	Deletes language that prohibits the use of home-canned foods	No

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates**CDHS Tracking #: 16-4-8-1.8**Office, Division, & Program:
OCYF, DCWRule Author:
Dennis Desparrois

Phone: 303-866-3632

Email: Dennis.Desparrois@state.co.us

STAKEHOLDER COMMENT SUMMARY**Development**

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Division of Child Welfare staff including the 24 hour monitoring and licensing team and the permanency team, child placement agencies, representatives from Fostering Colorado, CDHS Audit Division, County Departments of Human/Social Services, Residential Care providers, Day Treatment providers, Division of Youth Corrections. Meetings with stakeholders were held on 7/9/13, 8/13/13, 9/10/13, and 10/8/13. Four stakeholder conference calls, including County Departments of Human/Social Services and child placement agencies, were held in January 2017 and February 7, 2017.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Colorado Association of Family and Children's Agencies (CAFCA), Colorado Coalition of Adoptive Families (COCAF), Colorado Department of Public Health and Environment, Colorado Human Services Directors Association (CHSDA), Colorado State Foster Parent Association, Colorado Trails User Group (CTUG), Foster Care and Adoption Agencies of Colorado, Fostering Colorado, Foster Care Coordinators, Colorado Kinship Alliance, Office of the Child's Representative (OCR), Rocky Mountain Children's Law Center, Child Protection Task Group, Permanency Task Group, Policy Advisory Committee (PAC), Child Welfare Sub-PAC, Treatment Foster Care Task Group, CDHS Administrative Review Division, the 24 Hour Licensing/Monitoring Team, Child Placement Agency providers, Office of the Child's Representative, and Rocky Mountain Children's Law Center.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

☐ Yes ☒ No

If yes, who was contacted and what was their input?

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Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

☒ Yes ☐ No

Name of Sub-PAC	Child Welfare		
Date presented	2.2.17, 3.2.17		
What issues were raised?	None for this section		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous	None	none
If not presented, explain why.			

Title of Proposed Rule: Child Placement Agency and Child Welfare Updates**CDHS Tracking #: 16-4-8-1.8**Office, Division, & Program:
OCYF, DCWRule Author:
Dennis Desparrois

Phone: 303-866-3632

Email: Dennis.Desparrois@state.co.us

PAC

Have these rules been approved by PAC?

☒

Yes

☐

No

Date presented

3.2.17

What issues were raised?

None for this section

Vote Count

For

Against

Abstain

Unanimous

None

none

If not presented, explain
why.**Other Comments**

No comments or concerns were received from stakeholders

☒

Yes

☐

No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

7.710.33, E, 5 - Stakeholder questioned why the SAFE home study in the CPA regulations did not fully match the SAFE home study regulations for the counties. Regulations in 7.500 series were adjusted to more closely align with CPA requirements for home studies.

7.710.22, A, 6 – Child placement agencies representatives were concerned about the decrease of qualifications for the placement supervisor from the required Master's degree to a Bachelor's degree. Comment received included concern that without a Master's level clinician approving placements, such placements may not be appropriate for the youth or the foster home in which they would be placed. Comment received included concern that without a Master's level clinician approving the home studies and foster parents, that such parents may not be appropriate. Comments received included concern that a Bachelor's level placement supervisor may not have the clinical skills to assess persons with mental health issues.

7.710.32, C, 4 – A child placement agency director was concerned about the conflict of interest regulation, that would prohibit certified foster parents from also being employees at a specialized group center or home, that is also sponsored by the same agency that certifies the family for foster care. CDHS staff explained it was a conflict of interest, as the agency would then have a conflict if the foster parent were a good foster parent, but did not function as a good employee in the specialized group facility. We did not modify the rule.

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 07/01/2017

Effective date

07/01/2017

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 at least 12 and under 22 years of age, 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	
S06 Pikes Peak	SMS06O1R	09/05/2017	09/19/2017	1		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
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 Except within 200 yards of the Waterton Canyon Road.	SMS42O1R	12/04/2017 Weekdays Only	12/08/2017 Weekdays Only	1		0	
S42 Waterton Canyon Except within 200 yards of the Waterton Canyon Road.	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	

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	SMS53O1R	09/05/2017	10/08/2017	2		0	
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	

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	GEG04O1R	09/18/2017 Weekdays Only	09/29/2017 Weekdays Only	1		0	
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	
G16 Mt Guyot	GFG16O4R	10/16/2017 Weekdays Only	10/27/2017 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
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 (2017)
		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 (2017) 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	250
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	4164

#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 (2017) (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
20, 29, 38	BE020U1M	35

Unit(s)	Season Dates: 09/09/2017-09/17/2017 Unless Otherwise Shown	
	Hunt Code	Either-Sex Licenses (2017) (Over the Counter with Cap)
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 (2017)
1	BE001O1R	5
2	BE002O1R	5
3, 11, 211, 301	BE003O1R	150

	Season Dates: 09/02-09/30 Annually Unless Otherwise Shown	
Unit	Hunt Code	Either-Sex Licenses (2017)
4, 5, 6, 14, 16, 17, 161, 171, 214, 441	BE004O1R	800
7, 8, 9, 19, 191	BE007O1R	100
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	105
21, 22, 30, 31, 32	BE021O1R	800
34	BE034O1R	120
35, 36, 44, 45, 361, 444	BE035O1R	1000
39, 46, 51, 391, 461	BE039O1R	225
40	BE040O1R	50
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	90
53, 63	BE053O1R	600
54, 55, 551	BE054O1R	125
58, 581	BE058O1R	90
59, 511, 591	BE059O1R	100
60, 70	BE060O1R	240
61	BE061O1R	200
62, 64, 65	BE062O1R	250
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	9608

- 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 (2017)
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 (2017)
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 (2017)
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 (2017)
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	190
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	80
TOTAL		795

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 (2017)
14	BE014P1R	09/02/2017	09/30/2017	40
15, 27	BE015P1R	09/02/2017	09/30/2017	30
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 (2017)
25, 26	BE025P1R	09/02/2017	09/30/2017	50
25, 26	BE025P5R	10/01/2017	11/19/2017	75
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	30
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	150
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	150
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	130
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	80
131	BE131P1R	09/02/2017	09/30/2017	25
			TOTAL	2250

#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 (2017)

		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			850
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			340
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			455
38	DE038O1A			300
39, 46	DE039O1A			275
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			130
52, 411, 521	DM052O1A	150		
53	DM053O1A	55		
54	DM054O1A	25		
55	DM055O1A	15		
59, 511, 591	DM059O1A	175		
60	DM060O1A	55		
61	DM061O1A	55		
62	DM062O1A	200		
63	DM063O1A	50		
64, 65	DM064O1A	140		
66	DM066O1A	20		
67	DM067O1A	20		
68, 681, 682	DM068O1A	100		
69, 84, 86, 691, 861	DE069O1A			395
70	DM070O1A	165		
71, 711	DM071O1A	150		
72, 73	DM072O1A	110		

A. Regular Seasons		Season Dates: 08/26/2017-09/24/2017 Unless Otherwise Shown		
Unit	Hunt Code	Licenses (2017)		
		Antlered	Antlerless	Either Sex
74	DM074O1A	110		
75, 751	DE075O1A			220
76	DM076O1A	20		
77, 78, 771	DE077O1A			290
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			125
444	DE444O1A			120
551	DM551O1A	10		
741	DE741O1A			60
851 Bosque del Oso SWA only	DM851O1A	5		
TOTALS		2240		8195

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 (2017)		
				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			70
92	DE092O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			65
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			95
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			65

Unit	Hunt Code	Date Open	Date Closed	Licenses (2017)		
				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			525
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			90
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			300
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			35
143, 144, 145	DE143O1A	10/01/2017 11/08/2017 12/15/2017	10/27/2017 11/30/2017 12/31/2017			40
TOTALS						2110

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 (2017)		
				Antlered	Antlerless	Either Sex

Unit	Hunt Code	Date Open	Date	Licenses (2017)		
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 (2017)		
				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 (2017)		
				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 (2017)	
		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		10
6, 16, 17, 161, 171	DM006O1M	50	
7, 8, 9, 19, 191	DM007O1M	550	
7, 8, 9, 19, 191	DF007O1M		200
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		75
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 (2017)	
		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		50
31, 32	DM031O1M	110	
33	DM033O1M	125	
33	DF033O1M		10
34	DM034O1M	90	
34	DF034O1M		50
35, 36, 45, 361	DM035O1M	280	
35, 36, 45, 361	DF035O1M		125
38	DM038O1M	150	
38	DF038O1M		50
39, 46	DM039O1M	115	
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	50	
51	DF051O1M		15
52, 411, 521	DM052O1M	60	
53	DM053O1M	30	
54	DM054O1M	20	
55	DM055O1M	10	
59, 511, 591	DM059O1M	60	
59, 511, 591	DF059O1M		10
60	DM060O1M	15	
61	DM061O1M	20	
62	DM062O1M	35	
63	DM063O1M	25	
64, 65	DM064O1M	35	
66	DM066O1M	15	
67	DM067O1M	15	

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 (2017)	
		Antlered	Antlerless
68, 681, 682	DM068O1M	115	
69, 84, 86, 691, 861	DM069O1M	225	
69, 84, 86, 691, 861	DF069O1M		25
70	DM070O1M	100	
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	200	
77, 78, 771	DF077O1M		10
79, 791	DM079O1M	25	
80, 81	DM080O1M	200	
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	10	
741	DM741O1M	40	
741	DF741O1M		5
851 Bosque del Oso SWA only	DM851O1M	5	
TOTALS		5760	1395

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 (2017)	
		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 (2017)	
		Antlered	Antlerless
94	DM094O2M	10	
94	DF094O2M		15
96	DM096O2M	35	
96	DF096O2M		30
99	DM099O2M	25	
99	DF099O2M		30
101, 102	DM101O2M	25	
101, 102	DF101O2M		20
103	DM103O2M	15	
103	DF103O2M		15
104, 105, 106	DM104O2M	65	
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	30	
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		15
143, 144, 145	DM143O2M	15	
143, 144, 145	DF143O2M		15
951	DM951O2M	15	
951	DF951O2M		15
TOTALS		520	410

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 (2017)		
				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 (2017)	Hunt Code	Licenses (2017)
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 (2017)	
				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	35	

Unit	Hunt Code	Date Open	Date Closed	Licenses (2017)	
				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	35	
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	20	
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	30	
TOTAL				445	

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 (2017)		
				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 (2017)
	Hunt Code	Licenses (2017)	Hunt Code	Licenses (2017)	Hunt Code	Licenses (2017)		

		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		
1	DM001O2R	11		DM001O3R	4						15
2	DM002O2R	15		DM002O3R	10						25
3, 301	DM003O2R	550		DM003O3R	715		DM003O4R	15			1280
3, 301	DF003O2R		10	DF003O3R		10					20
4, 14, 214, 441	DM004O2R	910		DM004O3R	330		DM004O4R	15			1255
4, 14, 214, 441	DF004O2R		10	DF004O3R		10					20
5	DM005O2R	100		DM005O3R	30		DM005O4R	10			140
5	DF005O2R		10	DF005O3R		10					20
6	DM006O2R	20		DM006O3R	20						40
6, 16, 17, 161, 171							DM006O4R	20			20
7, 8	DM007O2R			DM007O3R			DM007O4R	170		700	870
7, 8	DF007O2R		190	DF007O3R		120					310
9, 19, 191	DM009O2R			DM009O3R			DM009O4R	400		1150	1550
9, 19, 191	DF009O2R		250	DF009O3R		150					400
10	DM010O2R	23		DM010O3R	7						30
11, 211	DM011O2R	440		DM011O3R	385		DM011O4R	15			840
11, 211	DF011O2R		10	DF011O3R		10					20
12, 13, 23, 24	DM012O2R	800		DM012O3R	550		DM012O4R	15			1365
12, 13, 23, 24	DF012O2R		10	DF012O3R		10					20
15	DM015O2R	650		DM015O3R	425		DM015O4R	55			1130
15	DF015O2R			DF015O3R						505	505
16	DM016O2R	25		DM016O3R	10						35
17	DM017O2R	15		DM017O3R	10						25
18, 28, 37, 371	DM018O2R	1960		DM018O3R	1485		DM018O4R	280			3725
18, 28, 37, 371	DF018O2R		925	DF018O3R		875					1800
20	DM020O2R			DM020O3R			DM020O4R	125		370	495
20	DF020O2R			DF020O3R			DF020O4R			70	70
21	DM021O2R	295		DM021O3R	65						360
22	DM022O2R	300		DM022O3R	275		DM022O4R	15			590
22	DF022O2R		10	DF022O3R		10					20
25, 26	DM025O2R	570		DM025O3R			DM025O4R	75			

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 (2017)
	Hunt Code	Licenses (2017)		Hunt Code	Licenses (2017)		Hunt Code	Licenses (2017)			
		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		
					380						1025
25, 26	DF025O2R			DF025O3R						275	275
27, 181	DM027O2R	500		DM027O3R	460		DM027O4R	90			1050
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	95		DM030O3R	50						145
30	DF030O2R		10	DF030O3R		10					20
31, 32	DM031O2R	260		DM031O3R	190						450
33	DM033O2R	550		DM033O3R	360		DM033O4R	15			925
34	DM034O2R	275		DM034O3R	220		DM034O4R	50			545
34	DF034O2R			DF034O3R						100	100
35, 36, 45, 361	DM035O2R	1045		DM035O3R	730		DM035O4R	30			1805
35, 36, 45, 361	DF035O2R			DF035O3R						505	505
38	DM038O2R			DM038O3R			DM038O4R	160		300	460
38	DF038O2R			DF038O3R			DF038O4R			75	75
39, 46	DM039O2R			DM039O3R			DM039O4R	125		400	525
39, 46	DF039O2R		35	DF039O3R		35	DF039O4R		35		105
40	DM040O2R	135		DM040O3R	95						230
41, 42, 421	DM041O2R			DM041O3R						1800	1800
41, 42, 421	DF041O2R			DF041O3R						10	10
43, 47, 471	DM043O2R	330		DM043O3R	215		DM043O4R	20			565
43, 47, 471	DF043O2R			DF043O3R						10	10
43, 47, 471 - Youth Only	DF043K2R			DF043K3R						10	10
44	DM044O2R	65		DM044O3R	20		DM044O4R	20			105

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 (2017)
	Hunt Code	Licenses (2017)		Hunt Code	Licenses (2017)		Hunt Code	Licenses (2017)			
		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		
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	90		DM051O3R	90		DM051O4R	50			230
52, 411, 521	DM052O2R	490		DM052O3R	160		DM052O4R	15			665
53	DM053O2R	140		DM053O3R	100		DM053O4R	10			250
54	DM054O2R	135		DM054O3R	30		DM054O4R	5			170
55	DM055O2R	45		DM055O3R	25		DM055O4R	5			75
55	DF055O2R		10	DF055O3R		10					20
58, 581	DF058O2R		10	DF058O3R		10					20
59, 511	DM059O2R			DM059O3R						250	250
60	DM060O2R	75		DM060O3R	75		DM060O4R	5			155
61	DM061O2R	130		DM061O3R	120						250
62	DM062O2R	430		DM062O3R	390						820
63	DM063O2R	105		DM063O3R	85		DM063O4R	10			200
64, 65	DM064O2R	400		DM064O3R	400		DM064O4R	20			820
66	DM066O2R	60		DM066O3R	25		DM066O4R	10			95
66	DF066O2R		10	DF066O3R		10					20
67	DM067O2R	60		DM067O3R	25		DM067O4R	10			95
67	DF067O2R		10	DF067O3R		10					20
68, 681, 682	DM068O2R	215		DM068O3R	190		DM068O4R	15			420
69, 84, 86, 691.	DM069O2R	445		DM069O3R	445						890

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 (2017)
	Hunt Code	Licenses (2017)		Hunt Code	Licenses (2017)		Hunt Code	Licenses (2017)		
		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS	
861										
70	DM070O2R	500		DM070O3R	500		DM070O4R	50		1050
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	90		DM079O3R	100		DM079O4R	10		200
80, 81	DM080O2R	230		DM080O3R	225		DM080O4R	25		480
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	280		DM444O3R	115		DM444O4R	35		430
444	DF444O2R		10	DF444O3R		10				20
501							DM501O4R	30		30
501	DF501O2R		60	DF501O3R		60				120
511							DM511O4R	15		15
511	DF511O2R			DF511O3R					10	10
551	DM551O2R	35		DM551O3R	10		DM551O4R	5		50
551	DF551O2R		10	DF551O3R		10				20
741	DM741O2R			DM741O3R			DM741O4R	20	200	220
851	DM851O1R	5		DM851O2R	5					10

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 (2017)
	Hunt Code	Licenses (2017)		Hunt Code	Licenses (2017)		Hunt Code	Licenses (2017)			
		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		ANTLERED	ANTLERLESS		
Bosque del Oso SWA only	10/14/2017- 10/18/2017			10/21/2017- 10/29/2017							
TOTALS		16887	1905		12785	1670		2568	60	9610	45485

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 (2017)	Hunt Code	Antlerless Licenses (2017)
87	DM087O1R	40	DF087O1R	65
88	DM088O1R	30	DF088O1R	65
89	DM089O1R	40	DF089O1R	50
90	DM090O1R	20	DF090O1R	30
91	DM091O1R	25	DF091O1R	60
92	DM092O1R	20	DF092O1R	50
93	DM093O1R	20	DF093O1R	25
94	DM094O1R	35	DF094O1R	40
95	DM095O1R	45	DF095O1R	60
96	DM096O1R	55	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	65	DF102O1R	75
103	DM103O1R	30	DF103O1R	80
104	DM104O1R	120	DF104O1R	55
105, 106	DM105O1R	395	DF105O1R	135
107	DM107O1R	100	DF107O1R	50
109	DM109O1R	50	DF109O1R	40
110	DM110O1R	60	DF110O1R	55
111	DM111O1R	25	DF111O1R	15
112	DM112O1R	40	DF112O1R	30
113	DM113O1R	30	DF113O1R	20
114, 115	DM114O1R	100	DF114O1R	70

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 (2017)	Hunt Code	Antlerless Licenses (2017)
116	DM116O1R	30	DF116O1R	20
117	DM117O1R	25	DF117O1R	20
118, 123	DM118O1R	70	DF118O1R	20
119	DM119O1R	45	DF119O1R	20
120, 121	DM120O1R	75	DF120O1R	60
122	DM122O1R	30	DF122O1R	50
124	DM124O1R	50	DF124O1R	35
125	DM125O1R	15	DF125O1R	20
126	DM126O1R	30	DF126O1R	40
127	DM127O1R	40	DF127O1R	40
128, 129	DM128O1R	90	DF128O1R	50
130	DM130O1R	20	DF130O1R	20
132	DM132O1R	40	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	25	DF137O1R	10
138, 146	DM138O1R	25	DF138O1R	20
139	DM139O1R	30	DF139O1R	20
141	DM141O1R	15	DF141O1R	20
143, 144, 145	DM143O1R	50	DF143O1R	15
951	DM951O1R	70	DF951O1R	40
TOTALS		2485		1965

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 (2017)	Hunt Code	Licenses (2017)
104	DF104O2R	50	DE104O2R	5
105, 106	DF105O2R	60	DE105O2R	30
107, 112, 113, 114, 115, 120, 121	DF107O2R	70	DE107O2R	90
109	DF109O2R	50	DE109O2R	50
110, 111, 118, 119, 123, 124	DF110O2R	30	DE110O2R	55
116, 117	DF116O2R	25	DE116O2R	40
122, 126, 127	DF122O2R	40	DE122O2R	55
125, 130	DF125O2R	30	DE125O2R	25

128, 129, 133, 134, 135, 136, 141, 147	DF128O2R	75	DE128O2R	65
132, 139	DF132O2R	20	DE132O2R	35
137, 138, 146	DF137O2R	10	DE137O2R	10
143, 144, 145	DF143O2R	15	DE143O2R	30
TOTALS		475		490

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 (2017)		
				Antlered	Antlerless	Either-sex
38 Jefferson County portion only	DF038L1R	12/01/2017	01/31/2018		250	
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 (2017)		
				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 (2017)		
				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		60	
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	75		
591	DF591L1R	10/01/2017	01/31/2018		25	
TOTALS				90	925	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 (2017)	Hunt Code	Licenses (2017)
87	DM087L1R	40	DF087L1R	25
88	DM088L1R	35	DF088L1R	25
89	DM089L1R	50	DF089L1R	50
90	DM090L1R	25	DF090L1R	30
91	DM091L1R	35	DF091L1R	60
92	DM092L1R	25	DF092L1R	50
93	DM093L1R	25	DF093L1R	25
94	DM094L1R	40	DF094L1R	45
95	DM095L1R	55	DF095L1R	60
96	DM096L1R	65	DF096L1R	60
97	DM097L1R	25	DF097L1R	15
98	DM098L1R	50	DF098L1R	55
99	DM099L1R	90	DF099L1R	100

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 (2017)	Hunt Code	Licenses (2017)
100	DM100L1R	40	DF100L1R	30
101	DM101L1R	30	DF101L1R	30
102	DM102L1R	85	DF102L1R	75
103	DM103L1R	15	DF103L1R	35
104	DM104L1R	60	DF104L1R	90
105, 106	DM105L1R	80	DF105L1R	105
107	DM107L1R	65	DF107L1R	25
109	DM109L1R	40	DF109L1R	20
116	DM116L1R	25	DF116L1R	10
117	DM117L1R	25	DF117L1R	15
122	DM122L1R	15	DF122L1R	30
125	DM125L1R	10	DF125L1R	10
126	DM126L1R	20	DF126L1R	30
127	DM127L1R	25	DF127L1R	40
129	DM129L1R	10	DF129L1R	10
130	DM130L1R	15	DF130L1R	15
132	DM132L1R	15	DF132L1R	25
136, 147	DM136L1R	15		
136			DF136L1R	10
137	DM137L1R	10	DF137L1R	10
138, 146	DM138L1R	20	DF138L1R	15
139	DM139L1R	15	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		1360		1365

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 (2017)	Hunt Code	Licenses (2017)
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	105		

104	DF104L2R	45	DE104L2R	10
105, 106	DF105L2R	60	DE105L2R	30
107	DF107L2R	40	DE107L2R	65
109	DF109L2R	30	DE109L2R	40
116, 117	DF116L2R	15	DE116L2R	35
122, 126, 127	DF122L2R	50	DE122L2R	25
125, 130	DF125L2R	30	DE125L2R	25
129	DF129L2R	25	DE129L2R	10
132, 139	DF132L2R	20	DE132L2R	25
136, 141, 147	DF136L2R	10	DE136L2R	10
137, 138, 146	DF137L2R	10	DE137L2R	20
143, 144, 145	DF143L2R	25	DE143L2R	25
TOTALS		465		320

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.

Unit	Hunt Code	Archery		Muzzleloader		Rifle		Licenses (2017)	
		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		175
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	175	
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		150
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	150	
TOTALS								475	475

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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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											1100
			550			550									
9											DF009P5R	09/01/2017- 11/30/2017		85	85
11, 12, 13, 22, 23, 24, 211	DE011P2R			DE011P3R											685
			300			385									
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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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		450	450
25, 26	DE025P2R			DE025P3R						100					100
29											DM029P5R	10/21/2017- 11/30/2017	400		400
29											DF029P5R	09/01/2017- 11/30/2017		375	375
31, 32	DM031P2R			DM031P3R						100					100
33	DM033P2R			DM033P3R						40					40
33											DF033P5R	12/01/2017- 01/31/2018		40	40
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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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		350	350
38											DF038P5R	09/01/2017- 11/30/2017		475	475
39, 46											DF039P5R	09/01/2017- 11/30/2017		100	100
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	100		100
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.

- 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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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											20
		10			10										
60	DM060P2R			DM060P3R											20
	10			10											
60	DF060P2R			DF060P3R											10
		5			5										
62	DM062P2R			DM062P3R											65
	35			30											
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											160
	80			80											
69, 84, 86, 691,	DM069P2R			DM069P3R											980
	490			490											

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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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						330					330
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.

- 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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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 portions bounded 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		125	125

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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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 fenceline on the south side of LaVeta Town Lakes and golf course from the intersection 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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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 west 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	35		35
96											DM096P5R	12/01/2017- 12/14/2017	85		85
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.

- 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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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		275	275
411											DF411P5R	09/01/2017- 10/31/2017		40	40
444	DE444P2R			DE444P3R											150
			100			50									
481	DF481P2R			DF481P3R											80
		40			40										
511	DF511P2R			DF511P3R						30					30
511							DM511P4R								40
							40								
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 (2017)	Hunt Code	Season Dates	Licenses (2017)		Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)								
	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	870	230	995	920	205	1015	155	0	0	1990			1840	3210	11430

- 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 (2017) 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	130
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	50
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	200
TOTAL								500

#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 (2017)			
		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			1110	
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			80	

Unit(s)	Season Dates: 08/26/2017 – 09/24/2017 Unless Otherwise Shown				
	Hunt Code	License Numbers (2017)			
		Antlered	Antlerless	Limited Either Sex	Unlimited Either Sex
40	EE040O1A			65	
46	EE046O1A			60	
48	EE048O1A			100	
49	EE049O1A			170	
50	EE050O1A			125	
51	EE051O1A			100	
54	EE054O1A			280	
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			50	
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	6755	Unlimited

#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 (2017)		
		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 (2017)		
		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	375		
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			350
15, 27	EF015O1M		50	
18, 181	EE018O1M			485
18, 181	EF018O1M		80	
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			520
28, 37, 371	EF028O1M		85	
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	185		
35, 36, 361	EF035O1M		170	
38	EM038O1M	30		
38	EF038O1M		50	
39	EM039O1M	70		
39	EF039O1M		25	
40	EE040O1M			35
40	EF040O1M		27	
41, 42, 52, 411, 421, 521	EM041O1M	600		

Unit	Season Dates 09/09/2017 – 09/17/2017 Unless Otherwise Shown			
	Hunt Code	Licenses (2017)		
		Antlered	Antlerless	Limited Either Sex
41, 42, 52, 411, 421, 521	EF041O1M		600	
43, 471	EM043O1M	150		
43, 471	EF043O1M		40	
44, 45, 47, 444	EM044O1M	250		
44, 45, 47, 444	EF044O1M		75	
46	EM046O1M	30		
46	EF046O1M		15	
48	EM048O1M	35		
48	EF048O1M		30	
49	EM049O1M	70		
49	EF049O1M		70	
50	EM050O1M	35		
50	EF050O1M		40	
51	EM051O1M	30		
51	EF051O1M		40	
53	EM053O1M	85		
53	EF053O1M		80	
54	EM054O1M	70		
54	EF054O1M		70	
55	EM055O1M	115		
55	EF055O1M		190	
56	EM056O1M	35		
56	EF056O1M		35	
57, 58	EM057O1M	100		
57, 58	EF057O1M		90	
59, 511, 581, 591	EM059O1M	100		
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		45	
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 (2017)		
		Antlered	Antlerless	Limited Either Sex
71, 72, 73, 711	EE071O1M			220
71, 72, 73, 711	EF071O1M		80	
74, 741	EE074O1M			100
74, 741	EF074O1M		15	
75, 751	EE075O1M			100
75, 751	EF075O1M		25	
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		150	
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		20	
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				

Unit	Season Dates 09/09/2017 – 09/17/2017 Unless Otherwise Shown			
	Hunt Code	Licenses (2017)		
		Antlered	Antlerless	Limited Either Sex
		3489	5167	3800

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 (2017)	
		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	30	
TOTALS		180	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 (2017)		
				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	EF003E1R	08/15/2017	10/31/2017		25	

Unit	Hunt Code	Date Open	Date Closed	Licenses (2017)		
				Antlered	Antlerless	Either Sex
and Moffat Co Rd 66						
10	EE010E1R	10/01/2017	10/11/2017			32
45	EF045E1R	09/15/2017	09/30/2017		10	
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
TOTALS				20	35	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 (2017)	Total Licenses (2017), unless otherwise shown
	License #s (2017)	License #s (2017)	License #s (2017)	License #s (2017)		
	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 (2017)	Total Licenses (2017), unless otherwise shown
	License #s (2017)	License #s (2017)	License #s (2017)	License #s (2017)		
	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 (2017)	Total Licenses (2017), unless otherwise shown
	License #s (2017)	License #s (2017)	License #s (2017)	License #s (2017)		
	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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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						1100	1100
3, 4, 5, 214, 301, 441	EM003O1R													1300
	1300													
3, 4, 5, 214, 301, 441	EF003O1R													700
		700												
3, 4, 5, 301, 441										EF003O4R				900
											900			
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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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													765
			765											
6, 16, 17, 161, 171	EF006O1R			EF006O2R										3090
		1510			1580									
7, 8	EM007O1R			EM007O2R			EM007O3R			EM007O4R			1425	1725
	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													2500

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		2500												
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	EF014O1R			EF014O2R			EF014O3R			EF014O4R			250	350
15	EE015O1R									EE015O4R				450

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
15	EF015O1R			EF015O2R			EF015O3R			EF015O4R			1200	1375
		175												
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				1805
					485			610			710			
19	EM019O1R			EM019O2R			EM019O3R			EM019O4R			590	700
	110													
19				EF019O2R			EF019O3R			EF019O4R			180	180
20	EM020O1R			EM020O2R			EM020O3R			EM020O4R				80
	20			20			20			20				
20				EF020O2R			EF020O3R			EF020O4R				70
					30			20			20			
21, 22,	EM021O1R									EM021O4R				1260

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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, 31, 32	900									360				
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				150
			100									50		
27	EF027O1R			EF027O2R			EF027O3R			EF027O4R				620
		90			260			185			85			
28, 37	EE028O1R									EE028O4R				1095
			605									490		
28, 37	EF028O1R			EF028O2R			EF028O3R			EF028O4R				1880
		215			390			630			645			
29	EM029O1R			EM029O2R			EM029O3R			EM029O4R			20	30
	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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
29	EF029O1R			EF029O2R			EF029O3R			EF029O4R			65	75
		10												
31				EF031O2R			EF031O3R			EF031O4R			500	500
32				EF032O2R			EF032O3R			EF032O4R			300	300
33										EM033O4R				115
										115				
33				EF033O2R			EF033O3R			EF033O4R			950	950
34										EM034O4R				35
										35				
34				EF034O2R			EF034O3R			EF034O4R			200	200
35										EE035O4R				40
												40		
35				EF035O2R			EF035O3R			EF035O4R			145	145
35, 36, 361	EE035O1R													210
			210											
35, 36, 361	EF035O1R													125
		125												
36, 361										EE036O4R				40
												40		
36, 361				EF036O2R			EF036O3R			EF036O4R			225	225

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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	EM038O1R									EM038O4R				65
	35									30				
38	EF038O1R			EF038O2R			EF038O3R			EF038O4R			60	80
		20												
39	EM039O1R			EM039O2R			EM039O3R			EM039O4R				180
	60			50			50			20				
39	EF039O1R			EF039O2R			EF039O3R			EF039O4R			60	70
		10												
40	EE040O1R			EE040O2R			EE040O3R			EE040O4R				100
			28			26			26			20		
40	EF040O1R			EF040O2R			EF040O3R			EF040O4R				134
		36			31			31			36			
41, 42, 52, 411, 421, 521	EM041O1R									EM041O4R				1500
	1100									400				
41, 42, 52, 411, 421, 521	EF041O1R													750
		750												
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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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			710	710
44, 45, 47, 444	EE044O1R													200
			200											
44, 45, 47, 444	EF044O1R													100
		100												
44										EE044O4R				10
												10		
44				EF044O2R			EF044O3R			EF044O4R			40	40
45										EE045O4R				10
												10		
45				EF045O2R			EF045O3R			EF045O4R			50	50
46	EM046O1R			EM046O2R			EM046O3R			EM046O4R			60	85
	25													
46	EF046O1R			EF046O2R			EF046O3R			EF046O4R			60	80
		20												
47										EE047O4R				30
												30		
47				EF047O2R			EF047O3R			EF047O4R			110	110
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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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				330
				110			110			110				
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													200
		200												

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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				250
					100			100			50			
54	EF054O1R			EF054O2R			EF054O3R			EF054O4R				315
		75			120			70			50			
54	EM054O1R									EM054O4R				425
	275									150				
55										EE055O4R				45
												45		
55	EM055O1R													280
	280													
55	EF055O1R			EF055O2R			EF055O3R			EF055O4R				910
		260			245			300			105			
56	EM056O1R			EM056O2R			EM056O3R			EM056O4R				175
	50			50			50			25				
56				EF056O2R			EF056O3R			EF056O4R				140
					55			55			30			
57, 58	EM057O1R			EM057O2R			EM057O3R			EM057O4R				320
	80			80			80			80				
57, 58	EF057O1R			EF057O2R			EF057O3R			EF057O4R				440
		100			120			120			100			

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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	EM059O1R									EM059O4R				280
	100									180				
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				625
		50			170			190			215			
62										EE062O4R				100
												100		
62	EM062O1R													285
	285													
62	EF062O1R			EF062O2R			EF062O3R			EF062O4R			100	260
		60			100									
63										EM063O4R				15
										15				
63				EF063O2R			EF063O3R			EF063O4R				250
					125			75			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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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	EE064O1R									EE064O4R				475
			400									75		
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				535
		115			140			170			110			
67	EM067O1R			EM067O2R			EM067O3R			EM067O4R				800
	290			275			155			80				
67	EF067O1R			EF067O2R			EF067O3R			EF067O4R				535
		85			130			160			160			
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		

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
71, 72, 73, 711	EE071O1R									EE071O4R				1075
			885									190		
71				EF071O2R			EF071O3R			EF071O4R			90	90
72				EF072O2R			EF072O3R			EF072O4R			50	50
73				EF073O2R			EF073O3R			EF073O4R			15	15
74, 741	EE074O1R													275
			275											
74, 741										EM074O4R				60
										60				
74				EF074O2R			EF074O3R			EF074O4R			75	75
75, 751	EE075O1R													600
			600											
75, 751										EM075O4R				80
										80				
75, 751				EF075O2R			EF075O3R			EF075O4R			225	225
76	EM076O1R			EM076O2R			EM076O3R							280
	190			60			30							
76				EF076O2R			EF076O3R			EF076O4R				570
					200			180			190			
77, 78, 771	EE077O1R													750
			750											

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
77, 78, 771										EM077O4R				80
									80					
77, 78, 771				EF077O2R			EF077O3R			EF077O4R				245
					125			70		50				
79	EM079O1R			EM079O2R			EM079O3R							365
	165			100			100							
79	EF079O1R			EF079O2R			EF079O3R			EF079O4R				325
		50			100			75			100			
80, 81	EM080O1R									EM080O4R				640
	600								40					
80				EF080O2R			EF080O3R			EF080O4R				200
					60			70			70			
81				EF081O2R			EF081O3R			EF081O4R				200
					60			70			70			
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		

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
85, 140, 851 except Bosque del Oso SWA				EF085O2R			EF085O3R			EF085O4R				120
					40			40			40			
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		

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
181				EF181O2R			EF181O3R			EF181O4R				600
					160			205			235			
191	EM191O1R			EM191O2R			EM191O3R			EM191O4R			330	380
	50													
191				EF191O2R			EF191O3R			EF191O4R			160	160
201	EF201O1R			EF201O2R			EF201O3R			EF201O4R				155
		30			55			30			40			
214										EM214O4R				50
										50				
214				EF214O2R			EF214O3R			EF214O4R			600	600
231										EM231O4R				60
										60				
231				EF231O2R			EF231O3R			EF231O4R			250	250
371	EE371O1R									EE371O4R				320
			200									120		
371	EF371O1R			EF371O2R			EF371O3R			EF371O4R				515
		70			130			155			160			
391	EM391O1R			EM391O2R			EM391O3R			EM391O4R			60	60
411				EF411O2R			EF411O3R			EF411O4R			100	200
					100									

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
421				EF421O2R			EF421O3R			EF421O4R			850	850
444										EE444O4R				70
444				EF444O2R			EF444O3R			EF444O4R			205	205
461	EM461O1R			EM461O2R			EM461O3R			EM461O4R			50	50
461	EF461O1R			EF461O2R			EF461O3R			EF461O4R			25	25
471										EE471O4R				25
471				EF471O2R			EF471O3R			EF471O4R			55	55
481	EM481O1R			EM481O2R			EM481O3R			EM481O4R			200	270
481	70			EF481O2R			EF481O3R			EF481O4R			175	175
500	EM500O1R			EM500O2R			EM500O3R			EM500O4R			130	230
500	100			EF500O2R			EF500O3R			EF500O4R			350	350
501	EM501O1R			EM501O2R			EM501O3R			EM501O4R			120	155
501	35			EF501O2R			EF501O3R			EF501O4R			200	200

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
511	EM511O1R									EM511O4R				175
	75									100				
511	EF511O1R			EF511O2R			EF511O3R			EF511O4R			100	130
		30												
521 north of West Muddy Creek and east of Colo 133				EF521O2R			EF521O3R			EF521O4R			375	375
521 south of West Muddy Creek and west of Paonia Reservoir				EF521S2R			EF521S3R			EF521S4R			325	325
551										EE551O4R				20
												20		
551	EM551O1R													70
	70													
551	EF551O1R			EF551O2R			EF551O3R			EF551O4R				535

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
		100			195			200			40			
561	EM561O1R			EM561O2R			EM561O3R			EM561O4R				105
	30			30			30			15				
561				EF561O2R			EF561O3R			EF561O4R				80
					30			30			20			
681				EF681O2R			EF681O3R			EF681O4R				335
					160			125			50			
711				EF711O2R			EF711O3R			EF711O4R			90	160
											70			
741				EE741O2R			EE741O3R			EE741O4R			50	50
851 Bosque del Oso SWA only	EM851O1R			EM851O2R			EM851O3R			EM851O4R				20
	5			5			5			5				
851 Bosque del Oso SWA only							EF851O3R							5
								5						

#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 (2017)	Total Licenses (2017)
	License #s (2017)			License #s (2017)			License #s (2017)			License #s (2017)				
	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		
851 Bosque del Oso SWA only Youth Only				EE851K2R			EE851K3R							4
						2			2					
Totals	13245	8601	7333	1010	8851	28	715	7166	28	4385	7656	3185	23475	85678

#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 (2017)	Other Season Dates		
	Licenses (2017)	Licenses (2017)	Licenses (2017)	Licenses (2017)				Licenses (2017)

	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
6, 16, 17, 161, 171	EE006P1R																		75
6, 16, 17, 161, 171			400											EF006P5R	08/15/2017- 09/30/2017		300		350
6			75																20
6				EF006P2R															20
6					50														20
6							EF006P3R			EF006P4R									20
6								10			10								20
7, 8														EF007P5R	09/01/2017- 01/31/2018		200		200
9														EF009P5R	09/01/2017- 01/31/2018		145		145
10														EF010P5R	08/15/2017- 01/15/2018		150		150
11, 12, 13, 23, 24, 25, 26, 33, 34, 131, 211, 231	EE011P1R																		700
11, 12, 13, 23, 24, 211			700											EF011P5R	10/01/2017- 11/30/2017		900		900
14, 214, 441														EF014P5R	12/01/2017- 12/31/2017		400		400
15	EE015P1R			EE015P2R			EE015P3R			EE015P4R				EF015P5R	11/20/2017- 01/31/2018		300		600
15			75			75			75			75							600
16							EF016P3R			EF016P4R									20
16								10			10								20
17							EF017P3R			EF017P4R									20
17								10			10								20
18	EF018P1R			EF018P2R			EF018P3R			EF018P4R			240						240
18																			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.

- 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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
18, 181	EE018P1R									EE018P4R									720
			360									360							
19														EF019P5R	09/01/2017-01/31/2018		150		150
20														EF020P5R	09/01/2017-01/31/2018		475		475
21, 22, 30, 31, 32	EE021P1R																		125
			125																
22, 31, 32														EF022P5R	10/14/2017-12/31/2017		400		400
23, 24														EF023P5R	12/01/2017-12/31/2017		100		100

#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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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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	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		200		200
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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	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		25		25
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		50		60
			10																
39														EF039P5R	09/01/2017-01/31/2018		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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
40														EF040P5R	09/01/2017-11/30/2017		100		100
41, 42, 52, 411, 421, 521	EE041P1R									EE041P4R									540
			290									250							
41														EF041P5R	09/01/2017-01/31/2018		275		275
43														EF043P5R	08/15/2017-01/15/2018		125		125
43, 471	EE043P1R																		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.

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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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	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		25		25
44, 45, 47, 444	EE044P1R																		25
			25																
45														EF045P5R	08/15/2017-01/15/2018		10		10
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		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.

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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 (2017)	Other Season Dates						Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)				
	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										
			85									65								
53, 63 - Delta County only, 521 - South of Colo 133 and west of Somerset														EF053P5R	12/01/2017-01/31/2018		125			
54	EE054P1R									EE054P4R										
			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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	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
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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	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	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	
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 (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	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		45		45
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		200		200
60	EE060P1R									EE060P4R				EF060P5R	09/01/2017-12/31/2017		50		70
			10									10							
61														EF061P5R	12/15/2017-01/15/2018		50		50
62	EE062P1R									EE062P4R									150
			75									75							
62				EF062P2R			EF062P3R			EF062P4R			170	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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	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		325		
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 (2017)	Other Season Dates						Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)							Licenses (2017)			
	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		150		150	
73 - South of Colo 184 and US 160														EF073P5R	09/01/2017-10/13/2017		50		50	
74, 741	EE074P1R									EE074P4R									25	
			15									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 (2017)	Other Season Dates						Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)				
	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		150		150	

#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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
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		25		25
81														EF081P5R	09/01/2017-01/31/2018		40		40
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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	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	
83				EF083P2R			EF083P3R			EF083P4R									220
					50			125			45								
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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	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	
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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	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		450		450
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		70		70
500														EF500P5R	09/01/2017-01/31/2018		20		20
501														EF501P5R	09/01/2017-01/31/2018		30		30
511	EE511P1R																		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 (2017)	Other Season Dates					Total (2017)
	Licenses (2017)			Licenses (2017)			Licenses (2017)			Licenses (2017)						Licenses (2017)			
	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex	Antlered	Antlerless	Either Sex			Hunt Code	Date Open-Date Closed	Antlered	Antlerless	
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		100		100
751 south of US 160														EF751P5R	12/01/2017-01/15/2018		75		75
TOTALS	0	25	3760	0	100	75	0	175	75	0	95	1625	2105			100	11925	40	20100

#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 (2017)	Total (2017)
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 (2017)	
				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		180
19	EF019L1R	12/02/2017	12/13/2017		50
20	EM020L1R	11/25/2017	12/06/2017	50	
20	EF020L1R	11/25/2017	12/06/2017		30
20	EM020L2R	01/06/2018	01/17/2018	50	
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		40
27	EF027L1R	11/25/2017	12/03/2017		80
28, 37	EF028L1R	11/25/2017	12/03/2017		280
30	EF030L1R	12/15/2017	01/15/2018		100
31	EF031L1R	12/15/2017	01/15/2018		300
35, 36	EF035L1R	11/25/2017 12/15/2017	12/03/2017 01/15/2018		75
38 Jefferson County ONLY	EF038L1R	12/01/2017	01/31/2018		125
50	EF050L1R	12/30/2017	01/07/2018		50
61	EF061L1R	12/02/2017	12/10/2017		25
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		225
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 (2017)	
				Antlered	Antlerless
142	EF142L1R	10/15/2017	01/31/2018		25
181	EF181L1R	11/25/2017	12/03/2017		60
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		50
500	EF500L1R	12/30/2017	01/07/2018		30
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		35
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				100	3695

#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, 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 15, 2017, 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 (2017)		
				Unlimited Buck or Either Sex	Limited Buck Only	Limited Doe Only

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 (2017)		
				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		5	
11	AF011O1A	09/01/2017	09/20/2017			5
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		35	
18, 27, 28, 37, 181	AF018O1A	09/01/2017	09/20/2017			40
49, 50, 500, 501	AM049O1A	08/15/2017	08/31/2017		30	
49, 50, 500, 501	AF049O1A	09/01/2017	09/20/2017			20
57, 58, 581	AM057O1A	08/15/2017	08/31/2017		25	
57, 58, 581	AF057O1A	09/01/2017	09/20/2017			20
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,	AM068O1A	08/15/2017	09/20/2017		5	

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 (2017)		
				Unlimited Buck or Either Sex	Limited Buck Only	Limited Doe Only
682						
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		100	
87	AF087O1A	09/01/2017	09/20/2017			20
88	AM088O1A	08/15/2017	09/20/2017		65	
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		595	225

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 (2017)		
				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 (2017)	
				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	5	
11	AF011O1M	09/21/2017	09/29/2017		5
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	55	
18, 27, 28, 37, 181	AF018O1M	09/21/2017	09/29/2017		55
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		25
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	150	
69, 84, 85, 86, 691, 861	AF069O1M	09/21/2017	09/29/2017		150
87, 88, 89, 90, 95, 951	AM087O1M	09/21/2017	09/29/2017	55	
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	
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

Unit(s)	Hunt Code	Date Open	Date Closed	Licenses Types and Numbers (2017)	
				Buck	Doe
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	150	
128, 129, 133, 134, 135, 140, 141, 142, 147	AF128O1M	09/21/2017	09/29/2017		150
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	1079	1020

#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 (2017)	
				Buck	Doe
3, 301	AM003O1R	10/07/2017	10/13/2017	280	
3, 301	AF003O1R	10/07/2017	10/13/2017		70
4, 5	AM004O1R	10/07/2017	10/13/2017	90	
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	35	
11	AF011O1R	10/07/2017	10/13/2017		35
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	70	
18, 27, 28, 37, 181	AF018O1R	10/07/2017	10/13/2017		125
48, 56, 481	AM048O1R	10/07/2017	10/13/2017	10	
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

Unit(s)	Hunt Code	Date Open	Date Closed	License Type and #'s (2017)	
				Buck	Doe
66	AM066O1R	10/07/2017	10/13/2017	2	
67	AM067O1R	10/07/2017	10/13/2017	15	
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	275	
69, 84, 85, 86, 691, 861	AF069O1R	10/07/2017	10/13/2017		425
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	410	
87	AF087O1R	10/07/2017	10/13/2017		170
88	AM088O1R	10/07/2017	10/13/2017	140	
88	AF088O1R	10/07/2017	10/13/2017		85
89	AM089O1R	10/07/2017	10/13/2017	110	
89	AF089O1R	10/07/2017	10/13/2017		120
90	AM090O1R	10/07/2017	10/13/2017	30	
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	
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	25	
102	AM102O1R	10/07/2017	10/13/2017	25	

Unit(s)	Hunt Code	Date Open	Date Closed	License Type and #'s (2017)	
				Buck	Doe
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	125	
107	AF107O1R	10/07/2017	10/13/2017		75
109	AM109O1R	10/07/2017	10/13/2017	30	
109	AF109O1R	10/07/2017	10/13/2017		30
110	AM110O1R	10/07/2017	10/13/2017	125	
110	AF110O1R	10/07/2017	10/13/2017		125
111	AM111O1R	10/07/2017	10/13/2017	175	
111	AF111O1R	10/07/2017	10/13/2017		200
112, 113, 114, 115	AM112O1R	10/07/2017	10/13/2017	700	
112, 113, 114, 115	AF112O1R	10/07/2017	10/13/2017		650
116, 117, 122, 127	AM116O1R	10/07/2017	10/13/2017	350	
116, 117, 122, 127	AF116O1R	10/07/2017	10/13/2017		350
118	AM118O1R	10/07/2017	10/13/2017	235	
118	AF118O1R	10/07/2017	10/13/2017		200
119	AM119O1R	10/07/2017	10/13/2017	250	
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	245	
124	AF124O1R	10/07/2017	10/13/2017		200
128	AM128O1R	10/07/2017	10/13/2017	210	
128	AF128O1R	10/07/2017	10/13/2017		200
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	140	
133	AF133O1R	10/07/2017	10/13/2017		200
134	AM134O1R	10/07/2017	10/13/2017	150	
134	AF134O1R	10/07/2017	10/13/2017		185
135	AM135O1R	10/07/2017	10/13/2017	100	
135	AF135O1R	10/07/2017	10/13/2017		100
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	100	
137, 138, 144	AF137O1R	10/07/2017	10/13/2017		150
140, 147	AM140O1R	10/07/2017	10/13/2017	125	
140, 147	AF140O1R	10/07/2017	10/13/2017		175
142	AM142O1R	10/07/2017	10/13/2017	20	
142	AF142O1R	10/07/2017	10/13/2017		15
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	

Unit(s)	Hunt Code	Date Open	Date Closed	License Type and #'s (2017)	
				Buck	Doe
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	60	
951	AF951O1R	10/07/2017	10/13/2017		60
TOTALS				6928	6360

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 (2017)	
				Buck	Doe
9, 191	AF009L1R	11/01/2017	12/31/2017		170
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		1500
112, 113, 114, 115	AF112L1R	12/02/2017	12/10/2017		350
116, 117, 122, 127	AF116L1R	12/01/2017	12/31/2017		350
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					3495

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 (2017)	
				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	110	
9, 191	AF009P1R	10/07/2017	10/13/2017		70
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		25
80	AM080P1R	10/07/2017	10/13/2017	5	

Unit	Hunt Code	Date Open	Date Closed	Licenses (2017)	
				Male	Female
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	10	
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		650
129	AM129P1R	10/07/2017	10/13/2017	45	
129	AF129P1R	10/07/2017	10/13/2017		55
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	75	
135	AF135P1R	10/07/2017	10/13/2017		50
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	260	
137, 138, 144	AF137P1R	10/07/2017	10/13/2017		220
141	AM141P1R	10/07/2017	10/13/2017	65	
141	AF141P1R	10/07/2017	10/13/2017		65
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		30
			TOTALS	1435	2975

#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	2017 Resident Antlered Licenses	2017 Resident Antlerless Licenses	2017 Nonresident Antlered Licenses	2017 Nonresident Antlerless Licenses	2017 Resident Either Sex Licenses
1, 201	0	0	0	0	1
6	13	18	3	4	
7, 8, 191 except within 1/4 mile of Hwy 14	8	21	2	4	

Units	2017 Resident Antlered Licenses	2017 Resident Antlerless Licenses	2017 Nonresident Antlered Licenses	2017 Nonresident Antlerless Licenses	2017 Resident Either Sex Licenses
12, 23, 24	4	6	0	0	
14	6	11	0	0	
15, 27	3	5	1	1	
16	9	8	0	0	
17	4	10	1	2	
18, 181	11	11	1	2	
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.	4	7	0	2	
28	11	12	2	1	
36, 361	2	0	0	0	
37, 371	9	11	1	1	
38	3	6	0	0	
39, 46	3	5	0	0	
41, 42, 52, 411, 421, 521	16	0	2	0	
41, 42, 421	0	23	0	4	
43	1	0	0	0	
44, 45	2	0	0	0	
49, 50, 500, 501	4	10	1	0	

Units	2017 Resident Antlered Licenses	2017 Resident Antlerless Licenses	2017 Nonresident Antlered Licenses	2017 Nonresident Antlerless Licenses	2017 Resident Either Sex Licenses
48, 55, 56, 481, 551, 561	1	0	0	0	
52, 411, 521	0	13	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	10	8	0	0	
171	6	13	1	3	
191 except within 1/4 mile of Hwy 14	0	2	0	0	
TOTALS	149	217	17	24	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 municipal 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: 2017-00119

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (406 Series, Wildlife)

on 05/05/2017

2 CCR 406-2

CHAPTER W-2 - BIG GAME

The above-referenced rules were submitted to this office on 05/09/2017 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.

May 15, 2017 16:33:39

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 406-3

Rule title

2 CCR 406-3 CHAPTER W-3 - FURBEARERS AND SMALL GAME EXCEPT
MIGRATORY BIRDS 1 - eff 07/01/2017

Effective date

07/01/2017

**FINAL REGULATIONS - CHAPTER W-3 - FURBEARERS and SMALL GAME, EXCEPT
MIGRATORY BIRDS**

ARTICLE I - GENERAL PROVISIONS

#303 - Manner of Take:

The following are legal methods of take for game species listed in this chapter. Any method of take not listed herein shall be prohibited, except as otherwise provided by Statute or Commission regulation or by 35-40-100.2-115, C.R.S.

A. Special Conditions

5. Non-toxic shot requirements

- a. Arapaho National Wildlife Refuge (Jackson County).

No person shall use or possess shot (either in shot-shells or as loose shot for muzzle-loading) other than non-toxic shot while taking or attempting to take any resident small game species with a shotgun. "Non-toxic shot" - means any shot type approved for use to take migratory game birds by the US Fish and Wildlife Service as set forth in #500 of these regulations.

6. **Labeling of traps** - All live traps (limited to cage or box traps) placed on public lands must be labeled permanently and legibly with the trapper's Customer Identification Number (CID) in a location that is visible without having to manipulate the live trap in any way. If the trapper does not have a CID, all live traps placed on public lands must be labeled with the trapper's name. Live traps not properly labeled may be confiscated by any Wildlife Officer.

#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.

ARTICLE II - SMALL GAME SEASON DATES, UNITS (AS DESCRIBED IN CHAPTER 0 OF THESE REGULATIONS), BAG AND POSSESSION LIMITS, LIMITED LICENSES AND PERMITS

#314 - Dusky (Blue) Grouse

A. Season Dates and Units

1. West of U.S. Interstate 25.
 - a. September 1 - November 19, 2017.
 - b. Extended Falconry Season: September 1 - March 31 annually.

B. Daily Bag and Possession Limits

1. Daily Bag Limit - Three (3) birds.
2. Possession Limit - Nine (9) birds.

#315 - White-tailed Ptarmigan

A. Season Dates and Units

1. Statewide except units 44, 45, 53, 54, 66, 67, 68, 70, 71, 74, 75, 76, 77, 78, 79, 80, 81, 444 and 751.
 - a. September 9 - October 1, 2017.
 - b. Extended Falconry Season: September 1 - March 31 annually.
2. Units 44, 45, 53, 54, 66, 67, 68, 70, 71, 74, 75, 76, 77, 78, 79, 80, 81, 444 and 751.
 - a. September 9 - November 19, 2017.
 - b. Extended Falconry Season: September 1 - March 31 annually.

B. Daily Bag and Possession Limits

1. Daily Bag Limit - Three (3) birds.
2. Possession Limit - Six (6) birds.

#316 - Greater Sage-grouse

A. Season Dates, Units and Limits, Except North Park

1. Units 2, 3, 4, 5, 10, 11, 13, 18 except that portion of unit 18 east of Colo 125 in Grand County, 27, 28 except that portion of GMU 28 north and east of Grand Co Rd 50 (Church Park Rd), 37, 181, 201, 211, 301 and 441.
 - a. September 9 - September 15, 2017.
 - b. Extended Falconry Season: September 1 - January 31 annually.
2. Daily Bag and Possession Limits
 - a. Daily Bag Limit - Two (2) birds.
 - b. Possession Limit - Four (4) birds.

B. Season Dates, Units and Limits, North Park

1. Units 6, 16, 17, 161, and 171.
 - a. September 9 - September 10, 2017.
 - b. Extended Falconry Season: September 1 - January 31 annually.

2. Daily Bag and Possession Limits
 - a. Daily Bag Limit - Two (2) birds.
 - b. Possession Limit - Two (2) birds.

#317 - Gunnison Sage-grouse

- A. Season Dates and Units
 1. None.
- B. Daily Bag and Possession Limits
 1. Daily Bag Limit - None.
 2. Possession Limit - None.

#318 - Mountain Sharp-tailed Grouse

- A. Season Dates and Units.
 1. Closed statewide except: Units 4, 5, 12, 13, 14, 131, 211, 214, and 441.
 - a. September 1 - September 17, 2017.
 - b. Extended Falconry Season: September 1 - January 31 annually.
- B. Daily Bag and Possession Limits
 1. Daily Bag Limit - Two (2) birds.
 2. Possession Limit - Four (4) birds.

#319 - Chukar Partridge

- A. Season Dates and Units
 1. Statewide: September 1 - November 30, 2017.
 2. Extended Falconry Season - Statewide: September 1 - March 31 annually.
- B. Daily Bag and Possession Limits
 1. Daily Bag Limit - Four (4) birds.
 2. Possession Limit - Twelve (12) birds.

#320 - Pheasant

- A. Season Dates and Units
 1. East of I-25: November 11, 2017 - January 31, 2018.
 2. West of I-25: November 11, 2017 - January 7, 2018.
 3. Extended Falconry Season - Statewide: September 1 - March 31 annually.
- B. Daily Bag and Possession Limits
 1. Daily Bag Limit - Three (3) cocks.
 2. Possession Limit - Nine (9) cocks.
- C. Extended Falconry Season Daily Bag and Possession Limits
 1. Daily Bag Limit - Three (3) birds.
 2. Possession Limit - Nine (9) birds.

#321 - Quail (Northern Bobwhite, Scaled, Gambel's)

A. Season Dates and Units

1. East of U.S. Interstate 25 and south of Interstate 70 from I-25 to Byers and U.S. Highway 36 from Byers to the Kansas line, and those portions of Pueblo, Fremont, Huerfano, El Paso and Las Animas counties lying west of I-25:
November 11, 2017 - January 31, 2018.
2. East of U.S. Interstate 25 and north of Interstate 70 from I-25 east to Byers and U.S. Highway 36 from Byers to the Kansas line:
November 11, 2017 - January 7, 2018.
3. West of U.S. Interstate I-25, except Pueblo, Fremont, Huerfano, El Paso and Las Animas counties:
November 11, 2017 - January 7, 2018.
4. Extended Falconry Season - Statewide: September 1 through March 31 annually.

B. Daily Bag and Possession Limits

1. Daily Bag Limit - Eight (8) quail of each species.
2. Possession Limit - Twenty-four (24) quail of each species.

#322 - Greater Prairie-Chicken

A. Season Dates and Units.

1. Closed statewide except: Units 93, 97, 98, 100, 101 and 102.
 - a. October 1, 2017 - January 7, 2018.

B. Annual Bag and Possession Limits

1. Annual Bag Limit - Two (2) birds.
2. Possession Limit - Two (2) birds.

#328 - Beaver

A. Season Dates and Units

1. Statewide, October 1 - April 30 annually.

B. Daily Bag and Possession Limits

1. Unlimited bag and possession.

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Tracking number: 2017-00120

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (406 Series, Wildlife)

on 05/04/2017

2 CCR 406-3

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

The above-referenced rules were submitted to this office on 05/09/2017 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.

May 15, 2017 16:35:00

Cynthia H. Coffman
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Permanent Rules Adopted

Department

Department of Human Services

Agency

Behavioral Health

CCR number

2 CCR 502-1

Rule title

2 CCR 502-1 BEHAVIORAL HEALTH 1 - eff 07/01/2017

Effective date

07/01/2017

(2 CCR 502-1)

21.240 DUI/DWAI, BUI, AND FUI EDUCATION AND TREATMENT

21.240.1 DEFINITIONS [Eff. 7/1/17]

“Level I and Level II Education, Therapy or Treatment” means an approved alcohol and drug driving safety education or treatment program as defined in 42-4-1301.3(3)(c)(IV) C.R.S.

21.240.85 LEVEL II FOUR PLUS TREATMENT [Eff. 7/1/17]

- A. Level II Four Plus Treatment is an approved alcohol and drug driving safety education or treatment program as defined in Section 42-4-1301.3(3)(c)(IV) C.R.S. (2016), intended for someone who has four (4) or more alcohol and/or drug impaired driving offenses.
- B. In order to provide Level II Four Plus Treatment an agency must be licensed to provide:
 - 1. Level II Therapeutic Education; and,
 - 2. Level II Therapy.
- C. Level II Four Plus Treatment must consist of not less than eighteen (18) months of attendance which includes a minimum of one-hundred eighty (180) hours of treatment.
- D. All Level II Four Plus Treatment shall be driven by the individual's clinical assessment.
- E. Level II Four Plus Staff Requirements
 - 1. Staff providing Level II Four Plus Treatment must meet the requirements in Section 21.240.3(D), and:
 - a. CAC II credentialed staff must be receiving clinical supervision by a CAC III or LAC; or,
 - b. Licensed staff must have at least one (1) year of documented addiction counseling experience.
 - 2. Staff providing specialized treatment services must hold current and valid credentials and/or licensure in the area of service provision.
 - 3. Staff providing assessment must hold current and valid credentials and/or licensure in the area of service provision.
- F. Level II Four Plus Clinical Assessment(s)
 - 1. A full assessment must be administered in accordance with section 21.190.3.
 - 2. In addition to the requirements in Section 21.190.3(D), the assessment must contain information on:
 - a. Cognitive functioning;
 - b. Traumatic brain injury;

- c. Adverse childhood experiences (ACES);
 - d. Grief and loss; and,
 - e. Co-occurring mental health issues.
- 3. Agencies shall utilize an assessment tool specifically designed to address co-occurring mental health issues in the impaired driver population.
- 4. Agencies shall document results and coordinate further services as appropriate.

G. Level II Four Plus Service Planning and Reviews

- 1. Level II Four Plus service planning and reviews must be administered in accordance with Section 21.190.4.
- 2. Agencies providing Level II Four Plus Treatment shall conduct service plan reviews at a minimum of every sixty (60) days in collaboration with supervising probation officers.
- 3. Consideration shall be given to clients' needs for aftercare and peer recovery support services.

H. Level II Four Plus Discharge Planning

Level II Four Plus discharge planning must be administered in accordance with Section 21.190.6.

I. Provision of Level II Four Plus services shall:

- 1. Be determined by the results of the screenings and clinical assessment.
- 2. Be a combination of education and treatment strategies that include, but not limited to:
 - a. Individual counseling;
 - b. Group therapy, unless clinically contraindicated;
 - c. Family/other supportive adult therapy, if applicable;
 - d. Interlock counseling, if the individual has an ignition interlock installed;
 - e. DUI Level II Education or Level II Therapy, if applicable;
 - f. Education, if applicable;
 - g. Medication assisted treatment, if applicable;
 - h. Residential treatment, if applicable;
 - i. Other treatment as indicated by the initial and ongoing clinical assessment.
- 3. Agencies providing Level II Four Plus Treatment shall provide case management activities, where applicable, to ensure the coordination of client services and needs, and the continuity of care, with other services.

J. Testing and Monitoring

1. All clients shall be tested and/or monitored for alcohol and drug use. Testing and/or monitoring may include the following:
 - a. Urinalysis;
 - b. Breath analysis;
 - c. Continuous alcohol monitoring;
 - d. Mobile/remote breath testing;
 - e. Direct and indirect biomarker testing;
 - f. Drug and other testing as appropriate.
2. Agency drug and alcohol toxicology collection shall be observed by trained staff.
3. If testing is not done by the agency, there must be documentation of the efforts to obtain test results.
4. Testing and sharing of results shall be coordinated with probation.

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Opinion of the Attorney General rendered in connection with the rules adopted by the

Behavioral Health

on 05/05/2017

2 CCR 502-1

BEHAVIORAL HEALTH

The above-referenced rules were submitted to this office on 05/09/2017 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.

May 24, 2017 08:38:09

Cynthia H. Coffman
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by Frederick R. Yarger
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Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Passenger Tramway Safety Board

CCR number

3 CCR 718-1

Rule title

3 CCR 718-1 PASSENGER TRAMWAYS 1 - eff 07/01/2017

Effective date

07/01/2017

3.1.4.3.4.3 Incorrect attachment (Previously 3.1.4.3.7 in ANSI 1992)

May 2, 2011 to Present:

The designer shall incorporate provisions to stop the grip and carrier in a controlled fashion when a grip is incorrectly attached to the rope.

a) monocable systems

The path of the rope from the terminal where passengers are loaded shall be approximately level or inclined upward for a length at least equal to:

$$L \text{ (feet)} = \frac{V^2 \text{ (ft/minute)}}{14,400} \quad \text{or}$$

$$L \text{ (meters)} = \frac{V^2 \text{ (meter/sec)}}{1.22}$$

L = Length of level or inclined upward rope

V = rope speed during passenger loading at that station

An incorrectly attached grip tripping the last checking switch shall cause the rope to stop in a distance not greater than the calculated length ^aL° or in the case where a greater length of level or inclined upward rope is provided, in a distance not greater than the length provided.

b) bicable systems

On bicable systems terminals, the designer shall incorporate provisions to stop in a controlled fashion an incorrectly attached carrier after the grip attachment point.

A sign, visible to the operating personnel in the station requiring the reduced rope speed, is required. It shall state the ^amaximum rope speed during loading° (see table D-1(s)) if the aerial lift must be slowed below the designed speed to comply with 3.1.4.3.4.3(a).

May 15, 2000 to May 2, 2011:

The designer shall incorporate provisions to stop the grip and carrier in a controlled fashion when a grip is incorrectly attached to the rope. The path of the rope from the terminal where passengers are loaded shall be approximately level or inclined upward for a length at least equal to:

$$L \text{ (feet)} = \frac{V^2 \text{ (ft/minute)}}{14,400} \quad \text{or}$$

$$L \text{ (meters)} = \frac{V^2 \text{ (meter/sec)}}{1.22}$$

L = Length of level or inclined upward rope

V = rope speed during passenger loading at that station

An incorrectly attached grip tripping the last checking switch shall cause the rope to stop in a distance not greater than the calculated length ^aL° or in the case where a greater length of level or inclined upward rope is provided, in a distance not greater than the length provided.

Nov. 1, 1991 to May 15, 2000

At each carrier launching position (any area where a grip is designed to attach to the haul rope), devices shall be installed that will stop the aerial lift if any grip incorrectly attaches to the haul rope.

When a grip is detected to be incorrectly attached to the rope, the designer shall incorporate provisions to stop the grip and carrier so that it will come to a stop in a controlled fashion, or the path of the rope from the terminal where passengers are loaded shall be approximately level or inclined upward for a length at least equal to the calculated stopping distance. The level or sloping length of rope shall be measured from the last switch where the grip is checked for attachment to the rope. Calculated stopping distance for this subsection is equal to:

$$D = \frac{V^2(\text{ft/minute})}{14,400} \quad \text{or} \quad D = \frac{V^2(\text{meter/sec})}{1.22}$$

D = stopping distance

V = rope speed during passenger loading at that station

Upon clamping to the haul rope or haul-carrying rope, the carrier velocity and rope speed shall not vary sufficiently to introduce unduly either passenger discomfort or mechanical wear.

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Opinion of the Attorney General rendered in connection with the rules adopted by the

Passenger Tramway Safety Board

on 05/10/2017

3 CCR 718-1

PASSENGER TRAMWAYS

The above-referenced rules were submitted to this office on 05/16/2017 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.

May 24, 2017 08:50:09

Cynthia H. Coffman
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Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-43

Rule title

5 CCR 1002-43 REGULATION NO. 43 - ON-SITE WASTEWATER TREATMENT
SYSTEM REGULATION 1 - eff 06/30/2017

Effective date

06/30/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 43 - ON-SITE WASTEWATER TREATMENT SYSTEM REGULATION

5 CCR 1002-43

43.1 Authority

This regulation is promulgated pursuant to the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S.

43.2 Scope and Purpose

A. Declaration

1. In order to preserve the environment and protect the public health and water quality; to eliminate and control causes of disease, infection, and aerosol contamination; and to reduce and control the pollution of the air, land and water, it is declared to be in the public interest to establish minimum standards and regulations for On-site Wastewater Treatment Systems (OWTS) in the state of Colorado and to provide the authority for the administration and enforcement of such minimum standards and regulations.
2. This regulation will apply to On-site Wastewater Treatment Systems as defined in section 25-10-103(12), C.R.S.

B. Purpose

1. The purpose of this regulation as authorized by the OWTS Act is to establish minimum standards for the location, design, construction, performance, installation, alteration and use of OWTS within the state of Colorado, and establish the minimum requirements for regulations adopted by local boards of health including but not limited to permit application requirements; requirements for issuing permits; the inspection, testing, and supervision of installed systems; the maintenance and cleaning of systems; the disposal of waste material and the issuance of cease and desist orders.

C. Effluent Discharged to Surface Waters

1. Any system that will discharge into surface waters must be designed by a professional engineer. The discharge permit application must be submitted for preliminary approval to the local board of health. Once approved by the local board of health, the application must be submitted to the Water Quality Control Division for review in accordance with the Water Quality Control Act, 25-8-101, et seq. C.R.S, and all applicable regulations of the Water Quality Control Commission. Compliance with such a permit will be deemed full compliance with this regulation.

D. Jurisdiction of Local Health Agencies

1. The jurisdiction of any local health agency extends over all unincorporated areas and over all municipal corporations within the territorial limits of the county or the counties

comprising the district public health agency, but not over the territory of any municipal corporation that maintains its own public health agency.

43.3 Definitions

1. "Absorption system" means a leaching field and adjacent soils or other system for the treatment of sewage in an On-site Wastewater Treatment System by means of absorption into the ground. See Soil treatment area.
2. "Accessible" means easily reached, attained or entered by the necessary equipment or maintenance provider.
3. "Applicant" means a person who submits an application for a permit for an On-site Wastewater Treatment System.
4. "Basal Area" means the effective surface area available to transmit the treated effluent from the filter media in a mound system into the in-situ receiving soils. The perimeter is measured at the interface of the imported fill material and in-situ soil. On sloping sites, only the area down-gradient from the up-slope edge of the distribution media may be included in this calculation.
5. "Bed" means a below-grade soil treatment area with a level sub-base, consisting of a shallow excavation greater than three feet wide containing distribution media and more than one lateral.
6. "Bedrock" means continuous rock that underlies the soil or is exposed at the surface. Bedrock is generally considered impervious, but if fractured or deteriorated, it may allow effluent to pass through without adequate treatment.
7. "Bedroom" means a room with an egress window, a closet, and/or is intended for sleeping purposes; or as defined by the local board of health, as stated in the local OWTS regulation.
8. "Biochemical Oxygen Demand, Five-Day" (BOD₅) means quantitative measure of the amount of oxygen consumed by bacteria while stabilizing, digesting, or treating biodegradable organic matter under aerobic conditions over a five-day incubation period; expressed in milligrams per liter (mg/L).
9. "Biochemical Oxygen Demand, Carbonaceous Five Day" (CBOD₅) means quantitative measure of the amount of oxygen consumed by bacteria while stabilizing, digesting, or treating the organic matter under aerobic conditions over a five-day incubation period while in the presence of a chemical inhibitor to block nitrification; expressed in milligrams per liter (mg/L).
10. "Building sewer" means piping that conveys wastewater to the first system component or the sewer main.
11. "Carbonaceous Biochemical Oxygen Demand" See Biochemical Oxygen Demand, Carbonaceous.
12. "Cesspool" means an unlined or partially lined underground pit or underground perforated receptacle into which raw household wastewater is discharged and from which the liquid seeps into the surrounding soil. Cesspool does not include a septic tank.
13. "Chamber" means an open, arch-shaped structure providing an open-bottom soil interface with permeable sidewalls used for distribution of effluent in a soil absorption system.
14. "Cistern" means an underground, enclosed unpressurized reservoir or tank for storing water as part of a potable water supply system.

15. "Cleaning" means the act of removing septage or other wastes from a wastewater treatment system component or grease/waste from a grease interceptor.
16. "Colorado Plumbing Code" means Rules And Regulations of the Colorado State Plumbing Board (3 CCR 720-1).
17. "Commission" means the Water Quality Control Commission created by section 25-8-201, C.R.S.
18. "Competent technician" means a person who has the appropriate expertise and is able to conduct and interpret the results of soil profile test pit excavations, percolation tests, and site evaluations. This individual has also met the required competencies for a "Competent Technician" as defined in section 43.5.I.
19. "Component" means a subsection of an On-site Wastewater Treatment System; a component may include multiple devices.
20. "Composting toilet" means a self-contained waterless toilet designed to decompose non-water-carried human wastes through microbial action and to store the resulting matter for disposal.
21. "Consistence" means the degree and kind of cohesion and adhesion that soil exhibits and/or the resistance of soil to deformation or rupture under an applied stress to an extent that the soil density would restrict permeability. Aspects of consistence are used to determine if the horizon will have permeability lower than that of the defined soil type. Additional insight to consistence can be found in the UDSA-NRCS Field book for Describing and Sampling Soils; Version 3.0, Sept. 2012.
22. "Crest" means the highest point on the side of a dry gulch or cut bank.
23. "Cut-bank" means a nearly vertical slope caused by erosion or construction that has exposed historic soil strata.
24. "Deep gravel system" means a soil treatment area for repairs only where the trenches utilize a depth of gravel greater than 6 inches below the distribution pipe and sidewall area is allowed according to a formula specified in this regulation.
25. "Deficiency" See Malfunction.
26. "Department" means the Department of Public Health and Environment created by section 25-1-102, C.R.S.
27. "Design" means 1. the process of selecting, sizing, locating, specifying, and configuring treatment train components that match site characteristics and facility use as well as creating the associated written documentation; and 2. written documentation of size, location, specification and configuration of a system.
28. "Design capacity" See Flow, Design.
29. "Design flow" See Flow, Design.
30. "Designer, on-site wastewater treatment system" means a practitioner who utilizes site evaluation and investigation information to select an appropriate OWTS and prepares a design document in conformance with this regulation.
31. "Distribution" means the process of conveying wastewater or effluent to one or more components, devices, or throughout a soil treatment area.

- 32. "Distribution box" means a watertight component that receives effluent from a septic tank or other treatment unit and distributes effluent via gravity in approximately equal portions to two or more distribution laterals in the soil treatment area.
- 33. "Division" means the division of administration of the department of which the Water Quality Control Division is a part.
- 34. "Domestic wastewater" See Wastewater, domestic.
- 35. "Domestic Wastewater Treatment Works" means a system or facility for treating, neutralizing, stabilizing, or disposing of domestic wastewater which system or facility has a designed capacity to receive more than 2,000 gallons of domestic wastewater per day. The term "domestic wastewater treatment works" also includes appurtenances to such system or facility such as outfall sewers and pumping stations and to equipment related to such appurtenances. The term "domestic wastewater treatment works" does not include industrial wastewater treatment plants or complexes whose primary function is the treatment of industrial wastes, notwithstanding the fact that human wastes generated incidentally to the industrial process are treated therein. 25-8-103 (5), C.R.S.
- 36. "Dosing" means a high rate periodic discharge into a soil treatment area.
- 37. "Dosing, demand" means configuration in which a specific volume of effluent is delivered to a component based upon patterns of wastewater generation from the source.
- 38. "Dosing, pressure" means a uniform application of wastewater throughout the intended portion of the soil treatment area through small diameter pipes and orifices, under pressure. For this definition, the term pressure indicates that the system is capable of creating upward movement of effluent out of the distribution system piping.
- 39. "Dosing, timed" means a configuration in which a specific volume of effluent is delivered to a component based upon a prescribed interval, regardless of facility water use.
- 40. "Dosing siphon" means a device used for demand dosing effluent; which stores a predetermined volume of water and discharges it at a rapid rate, from a tank at a given elevation to a component at a lower elevation, accomplished by means of atmospheric pressure and the suction created by the weight of the liquid in the conveying pipe.
- 41. "Dosing tank" means a tank, compartment or basin that provides for storage of effluent from a septic tank or other treatment unit intended to be delivered to a soil treatment area at a high rate periodic discharge.
- 42. "Drainfield" See Soil treatment area.
- 43. "Drop box" means a device used for serial or sequential distribution of effluent by gravity flow to a lateral of a soil treatment area.
- 44. "Dry gulch" See Gulch, dry.
- 45. "Drywell" means an unlined or partially lined underground pit (regardless of geometry) into which drainage from roofs, basement floors, water softeners or other non-wastewater sources is discharged and from which the liquid seeps into the surrounding soil.
- 46. "Effective Size" means the size of granular media such that 10 percent by weight of the media is finer than the size specified.

47. "Effluent" means the liquid flowing out of a component or device of an On-site Wastewater Treatment System.
48. "Effluent filter" See Effluent screen.
49. "Effluent pipe" means non-perforated pipe that conveys effluent from one On-site Wastewater Treatment System component to the next.
50. "Effluent screen" means a removable, cleanable (or disposable) device installed on the outlet piping of a septic tank for the purpose of retaining solids larger than a specific size and/or modulating effluent flow rate. An effluent screen may be a component of a pump installation. An effluent screen may also be installed following the septic tank but before higher level treatment components or a soil treatment area.
51. "Environmental health specialist" means a person trained in physical, biological, or sanitary science to carry out educational and inspectional duties in the field of environmental health.
52. "Evapotranspiration/absorption system" means an unlined On-site Wastewater Treatment component that uses evaporation, transpiration, and absorption for dispersal of effluent.
53. "Evapotranspiration system" means an On-site Wastewater Treatment component with a continuous, impermeable liner that uses evapotranspiration and transpiration for dispersal of effluent.
54. "Experimental system" means a design or type of system based upon improvements or development in the technology of sewage treatment that has not been fully tested.
55. "Failure" means a condition existing within any component of an OWTS which prevents the system from functioning as intended, and which results in the discharge of untreated or partially treated wastewater onto the ground surface, into surface water or ground water, or which results in the back-up of sewage into the building sewer. Other conditions within an OWTS component that are deemed by a local public health agency to be a threat to public health and/or safety may also be deemed a failure.
56. "Field performance testing" means data gathering on a system in actual use that is being proposed for Division acceptance.
57. "Floodplain (100-year)" means an area adjacent to a stream which is subject to flooding as the result of the occurrence of a one hundred (100) year flood, and is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public or environmental health and safety or to property or is designated by the Federal Emergency Management Agency (FEMA) or National Flood Insurance Program (NFIP). In the absence of FEMA/NFIP maps, a professional engineer must certify the flood plain elevations.
58. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot or as designated by the Federal Emergency Management Agency or National Flood Insurance Program. In the absence of FEMA/NFIP maps, a professional engineer must certify the floodway elevation and location.
59. "Flow, daily" means the measured volume of wastewater generated from a facility in a 24-hour period expressed as gallons per day.
60. "Flow, design" means the estimated volume of wastewater per unit of time for which a component or system is designed. Design flow may be given in the estimated volume per unit such as person

per unit time that must be multiplied by the maximum number of units that a facility can accommodate over that time.

61. "Flow equalization" means a system configuration that includes sufficient effluent storage capacity to allow for regulated flow on a daily or multi-day basis to a subsequent component despite variable flow from the source.
62. "Flow equalizer" means an adjustment device to evenly distribute flow between outlets in a distribution box or other device that may be out of level.
63. "Grease interceptor tank" means a watertight device located outside a facility designed to intercept, congeal, and retain or remove fats, oils, and grease from sources such as commercial food-service that will generate high levels of fats, oils and greases.
64. "Ground water" means that part of the subsurface water that is at or below the saturated zone.
65. "Ground water surface" means the uppermost limit of an unconfined aquifer at atmospheric pressure.
66. "Guidelines" means State Board of Health Guidelines on Individual Sewage Disposal Systems, 5 CCR 1003-6 – predecessor of Regulation 43, On-site Wastewater Treatment System Regulation, 5 CCR 1002-43.
67. "Gulch, dry" means a deep, narrow ravine marking the course of an intermittent or ephemeral stream.
68. "Health officer" means the chief administrative and executive officer of a local public health agency, or the appointed health officer of the local board of health. Health officer includes a director of a local public health agency.
69. "Higher level treatment" means designated treatment levels other than treatment level 1. (See Table 6-3)
70. "Holding tank" See Vault.
71. "Individual Sewage Disposal System" means a term used for On-site Wastewater Treatment System in Colorado regulations from 1973 until 2013.
72. "Infiltrative surface" means designated interface where effluent moves from distribution media or a distribution product into treatment media or original soil. In standard trench or bed systems this will be the interface of the distribution media or product and in-situ soil. Two separate infiltrative surfaces will exist in a mound system and an unlined sand filter, one at the interface of the distribution media and fill sand, the other at the interface of the fill sand and in-situ soil.
73. "Inspection port" means an access point in a system component that enables inspection, operation and/or maintenance.
74. "Invert" means elevation of the bottom of the inside pipe wall or fitting.
75. "Lateral" means a pipe, chamber or other conveyance used to carry and distribute effluent.
76. "Leach field" See Soil treatment area.
77. "Limiting layer" means a horizon or condition in the soil profile or underlying strata that limits the treatment capability of the soil or severely restricts the movement of fluids. This may include soils

with low or high permeability, impervious or fractured bedrock, or a seasonal or current ground water surface.

78. "Liner" means an impermeable synthetic or natural material used to prevent or restrict infiltration and/or exfiltration. For the purposes of this regulation, the minimum thickness of a liner must be 30 ml.
79. "Linear loading rate" means the amount of effluent applied per linear foot along the contour (gpd/linear ft.).
80. "Local board of health" means any local, county, or district board of health.
81. "Local health department" See local public health agency.
82. "Local public health agency" means any county, district, or municipal public health agency and may include a county, district, or municipal board of health to oversee On-site Wastewater Treatment System permitting and inspection or an on-site wastewater treatment system program. A local public health agency may designate another agency to administer the OWTS program.
83. "Long-term acceptance rate" (LTAR) means design parameter expressing the rate that effluent enters the infiltrative surface of the soil treatment area at equilibrium, measured in volume per area per time, e.g. gallons per square foot per day (gal/ ft ² /day).
84. "Malfunction" means the condition in which a component is not performing as designed or installed and is in need of repair in order to function as originally intended.
85. "Manufactured media" See Media, other manufactured.
86. "Media" means solid material that can be described by shape, dimensions, surface area, void space, and application.
87. "Media, enhanced manufactured" means an accepted proprietary manufactured distribution product, wrapped in a specified fabric, and placed on a specified sandbase or media that does not mask the infiltrative surface of the in-situ soil.
88. "Media, other manufactured" means an accepted proprietary manufactured distribution product made of synthetic media for distribution of effluent that is placed directly on the in-situ soil.
89. "Media, treatment" means non-or slowly-degradable media used for physical, chemical, and/or biological treatment in an On-site Wastewater Treatment System component.
90. "Mound" means a soil treatment area whereby the infiltrative surface is at or above original grade at any point.
91. "Nitrogen reduction" means a minimum 50 percent reduction of influent nitrogen strength which is the minimum objective of NSF/ANSI Standard 245 - Wastewater Treatment Systems - Nitrogen Reduction.
92. "On-Site Wastewater Treatment System" or "OWTS" and, where the context so indicates, the term "system" means an absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or dispersing sewage generated in the vicinity, which system is not a part of or connected to a sewage treatment works.
93. "OWTS Act" means the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S.

94. "Percolation test" means a subsurface soil test at the depth of a proposed absorption system or similar component of an OWTS to determine the water absorption capability of the soil, the results of which are normally expressed as the rate at which one inch of water is absorbed. The rate is expressed in minutes per inch.
95. "Performance standard" means minimum performance criteria for water quality and operation and maintenance established by the regulatory authority to ensure compliance with the public health and environmental goals of the state or public health agency.
96. "Permeability" means the property of a material which permits movement of water through the material.
97. "Permit" means a permit for the construction or alteration, installation, and use or for the repair of an On-site Wastewater Treatment System.
98. "Person" means an individual, partnership, firm, corporation, association, or other legal entity and also the state, any political subdivision thereof, or other governmental entity.
99. "Pressure distribution" See Dosing, pressure.
100. "Privy" means an above grade structure allowing for the disposal of excreta not transported by a sewer and which provides privacy and shelter and prevents access to the excreta by flies, rodents, or other vectors.
- a. Pit privy – privy over an unlined excavation.
- b. Vault privy – privy over a vault.
101. "Professional engineer" means an engineer licensed in accordance with section 12-25-1, C.R.S.
102. "Professional geologist" means a person who is a graduate of an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of thirty semester (forty-five quarter) hours of undergraduate or graduate work in a field of geology and whose post-baccalaureate training has been in the field of geology with a specific record of an additional five years of geological experience to include no more than two years of graduate work. 23-41-208, C.R.S. and 34-1-201, C.R.S.
103. "Proprietary product" means a manufactured component or other product that is produced by a private person. It may be protected by patent, trademark or copyright.
104. "Public domain technology" means a system that is assembled on location from readily available components and is based on well-established design criteria and is not protected by patent, trademark or copyright.
105. "Record drawing" means construction drawings provided to illustrate the progress or completion of the installation of an OWTS, or components of the OWTS; typically based on field inspections by the designer or local public health agency.
106. "Redoximorphic" means a soil property that results from the reduction and oxidation of iron and manganese compounds in the soil after saturation with water and subsequent desaturation.
107. "Remediation system" means a treatment system, chemical/biological additive or physical process that is proposed to restore the soil treatment area of an OWTS to intended performance.

108. "Repair" means restoration of functionality and/or treatment by reconstruction, relocation, or replacement of an on-site wastewater treatment system or any component thereof in order to allow the system to function as intended.
109. "Replacement system" See Repair.
110. "Riser" means a watertight vertical cylinder and lid allowing access to an OWTS component for inspection, cleaning, maintenance, or sampling.
111. "Rock-plant filter" means a designed system which utilizes treatment media and various wetland plants to provide treatment of wastewater through biological, physical, and chemical processes. Also called a constructed wetland.
112. "Sand filter" means an engineer designed OWTS that utilizes a layer of specified sand as filter and treatment media and incorporates pressure distribution.
113. "Sand filter, lined" means an engineer designed OWTS that has an impervious liner and under-drain below the specified sand media. Lined sand filters may be intermittent / single pass where the effluent is distributed over the sand bed a single time before distribution to a soil treatment area, or re-circulating where part of the effluent is returned to an earlier component for additional treatment before distribution to a soil treatment area.
114. "Sand filter, unlined" means an engineer designed OWTS that includes a layer of specified sand used as a treatment media without a liner between the sand and the existing soil on which it is placed.
115. "Seepage pit" means an excavation deeper than it is wide that receives septic tank effluent and from which the effluent seeps from a structural internal void into the surrounding soil through the bottom and openings in the side of the pit.
116. "Septage" means a liquid or semisolid that includes normal household wastes, human excreta, and animal or vegetable matter in suspension or solution generated from a residential septic tank system. Septage may include such material issued from a commercial establishment if the commercial establishment can demonstrate to the Division that the material meets the definition for septage set forth in this subsection. Septage does not include chemical toilet residuals.
117. "Septic tank" means a watertight, accessible, covered receptacle designed and constructed to receive sewage from a building sewer, settle solids from the liquid, digest organic matter, store digested solids through a period of retention, and allow the clarified liquids to discharge to other treatment units for final disposal.
118. "Sequential distribution" means a distribution method in which effluent is loaded into one trench and fills it to a predetermined level before passing through a relief pipe or device to the succeeding trench. The effluent does not pass through the distribution media before it enters succeeding trenches.
119. "Serial distribution" means a distribution method in which effluent is loaded into one trench and fills it to a predetermined level before passing through a relief pipe or device to the succeeding trench. The effluent passes through the distribution media before entering succeeding trenches which may be connected to provide a single uninterrupted flow path.
120. "Sewage" means a combination of liquid wastes that may include chemicals, house wastes, human excreta, animal or vegetable matter in suspension or solution, and other solids in suspension or solution, and that is discharged from a dwelling, building, or other establishment. See also Wastewater.

121. "Sewage treatment works" has the same meaning as "domestic wastewater treatment works" under section 25-8-103, C.R.S.
122. "Site evaluation" means a comprehensive analysis of soil and site conditions for an OWTS.
123. "Site evaluator" means a practitioner who conducts preconstruction site evaluations, including visiting a site and performing soil analysis, a site survey, or other activities necessary to determine the suitability of a site for an OWTS.
124. "Slit trench latrine" means a temporary shallow trench for use as disposal of non-water-carried human waste.
125. "Soil" means 1. unconsolidated mineral and/or organic material on the immediate surface of the earth that serves as a medium for the growth of plants and can potentially treat wastewater effluent; 2. unconsolidated mineral or organic matter on the surface of the earth that has been subjected to and shows effects of: a) pedogenic and environmental factors of climate (including water and temperature effects) and b) macro and microorganisms, conditioned by relief, acting on parent material over a period of time.
126. "Soil evaluation" means a percolation test, soil profile, or other subsurface soil analysis at the depth of a proposed soil treatment area or similar component or system to determine the water absorption capability of the soil, the results of which are normally expressed as the rate at which one inch of water is absorbed or as an application rate of gallons per square foot per day.
127. "Soil horizon" means layers in the soil column differentiated by changes in texture, color, redoximorphic features, bedrock, structure, consistence, and any other characteristic that affects water movement or treatment of effluent.
128. "Soil morphology" means 1. physical constitution of a soil profile as exhibited by the kinds, thickness, and arrangement of the horizons in the profile; and by the texture, structure, consistence, and porosity of each horizon; and 2. visible characteristics of the soil or any of its parts.
129. "Soil profile test pit excavation" means a trench or other excavation used for access to evaluate the soil horizons for properties influencing effluent movement, bedrock, evidence of seasonal high ground water, and other information to be used in locating and designing an On-site Wastewater Treatment System.
130. "Soil structure" means the naturally occurring combination or arrangement of primary soil particles into secondary units or peds; secondary units are characterized on the basis of type, size class, and grade (degree of distinctness).
131. "Soil texture" means proportion by weight of sand, silt, and clay in a soil.
132. "Soil treatment area" means the physical location where final treatment and dispersal of effluent occurs. Soil treatment area includes drainfields, mounds and drip fields.
133. "Soil treatment area, alternating" means final treatment and distribution component that is composed of two soil treatment areas that are independently dosed.
134. "Soil treatment area, sequencing" means a soil treatment area having more than two sections that are dosed on a frequent rotating basis.
135. "State Waters" has the meaning set forth under section 25-8-103. C.R.S.

136. "Strength, wastewater" means the concentration of constituents of wastewater or effluent; usually expressed in mg/L.
137. "Suitable soil" means a soil which will effectively treat and filter effluent by removal of organisms and suspended solids, which meets long-term acceptance rate requirements as defined in Table 10-1, and has the required vertical thickness below the infiltrative surface and above a limiting layer.
138. "Systems cleaner" means a person engaged in and who holds himself or herself out as a specialist in the cleaning and pumping of On-site Wastewater Treatment Systems and removal of the residues deposited in the operation thereof.
139. "Systems contractor" means a person engaged in and who holds himself or herself out as a specialist in the installation, renovation, and repair of On-site Wastewater Treatment Systems.
140. "Total suspended solids" means measure of all suspended solids in a liquid; typically expressed in mg/L.
141. "Transfer of Title" means change of ownership of a property.
142. "Treatment level" means defined concentrations of pollutants to be achieved by a component or series of components of an OWTS. 143. "Treatment media" See Media, treatment.
144. "Treatment unit" means a component or series of components where solids or pollutants are removed from wastewater or effluent from a preceding component.
145. "Trench" means 1. below-grade soil treatment area consisting of a shallow excavation with a width of 3 feet or less containing distribution media and one lateral; and 2. excavation for placement of piping or installation of electrical wire or conduit.
146. "Uniformity coefficient" means a value which is the ratio of D60 to D10 where D60 is the soil diameter of which 60 percent of the soil weight is finer and D10 is the corresponding value at 10 percent finer. (A soil having a uniformity coefficient smaller than 4 would be considered "uniform" for purposes of this regulation.)
147. "Vault" means a watertight, covered receptacle, which is designed to receive and store excreta or wastes either from a building sewer or from a privy and is accessible for the periodic removal of its contents. If the vault is intended to serve a structure or structures that are projected to generate a domestic wastewater flow of two thousand gallons per day or more at full occupancy, the vault is a domestic wastewater treatment works. Vaults are On-site Wastewater Treatment Systems.
148. "Visual and tactile evaluation of soil" means determining the properties of soil by standardized tests of appearance and manipulation in the hand.
149. "Volume, effective" means the amount of effluent contained in a tank under normal operating conditions; for a septic tank, effective volume is determined relative to the invert of the outlet. For a dosing tank, the effective volume under normal conditions is determined relative to the invert of the inlet and the control off level.
150. "Wastewater, domestic" means combination of liquid wastes (sewage) which may include chemicals, household wastes, human excreta, animal or vegetable matter in suspension or solution, or other solids in suspension or solution which are discharged from a dwelling, building or other structure.

151. "Wastewater, high strength" means 1. wastewater from a structure having BOD₅ greater than 300 mg/L; and/or TSS greater than 200 mg/L; and/or fats, oils, and grease greater than 50 mg/L; or, 2. effluent from a septic tank or other pretreatment component (as defined by NSF/ANSI Standard 40 testing protocol) that has BOD₅ greater than 180 mg/L; and/or TSS greater than 80 mg/L; and/or fats, oils, and grease greater than 25 mg/L and is applied to an infiltrative surface.
152. "Wastewater pond" means a designed pond which receives exclusively domestic wastewater from a septic tank and which provides an additional degree of treatment.
153. "Water Quality Control Commission" See Commission.
154. "Water Quality Control Division" See Division.
155. "Wetland, constructed" See Rock-plant filter.
156. "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Table 3-1 Abbreviations and Acronyms

AASHTO	American Association of State Highway and Transportation Officials
ANSI	American National Standards Institute
ASTM	American Society for Testing and Materials
BOD	Biochemical Oxygen Demand
C.R.S.	Colorado Revised Statutes
CBOD	Carbonaceous Biochemical Oxygen Demand
CSA	Canadian Standards Association
gpd	gallons per day
IAPMO	International Association of Plumbing and Mechanical Officials
ISDS	Individual Sewage Disposal System
LTAR	Long-term Acceptance Rate

mg/L	milligrams per Liter
MPI	Minutes Per Inch
NAWT	National Association of Wastewater Technicians
NDDS	Non-pressurized Drip Dispersal System
NPCA	National Precast Concrete Association
NSF	National Sanitation Foundation
OWTS	On-site Wastewater Treatment System(s)
STA	Soil Treatment Area
TL	Treatment Level
TN	Total Nitrogen
TSS	Total Suspended Solids
UL	Underwriters' Laboratories

43.4 Applicability

A. Regulations Adopted By Local Boards of Health

1. Regulation Coverage

- a. An OWTS with design capacity less than or equal to 2,000 gpd must comply with regulations adopted by local boards of health pursuant to this regulation and the OWTS Act. Within the jurisdiction of the local public health agency, the regulations promulgated by the local board of health govern all aspects of OWTS permits, performance, location, construction, alteration, installation, and use.
- b. An OWTS with design capacity greater than 2,000 gpd must comply with this regulation, site location and design approval in section 25-8-702, C.R.S., and the discharge permit requirements in the Water Quality Control Act, 25-8-501, et seq. C.R.S.
 - (1) Applicable Commission regulations include, but are not limited to, the following:
 - (i) Regulation 22 - Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works (5 CCR 1002-22).

- (ii) Regulation 41 - The Basic Standards for Ground Water (5 CCR 1002-41).
 - (iii) Regulation 42 - Site-Specific Water Quality Classifications and Standards for Ground Water (5 CCR 1002-42).
 - (iv) Regulation 61 - Colorado Discharge Permit System Regulations (5 CCR 1002-61).
 - (v) Regulation 62 - Regulations for Effluent Limitations (5 CCR 1002-62).
- (2) For systems greater than 2,000 gpd, the Division is also authorized to determine those parts of this regulation identified as the prerogative of the local public health agencies.
 - (3) The requirements for maintenance and standards of performance for systems greater than 2,000 gpd shall be determined by the site application approval and discharge permit.
 - (4) In the interest of facilitating communication of LPHA concerns regarding a design being reviewed by the Division, the local public health agency can provide comments to the Division for consideration during the Division's review of the proposed design and discharge permit application. Under such a coordinated process, the Division retains final authority for approval or denial of each domestic wastewater treatment works that is regulated under the site location approval and Colorado Discharge Permit System regulations. Prior to approval or denial of each OWTS domestic wastewater treatment works, the Division must acknowledge and consider local OWTS regulations when they are more stringent and restrictive than this regulation.

2. Local Regulations

- a. Local boards of health have one year from the effective date of this regulation to update their local regulations which must be as stringent as this regulation.
- b. Local boards of health may seek a determination by the Division that their existing local regulations are as stringent as this regulation.
- c. After one year from the effective date of this regulation, if a local board of health has not finalized regulations pursuant to section 25-10-104(2), C.R.S. and section 4.A.3 of this regulation, the Division will propose local rules based on this regulation to the Commission for approval for use in that county or district.

3. Procedures to Adopt or Revise Regulations by the Local Board of Health:

- a. A local board of health must submit its proposed regulations to the Division for preliminary review at least 30 days prior to a public hearing before a local board of health.
- b. The local board of health must hold a public hearing on the proposed regulations before adopting final regulations.

- c. The local board of health must give notice of the time and place of the public hearing at least once and at least 20 days in advance in a newspaper of general circulation within its area of jurisdiction.
- d. The local board of health may make changes or revisions to the proposed regulations after the public hearing and prior to final adoption, and no further public hearing is required regarding the changes or revisions.
- e. All local regulations must be transmitted to the Division no later than five days after final adoption and become effective 45 days after final adoption unless the Division notifies the local board of health before the forty-fifth day that the regulations or any portions of the local regulations determined by the Division are not as stringent as the OWTS Act or with this regulation. Any portions of the local regulations determined by the Division not to be in compliance with the OWTS Act and this regulation will not take effect or be published as regulations of the local board of health. For those portions of its regulations that do not comply, the local board of health may submit revisions to the Division. Only after the Division has determined that the local board of health's revised regulations comply with the OWTS Act and this regulation may the local board of health's revised regulations take effect and be published. Until the Division makes this determination, this regulation controls the unapproved portions of the local regulations.

B. Permit Application Requirements and Procedures

- 1. Prior to installing, altering, or repairing a system, the applicant must obtain a permit from the local public health agency.
- 2. An applicant must submit a complete application that is consistent with section 43.4.B.3. to the local public health agency prior to installing, altering or repairing a system.
- 3. Minimum Permit Application Requirements:
 - a. Owner name and contact information;
 - b. Property address;
 - c. Property legal description;
 - d. Type of permit;
 - e. Report from Site and Soil Evaluation (section 43.5);
 - f. System design with a legible, accurate site plan which shows pertinent physical features on subject property, and on adjacent properties, as noted in Table 7-1; and
 - g. Other information, data, plans, specifications and tests as required by local public health agency.
 - (1) When specific evidence suggests undesirable soil conditions exist, additional hydrological, geological, engineering or other information provided by a professional engineer or geologist may be required to be submitted by the applicant. This requirement will not prejudice the right of

the local public health agency to develop its own information from its own source at its own expense.

4. Permit Fees

- a. A local board of health may set fees for permits. The permit fees may be no greater than required to offset the actual indirect and direct costs of the local public health agency. 25-10-107, C.R.S.
- b. Permit application fees must not exceed the maximum fees established in section 25-10-107, C.R.S. Permit application fees must be submitted by an applicant with the permit application, and are due and payable upon receipt of the permit application.
- c. The local board of health may make provision for the waiver of any local permit fee normally required for an OWTS.

5. Other Fees

- a. A local board of health may set fees for inspections, percolation tests, soil evaluation, and other services performed by the local public health agency. The fees must be no greater than required to offset the actual indirect and direct costs of the services, and must not exceed the maximum amounts specified in section 25-10-107, C.R.S.
- b. Surcharge - The local public health agency must collect a fee of twenty-three dollars for each permit issued for a new, repaired, or upgraded OWTS. Of that fee, the local public health agency must retain three dollars to cover the local public health agency's administrative costs and twenty dollars must be transmitted to the state treasurer, who must deposit that sum in the water quality control fund created in section 25-8-502(1)(c), C.R.S.

6. Permit Term

- a. An OWTS permit expires one year after the date of issuance if construction has not commenced or as specified by local board of health regulations.
- b. Any change in plans or specifications of the OWTS after the permit has been issued invalidates the permit unless the permittee receives written approval from the local public health agency for such changes.

7. Repair Permit

- a. The owner or occupant of a property on which an OWTS is not in compliance must obtain a repair permit from the local public health agency. The applicant must apply for a repair permit within two business days after receiving notice from the local public health agency that the system is not functioning in compliance with the OWTS Act or applicable regulations, or otherwise constitutes a nuisance or a hazard to public health or water quality.
- b. The repair permit must provide for a reasonable period of time within which the owner or occupant must make repairs. At the end of that period, the local public health agency must inspect the system to ensure it is functioning properly. Concurrently with the issuance of a repair permit, the local public health agency may issue an emergency use permit authorizing continued use of a

malfunctioning system on an emergency basis for a period not to exceed the period stated in the repair permit. Such an emergency use permit may be extended, for good cause shown, in the event repairs may not be completed in the period stated in the repair permit through no fault of the owner or occupant and only if the owner or occupant will continue to make repairs to the system.

8. A permit must be required for the expanded use of an OWTS. The OWTS must be replaced or modified to handle the increased design flow unless it is determined that the existing system is adequately designed and constructed for the higher design flow rate.
9. Regulations of the local board of health must include provisions that provide for review by the local board of health of applications denied by the local public health agency when requested by an applicant.
10. The issuance of a permit and specifications of terms and conditions therein will not constitute assumption of liability, nor create a presumption that the local public health agency or its employees may be liable for the failure or malfunctioning of any system. Permit issuance will not constitute a certification that the system, the equipment used in the system, or any component used for system operation will ensure continuous compliance with the provision of the OWTS Act, the regulations adopted thereunder, or any terms and conditions of a permit.
11. No OWTS permit shall be issued to any person when the subject property is located within a municipality or special district that provides public sewer service, except where such sewer service to the property is not feasible in the determination of the municipality or special district, or the permit is otherwise authorized by the municipality or special district.

C. Determination

1. A local public health agency must determine whether the information provided in the permit application, site and soil evaluations, assumptions and calculations, and design of the proposed OWTS are in compliance with the requirements of the OWTS Act and regulations adopted pursuant thereto. If the submittal is determined to be in compliance, authorization to begin installation may be given.

D. Access to Site

1. For the purpose of inspecting and enforcing applicable regulations and the terms and conditions of any permit issued and investigating and responding to complaints, the local public health agency is authorized to enter upon private property at reasonable times and upon reasonable notice for the purpose of determining whether or not an operating OWTS is functioning in compliance with the OWTS Act and applicable regulations adopted pursuant thereto and the terms and conditions of any permit issued and to inspect and conduct tests in evaluating any permit application. The owner or occupant of every property having an OWTS must permit the local public health agency access to the property to make inspections, conduct required tests, take samples, and monitor compliance.

E. Inspection Stages

1. Local regulations must specify the stages of site evaluation, construction, installation, alteration, or repair at which the local public health agency must require inspections.

2. Before a system is placed in use, the owner, the owner's agent or the systems contractor must provide the local public health agency and the engineer, if engineer designed, with notice that the progress of the work has been sufficiently completed to allow inspections to determine if all work has been performed in accordance with the permit requirements and to determine compliance of the system with the OWTS Act and the regulations adopted thereunder.
- F. Final approval of the permit by the local public health agency must include, but is not limited to:
1. Receipt of letter from the engineer certifying construction of the OWTS as per the approved design plan, if the OWTS was engineer designed;
 2. Receipt of a record drawing which includes a scale drawing showing all components of the OWTS including their location from known and findable points, dimensions, depths, sizes, manufacturers' names and models as available, and other information relative to locating and maintaining the OWTS components;
 3. Final inspection prior to backfilling the OWTS by the local public health agency confirming that it was installed according to the permit requirements and regulations or variances to the regulations; and
 4. Identification of system contractor.
- G. Division Authority to Administer and Enforce
1. Wherever the term local board of health or local public health agency is used in this regulation, said terms must also include the Division under its designated authority for the purposes of administering and enforcing the provisions of this regulation where necessary to protect the public health and environment.
- H. Primary Enforcement Responsibility
1. The primary responsibility for enforcement of the provisions of the OWTS Act and the regulations adopted under said article will lie with the local board of health.
 2. In the event that a local board of health fails to administer and enforce the provisions of said section and the regulations adopted under the OWTS Act, the Division may assume such functions of the local public health agency or local board of health as may be necessary to protect the public health and environment. 25-10-110, C.R.S.
- I. Product Development Permit
1. For products that have not received Division acceptance under section 43.13.D, the manufacturer may apply to the local public health agency for a product development permit. Requirements for proprietary treatment product acceptance are located in section 43.13.D of this regulation.
 2. For products or types of systems which have not been otherwise accepted by the Division pursuant to section 43.13.D, the local board of health may approve an application for product development permit only if the system has been designed by a professional engineer, and only if the application provides proof of the ability to install a replacement OWTS in compliance with all local requirements in a timely manner in the event of a failure or malfunction of the system installed.

3. Before a product development permit is issued, the Division must determine that the product to be tested qualifies for testing under the product development evaluation based on information submitted to the Division.
 - a. Applicant must provide evidence of nationally accepted third-party testing of the product to be evaluated, or;
 - b. Provide test data from multiple single-family homes under normal working conditions that meet the following criteria:
 - (1) Test data must be provided from a minimum of four sites.
 - (2) Each system must be tested over a period of at least one year.
 - (3) Each system must be sampled at least three times during the year with at least one sample obtained during cold weather conditions.
 - (4) Laboratory results for all parameters for which acceptance is being requested must be submitted.
4. A local board of health must not arbitrarily deny any person the right to consideration of an application for such a system and must apply reasonable performance standards in determining whether to approve such an application; 25-10-108 (2), C.R.S.
5. A completed application for a product development permit must be submitted to the local public health agency at least 30 days in advance of installation of the product.
6. An application for a product development permit must include the following:
 - a. Proof of the ability to install a replacement OWTS in compliance with all local requirements in a timely manner in the event of a failure or malfunction of the system under testing;
 - b. A description of the product under development including performance goals;
 - c. Documentation signed by the owner of the proposed product development site allowing access to the local public health agency and Division for inspection of the site; and
 - d. Design documents as required in section 43.5.G of this regulation.
7. Other than the performance standards identified in section 43.4.I(3) above, the local public health agency may stipulate additional requirements for the product development permit necessary to ensure that the system performs as intended.
8. A product development permit is a site-specific permit. Product development testing at multiple sites requires a product development permit for each site.
9. During the term of the product development permit, all data collected is to be submitted to the Division and the local public health agency.
10. The local public health agency may revoke or amend a product development permit, if the continued operation or presence of the product under development:
 - a. Presents a risk to the public health or environment;

- b. Causes adverse effects on the proper function of the OWTS on the site;
 - c. Leaks or discharges effluent on the surface of the ground; or
 - d. If the developer of the product fails to comply with any requirements stipulated on the permit by the local public health agency or the Division.
 - 11. If the product development permit is revoked, the product developer must install the replacement system within the time frame established by the local public health agency.
 - 12. Once the system is installed and approved, the local public health agency must supply the Division with a copy of the completed OWTS permit.
- J. Prohibition of OWTS in Unsuitable Areas
- 1. A local board of health may prohibit issuance of OWTS permits in accordance with applicable land use laws and procedures for defined areas in which the local board of health determines that construction and use of additional OWTS may constitute a hazard to public health or water quality.
- K. Licensing of Systems Contractors and Systems Cleaners
- 1. The local board of health may adopt regulations which provide for the licensing of systems contractors. A fee not to exceed actual local public health agency costs may be charged by the local public health agency for the initial license of a systems contractor; a fee not to exceed actual costs may be charged by the local public health agency for a renewal of the license. Initial licensing and renewals thereof must be for a period of not less than one year. Renewals may be scheduled to coincide with the calendar year.
 - 2. The local board of health may revoke the license of a systems contractor for violation of the applicable provisions of the OWTS Act and the implementing regulations or for other good cause shown, after a hearing conducted upon reasonable notice to the systems contractor and at which the systems contractor may be present, with counsel, and be heard.
 - 3. The local board of health may adopt regulations which provide for the licensing of systems cleaners. A fee not to exceed actual costs may be charged by the local public health agency for the initial license of a systems cleaner; a fee not to exceed actual costs may be charged for the renewal of the license. Initial licensing and renewals thereof must be for a period of not less than one year. Renewals may be scheduled to coincide with the calendar year.
 - 4. The local board of health may suspend or revoke the license of a systems cleaner for violation of the applicable provisions of the OWTS Act and the regulations adopted under said section or for other good cause shown after a hearing conducted upon reasonable notice to the systems cleaner and at which the systems cleaner may be present, with counsel, and be heard. 25-10-109, C.R.S.
- L. Transfer of Title Inspections
- 1. A local board of health may choose to require a property owner of a residence or other building/facility served by an OWTS to have an inspection of that system to demonstrate that the system is functioning according to design prior to the sale or transfer of title of the property. A local board of health is not required to develop a transfer of title inspection program.

2. The local board of health may identify types of transfer of title that are not required to have inspections.
3. Applications for transfer of title and inspection reports must be made on forms furnished or approved by the local public health agency. Inspectors must be certified by National Association of Wastewater Technicians or an equivalent program approved by the local public health agency. Inspectors for higher level treatment systems must have training relevant to the specific system or certification by the equipment manufacturer. The applications must include, as appropriate:
 - a. Owner's name and contact information;
 - b. Physical address of property;
 - c. Legal description of property;
 - d. Name of Inspector, Inspector's NAWT or other applicable certification number;
 - e. Date and time of the inspection(s);
 - f. A septic tank inspection report completed within the previous 12 months, including a septic tank pumping receipt, when applicable, based on the inspection report;
 - g. An inspection report completed within the previous 12 months for any mechanical components such as pumps, alarms or higher level treatment systems; and
 - h. An inspection report completed within the previous 12 months providing a detailed report noting the condition of the soil treatment area.
4. All components that are found to be in a state of malfunction must be noted and disclosed within the inspection report.
5. Minimum Criteria
 - a. Items noted in the inspection report that do not comply with the following criteria and conditions must be corrected along with necessary permits and inspections prior to the issuance of a final acceptance document:
 - (1) All tanks must be structurally sound and in good working order and provided with safe and secure lids;
 - (2) All internal devices and appurtenances such as tees, effluent screens and baffles that were originally provided with the tank or added later must be intact and in working order;
 - (3) Alarms, control devices, and components necessary for the operation of the system are present and in good working order;
 - (4) A soil treatment area, or other means of subsurface wastewater treatment, must be present and not in a state of failure;
 - (5) There are no unapproved wastewater discharges from the system or structure; and

- (6) Any items meeting the conditions of a “Failure” as defined in this regulation have been corrected to the acceptance of the local public health agency.
6. Issuance of an Acceptance Document
 - a. When the criteria set forth above have been met, the local public health agency must issue an acceptance document, using terminology adopted by the local public health agency, setting forth the terms and conditions of approval, including, as appropriate:
 - (1) Statement of the size, type and capacity of the system and a record drawing, either from the local public health agency records (verified by the inspector) or from the inspection reports;
 - (2) Evidence of past system failures as shown in local public health agency records;
 - (3) Circumstances or factors that may have affected the ability of the inspector to evaluate the system;
 - (4) Whether the system meets the permitting requirements of the local public health agency; and
 - (5) Other information the local public health agency may require.
7. The acceptance document will remain valid until the date of real estate closing or for a maximum period of twelve months, whichever comes first.
8. Renewal of an Acceptance Document
 - a. If a local public health agency has established a time period for the acceptance document of 6 months or less and provided it has not expired, an acceptance document may be renewed one time for a period of up to six months upon completion of the appropriate form and payment of the required fee.
9. Waiver of an Acceptance Document
 - a. If it is determined by the local public health agency that an OWTS does not meet the requirements for issuance of an acceptance document, a conditional acceptance document may be issued, provided that the purchaser of the property agrees to obtain a permit and complete all necessary repairs to the system (or connect to a sanitation district, if appropriate) within the time frame established by the local public agency.
10. Revocation of an Acceptance Document
 - a. An acceptance document must be revoked if it is determined that the system is no longer functioning in accordance with this regulation or that false or misleading material statements were made on the application or inspection reports.
11. Penalties

- a. Failure to obtain an acceptance document for a covered transaction as provided by this regulation will subject the owner who failed to obtain the document to a penalty assessed under section 25-10-113, C.R.S.

M. Permit for the Continued Use of an On-site Wastewater Treatment System

- 1. A local board of health may choose to issue a permit authorizing the continued use of an OWTS. A local board of health is not required to develop an additional permit program for the continued use of an OWTS.
- 2. Permits for the continued use of an OWTS may be issued for purposes, including but not limited to:
 - a. An "Operating permit" used for maintenance and inspections performed on an OWTS at regular intervals;
 - b. A "Use permit" used for transfer of title inspections; or
 - c. Other situations deemed necessary or useful by a local public health agency.
- 3. A local public health agency may determine the time frame for the permit either at equal time intervals or based on recurring events.
- 4. A local public health agency may revoke the permit for non-compliance.
- 5. A local public health agency may assess penalties for non-renewal of a permit as required, or non-compliance with the terms of a permit as allowed in this regulation.

N. Variance Procedure

- 1. General
 - a. The purpose of this section is to provide a procedure for local public health agencies to consider variances from the design and/or siting requirements of the OWTS regulations. A local board of health may adopt these procedures or more stringent procedures, but is not required to adopt any variance procedure. Variances may only be included in permits issued by those local public health agencies which formally adopt and implement a state approved variance procedure.
 - b. The local board of health may set fees for processing an OWTS permit with a variance in accordance with section 25-10-107, C.R.S. This permit fee may be the standard OWTS permit fee or may be a separate fee based upon the cost of processing a permit with a variance.
- 2. Requirements for Variance Consideration
 - a. To consider a variance request, the local board of health must adopt a procedure for issuing variances.
 - b. Where the local board of health adopts a variance procedure, the board must hear the variance request.
 - c. The local board of health will determine what type of variances will require public hearings. Prior to the rendering a decision on a variance request requiring a

public hearing, a public hearing must be held. The hearing must be the subject of a public notice or notice must be sent via certified mail, with a minimum 20-day reply time from the date of mailing, to all adjacent property owners.

- d. Variance requests must be accompanied by:
 - (1) Site-specific request identifying the specific criteria from which a variance is being requested;
 - (2) Technical justification by a professional engineer or professional geologist, which indicates the specific conditions which exist and/or the measures which will be taken that support a finding that the variance will result in no greater risk than that associated with compliance with the requirements of the regulation. Examples of conditions which exist, or measures which might be taken, include but are not limited to the following: evidence of a natural or manmade physical barrier to the movement of effluent to or toward the feature from which the variance is requested; placement of a manmade physical barrier to the movement of effluent to or toward the feature from which the variance is requested; soil replacement with sand filter media to reduce the infiltration rate of the effluent such that the travel time of the effluent from the absorption field to the physical feature is no less than the travel time through the native soils at the prescribed setback and Treatment Level 2;
 - (3) A discussion of alternatives considered in lieu of the requested variance;
 - (4) Technical documentation for selected alternative, which may include a testing program, which confirms that the variance does not increase the risk to public health and to the environment; and
 - (5) A statement of the hardship that creates the necessity for the variance.
 - e. The applicant has the burden of proof to demonstrate that the variance is justified and will pose no greater risk to public health and the environment than would a system meeting the regulations.
- 3. The local board of health has the authority to impose site-specific requirements and conditions on any variance granted.
 - 4. Outcome of the Variance Proceeding
 - a. The applicant must be notified, in writing, of the local board of health's decision regarding the request for a variance. The notice of a denial of a variance must include those reasons which form the basis for the denial. The notice of an approval of a variance must include any conditions of the approval. The variance, and any conditions thereof, must be recorded on the deed to the property and any expenses associated with that recording must be the responsibility of the party obtaining the variance.
 - 5. Prohibitions on the Granting of Variance Requests
 - a. No variance shall be issued where the property can accommodate a conforming OWTS.

- b. No variance shall be issued to mitigate an error in construction involving any element of property improvements.
- c. No variance shall be allowed solely for economic gain.
- d. No variance shall be issued, if it will result in a setback reduction to an offsite physical feature that does not conform to the minimum setbacks defined in Table 7-1 of this regulation without the board of health considering any concerns of the owner of property containing said feature. Property lines are considered offsite features. The property owner containing said feature must be notified of the time and date of the hearing.
- e. No variance shall be issued, if it reduces the separation to ground water or bedrock based on the level of treatment in Table 7-2.
- f. No variance from the horizontal setback from a well shall be issued unless it also meets the variance requirements of the Board of Examiners of Water Well Construction and Pump Installation Contractors.
- g. No variance shall be issued for the installation of a higher level treatment system based on sizing or separation reductions without the LPHA having a maintenance and oversight program as defined in section 43.14.D.

6. Variances for Repair of Failing Systems

- a. When a proposed variance for a system repair or upgrade would result in encroachment on minimum distances to physical features on neighboring properties required by the Division, the hearing procedures in 4.N.2, Requirements for Variance Consideration above must be followed.
- b. For the repair of or upgrade to an existing system where the existing system does not meet the required separation distances and where conditions other than lot size precludes adherence to the required distances, a variance to the separation distances may be requested. The repairs or upgrade must be no closer to features requiring setbacks than the existing facilities. Variances requesting setbacks no closer than existing setbacks do not have to provide technical justification from a professional engineer or professional geologist.

7. Findings on Appeal

- a. A request for review must be made within 60 days after denial of an application by the local public health agency.
- b. The applicant must bear the burden of supplying the local board of health with sufficient evidence to document that the denied system will be constructed and used in such a manner that will result in no greater risk than that associated with compliance with the requirements of the regulation, comply with the declaration and intent of this regulation, and comply with all applicable state and local regulations and required terms and conditions in any permit.
- c. Such review must be conducted pursuant to the requirements of section 24-4-105, C.R.S.

O. General Prohibitions; Section 25-10-112, C.R.S.

1. No city, county, or city and county shall issue to any person:
 - a. A permit to construct or remodel a building or structure that is not serviced by a sewage treatment works until the local public health agency has issued a permit for an OWTS.
 - b. An occupancy permit for the use of a building that is not serviced by a sewage treatment works until the local public health agency makes a final inspection of the OWTS, provided for in section 25-10-106 (1) (h), C.R.S. and the local public health agency approves the installation.
2. The construction of new, or the repair of existing cesspools is prohibited. Where an existing cesspool is failing, a conforming OWTS must be installed. Where space is not available for a conforming OWTS, the criteria for repairs established within section 43.10.I must be followed.
3. A person must not connect more than one dwelling, commercial, business, institutional or industrial unit to the same OWTS unless such multiple connection was specified in the application submitted and in the permit issued for the system.
4. No person shall construct or maintain any dwelling or other occupied structure which is not equipped with adequate facilities for the sanitary disposal of sewage.
5. All persons shall dispose of septage removed from systems in the process of maintenance or cleaning at an approved site and in an approved manner.

P. Cease and Desist Orders

1. The local public health agency may issue an order to cease and desist from the use of any OWTS or sewage treatment works which is found by the health officer not to be functioning in compliance with the OWTS Act or with applicable regulations or is found to constitute a hazard to public health, or has not otherwise received timely repairs under the provisions of section 25-10-106 (1) (j), C.R.S. Such an order may be issued only after a hearing which shall be conducted by the health officer not less than 48 hours after written notice thereof is given to the owner or occupant of the property on which the system is located. The order shall require that the owner or occupant bring the system into compliance or eliminate the health hazard within thirty days, or thereafter cease and desist from the use of the system. A cease and desist order issued by the health officer shall be reviewable in the district court for the county wherein the system is located and upon a petition filed not later than ten days after the order is issued.

Q. Penalties; Section 25-10-113, C.R.S.

1. Any person who commits any of the following acts or violates any of the provisions of this section commits a Class 1 petty offense as defined in section 18-1.3-503, C.R.S.:
 - a. Constructs, alters, installs, or permits the use of any OWTS without first having applied for and received a permit as provided for in section 25-10-106, C.R.S.;
 - b. Constructs, alters, or installs an OWTS in a manner which involves a knowing and material variation from the terms or specifications contained in the application, permit or variance;
 - c. Violates the terms of a cease and desist order that has become final under the terms of section 25-10-106 (1) (k), C.R.S.;

- d. Conducts a business as a systems contractor without having obtained the license provided for in section 25-10-109 (1), C.R.S., in areas which the local board of health has adopted licensing regulations pursuant to that section;
 - e. Conducts a business as a systems cleaner without having obtained the license provided for in section 25-10-109 (2), C.R.S., in areas which the local board of health has adopted licensing regulations pursuant to that section;
 - f. Falsifies or maintains improper records concerning system cleaning activities not performed or performed improperly; or
 - g. Willfully fails to submit proof of proper maintenance and cleaning of a system as required by regulations adopted by the local board of health.
- 2. Upon a finding by the local board of health that a person is in violation of this regulation, the local board of health may assess a penalty of up to fifty dollars for each day of violation. In determining the amount of the penalty to be assessed, the local board of health shall consider the seriousness of the danger to the health of the public caused by the violation, the duration of the violation, and whether the person has previously been determined to have committed a similar violation.
 - 3. A person subject to a penalty assessed pursuant to section 43.4.Q.2 may appeal the penalty to the local board of health by requesting a hearing before the appropriate body. The request must be filed within thirty days after the penalty assessment is issued. The local board of health shall conduct a hearing upon the request in accordance with section 24-4-105, C.R.S.

43.5 Site and Soil Evaluation

- A. A site and soil evaluation must be conducted for each property on which an OWTS is proposed, to determine the suitability of a location to support an OWTS, and to provide the designer a sound basis to select the most appropriate OWTS design for the location and application.
 - 1. Each site evaluation must consist of:
 - a. Preliminary investigation;
 - b. Reconnaissance;
 - c. Detailed soil investigation; and
 - d. Report and site plan.
- B. Preliminary investigation: Research of information relative to the site and anticipated conditions must be conducted. Information gathered as part of the preliminary investigation must include, but is not limited to:
 - 1. Property Information:
 - a. Address;
 - b. Legal description;
 - c. Existing structures; and

- d. Location of existing or proposed wells on the property.
 - 2. Local public health agency records.
 - 3. Published site information:
 - a. Topography; and
 - b. Soil data.
 - 4. Location of physical features, on and off the property that will require setbacks as identified in Table 7-1.
 - 5. Preliminary soil treatment area size estimate based on information on existing or planned facility and local regulations.
 - 6. Other information required by local public health agency.
 - 7. Additional information that may be useful to the specific evaluation as available:
 - a. Survey;
 - b. Easements;
 - c. Floodplain maps;
 - d. Geology and basin maps and descriptions;
 - e. Aerial photographs;
 - f. Climate information; and
 - g. Delineated wetlands maps.
- C. Reconnaissance: A visit to the property to evaluate the topography and other surface conditions that will impact the location and design of the OWTS must be conducted. Information gathered as part of the site reconnaissance may include, but is not limited to:
 - 1. Landscape position;
 - 2. Topography;
 - 3. Vegetation;
 - 4. Natural and cultural features; and
 - 5. Current and historic land use.
- D. Detailed Soil Investigation
 - 1. Soil investigations to determine the long-term acceptance rate of a soil treatment area must be conducted per the following criteria:

- a. Visual and tactile evaluation of two or more soil profile test pit excavations must be conducted to determine soil type as well as to determine whether a limiting layer is encountered.
 - b. In addition to the two soil profile test pit excavations, percolation testing may be conducted to obtain additional information regarding the long-term acceptance rate of the soil.
 - c. If the site evaluation includes both a visual tactile evaluation of soil profile test pit excavations and percolation tests, and the results from these two evaluations do not coincide with the same LTAR as noted in Table 10-1, the designer must use the more restrictive LTAR in determining the size of the soil treatment area.
2. Procedure for performing visual and tactile evaluations of soil in order to determine a long-term acceptance rate:
- a. Evaluation of two or more soil profile test pit excavations must be performed to determine soil types limiting layers, and best depth for the infiltrative surface. The total number of soil profile test pit excavations beyond the required two shall be based on the judgment of the competent technician.
 - b. At least one of the soil profile test pit excavations must be performed in the portion of the soil treatment area anticipated to have the most limiting conditions.
 - c. The minimum depth of the soil profile test pit excavation must be to any limiting layer, or four feet below the infiltrative surface of the in-situ soil, whichever is encountered first.
 - d. Layers and interfaces that interfere with the treatment and dispersal of effluent must be noted. Thus, any limiting soil characteristic such as consistence also needs to be evaluated. The evaluation of consistence may also include an evaluation of excavation difficulty, rupture resistance, and/or penetration resistance.
 - e. The soil observations must be conducted at or immediately adjacent to the location of the proposed soil treatment area, but if possible, not under the final location of a trench or bed.
 - f. Each soil profile test pit excavation observed at the proposed soil treatment area must be evaluated under adequate light conditions with the soil in an unfrozen state.
 - g. The soil observation method must allow observation of the different soil horizons that constitute the soil profile.
 - h. Soil profile test pit observations must be conducted prior to percolation tests to determine whether the soils are suitable to warrant percolation tests and, if suitable, at what depth percolation tests must be conducted.
 - i. The soil type at the proposed infiltrative surface of the soil treatment area or a more restrictive soil type within the treatment depth must be used to determine the long-term acceptance rate from Table 10-1 or Table 10-1A. The treatment depth is two to four feet depending on the required thickness for the treatment level below the infiltrative surface from Item 4, Table 7-2.

- j. Soils data, previously collected by others at the site can be used for the purposes of an OWTS design at the discretion of the local public health agency. It is recommended that the data be verified, at a minimum, by performing an evaluation of a soil profile test pit excavation.
3. Soil descriptions for determination of a limiting layer must include:
- a. The depth of each soil horizon measured from the ground surface and a description of the soil texture, and structure of each soil horizon;
 - b. Depth to the bedrock;
 - c. Depth to the periodically saturated soil as determined by:
 - (1) Redoximorphic features and other indicators of water levels, or
 - (2) Depth of standing water in the soil observation excavation, measured from the ground surface, if observed, unless redoximorphic features indicate a higher level.
4. Procedure for performing percolation tests:
- a. The percolation testing shall be performed by a professional engineer or by a trained person under the supervision of a professional engineer or by a competent technician.
 - b. Number of test holes; Location
 - (1) Soil percolation tests shall be performed in at least three test holes in the area in which the soil treatment area is to be located, spaced evenly over the proposed area.
 - (2) If the likely depth of a proposed infiltrative surface is uncertain, percolation tests must be performed at more than one depth to determine the depth of the infiltrative surface.
 - c. Dimensions
 - (1) The percolation test hole must have a diameter of eight to 12 inches and be terminated a minimum of six inches and a maximum of 18 inches below the proposed infiltrative surface.
 - d. Change in Soil
 - (1) If a change of soil type, color or structure is present within those soils comprising the depth of soil below the infiltrative surface as required in Table 7-2 for vertical separation, a minimum of two soil percolation holes must be terminated in the changed soil, and percolation tests must be conducted in both holes.
 - e. Percolation Tests
 - (1) The percolation tests must be conducted using the hole preparation, soil saturation and rate measurement procedures described below.

(2) Preparation of Percolation Test Holes

- (i) Excavate the hole to the depth and diameter required.
- (ii) Carefully scrape the bottom and sides of the hole with a knife blade or sharp instrument to remove any smeared soil surfaces and provide a natural soil interface into which water may percolate.
- (iii) Remove all loose soil from the hole.
- (iv) Add two inches of very coarse sand or fine gravel to protect the bottom of the hole from scouring and sediment.

(3) Presoak

- (i) The hole must be presoaked adequately to accomplish both saturation, which is filling the void spaces between the soil particles, and swelling, which is the intrusion of water into the individual soil particles.
- (ii) To presoak the hole, carefully fill the hole with clean water to a minimum depth of 12 inches over the gravel placed in the bottom of the hole. In most soils, it is necessary to refill the hole by supplying a surplus reservoir of clean water, possibly by means of an automatic siphon, to maintain water in the hole for at least four hours and preferably over night. Determine the percolation rate 24 hours after water is first added to the hole. This procedure is to ensure that the soil is given ample time to swell and to approach the condition it will be in during the wettest season of the year. In sandy soils containing five percent or less particles passing the #200 sieve, by weight, the swelling procedure is not essential and the test may be conducted after the water from one filling of the hole has completely seeped out of the hole.

(4) Percolation Rate Measurement

- (i) With the exception of sandy soils containing five percent or less particles passing the #200 sieve, by weight, percolation rate measurements must be made on the day following the presoak procedure.
- (ii) If water remains in the percolation test hole after the swelling period, adjust the depth to approximately six inches above the gravel in the bottom of the hole. From a fixed reference point, measure the drop in water level over a 30 minute interval. The drops are used to calculate the percolation rate.
- (iii) If no water remains in the hole after the swelling period, carefully add clean water to bring the depth of water in the hole to approximately six inches above the top of the gravel in the bottom of the hole. From a fixed reference point, measure the drop in water level at 30 minute intervals for four hours, refilling to six inches over the top of the gravel as necessary. The drop in

water level that occurs during the final 30-minute period is used to calculate the percolation rate. If the water level drops during prior periods provide sufficient information, the procedure may be modified to suit local circumstances. The requirement to conduct a four hour test under this section is waived if three successive water-level drops do not vary by more than 1/16 inch; however, in no case shall a test under this section be less than two hours in duration.

(5) Sandy Soils

- (i) In sandy soils or other soils in which the first six inches of water seeps out of the hole in less than 30 minutes, after the 24 hour swelling period, the time interval between measurements must be ten minutes and the test conducted for one hour. The drop that occurs during the final ten minutes must be used to calculate the percolation rate.
- (ii) If the soil is so sandy or coarse-textured that it will not retain any water, then the infiltration rate must be recorded as less than one minute per inch.

(6) Special Soil Types

- (i) A local public health agency may identify soil types in its area for which different procedures such as extra presoaking or an extended testing time to obtain a valid percolation rate will be required.

(7) Percolation Rate Determination and Reporting

- (i) The field percolation rate will be the average rate of the percolation rates determined for all percolation test holes observed in the proposed soil treatment area in minutes per inch. The average percolation rate determined by the tests must be used in determining the long-term acceptance rate for the proposed system from Table 10-1.
- (ii) The technician performing the percolation tests shall furnish an accurate scale drawing, showing the location of the soil profile test pit excavations and/or percolation holes tied to lot corners or other permanent objects. The drawing must meet the criteria in section 43.5.F.1.g. The information in the subsections following section 43.5.F.1.g.1 through 43.5.F.1.g.5 may be included but is not required for this drawing. All holes must be clearly labeled to relate to the information provided for the profile test pits and percolation tests.

(8) Alternate Percolation Testing

- (i) Alternate percolation test procedures may be approved, provided the test results of alternate procedures are substantially equivalent to those determined using the test procedures described in this section.

- (ii) Prior approval from the local public health agency of alternate percolation test procedures is required.

E. Marking of Soil Profile Test Pit Excavations or Percolation Holes

1. The engineer or technician conducting the soil profile test pit excavations or percolation tests must, upon completion of the tests, flag or otherwise mark each excavation or hole to allow easy location by others. Soil profile test pit excavations and percolation holes must remain open until after evaluation by the local public health agency, if required by the agency. Excavations must be suitably barricaded to prevent unauthorized access and to address safety concerns.

F. Report and Site Plan

1. A written report must describe the results of the preliminary investigation, reconnaissance, and detailed evaluations. The report may be in text and/or tabular form and must include a drawing locating features relative to the proposed OWTS location and test locations. The report may be included as part of the OWTS design document. The report must include, but is not limited to:
 - a. Company name, address, telephone number, e-mail address, and name of individual, credentials and qualifications of the individual conducting the site evaluation;
 - b. Preliminary and detailed evaluations, providing information from the surface site characteristics assessment and soils investigation;
 - c. Dates of preliminary and detailed evaluations;
 - d. A graphic soil log, to scale, indicating depth of the soil test pit excavation, soil description and classification, depth to any limiting layer encountered, type of equipment used to excavate the soil profile test pit and date of soils investigation.
 - e. Setback distances to features listed in Table 7-1;
 - f. Setback distances to features listed in Table 7-2, existing on the site or within applicable setback limits, whichever is greater;
 - g. A drawing created to a scale that provides the complete property boundary lines. The minimum drawing size is 8.5-inches by 11-inches. If the property is too large to adequately indicate and label the profile test pits and percolation test holes, a detail of the portion of the site containing the soil profile test pits and percolation test holes must be submitted. If the property is too large to adequately show site evaluation information, a detail drawing that includes the information required from the site and soil evaluation that will impact the location of the OWTS must be submitted. Drawings must indicate dimensions, have a north arrow and graphic scale and include:
 - (1) Fixed, non-degradable temporary or permanent benchmark, horizontal and vertical reference points of the proposed soil treatment area; soil observations; percolation testing results and pertinent distances from the proposed OWTS to all required setbacks, lot improvements, easements; ordinary high water mark of a pond, creek, stream, lake, wetland or other surface waters, and detention or retention ponds; and property lines;

- (2) Contours or slope direction and percent slope;
 - (3) The location of any visible or known unsuitable, disturbed or compacted soils;
 - (4) The estimated depth of periodically saturated soils and bedrock, or flood elevation, if applicable; and
 - (5) The proposed elevation of the infiltrative surface of the soil treatment area, from an established datum (either ground surface or a benchmark);
- h. Anticipated construction-related issues, if applicable;
 - i. An assessment of how known or reasonably foreseeable land use changes are expected to affect the system performance, including, but not limited to, changes in drainage patterns, increased impervious surfaces and proximity of new water supply wells, if applicable; and
 - j. A narrative explaining difficulties encountered during the site evaluation, including but not limited to identifying and interpreting soil and landform features and how the difficulties were resolved, if applicable.

G. Design Document

- 1. The report and site plan may be attached to the design document or the report and site plan may be combined with the design information as a single document.
- 2. The design document must include a brief description of the facility and its proposed use, basis and calculations of design flow, and influent strength.
- 3. The design document must contain all plan details necessary for permitting, installation and maintenance, including:
 - a. Assumptions and calculations for each component, including total dynamic head (TDH) and gallons per minute (GPM) for all dosing systems;
 - b. A fixed, non-degradable temporary or permanent benchmark, (North America Vertical Datum or assumed elevation is acceptable);
 - c. A scale drawing showing location of each OWTS component and distances to water supplies, surface water, physical and health impact features on both the subject and adjacent properties requiring setbacks;
 - d. Layout of soil treatment area, dimensions of trenches or beds, distribution method and equipment, distribution boxes, drop boxes, valves, or other components used;
 - e. Elevation or depth of infiltrative surface of the soil treatment area, the septic tank invert, and all other components of the OWTS;
 - f. Special structural design considerations, as applicable to ensure the long-term integrity of each component;
 - g. References to design manuals or other technical materials used;

- h. Installation procedures, as applicable;
 - i. Operation and maintenance manuals or instructions; and
 - j. Other information that may be useful such as photos and cross-section drawings.
- H. Site protection: Prior to and during construction, the proposed soil treatment area and replacement area, if any, must be protected from disturbance, compaction, or other damage by means of staking, fencing, posting, or other effective methods.
- I. Qualifications for a Competent Technician
 - 1. Percolation Tests
 - a. Competencies needed:
 - (1) Set up equipment;
 - (2) Perform and run percolation tests according to the procedure in this regulation; and
 - (3) Record results and calculate percolation rates.
 - b. Local public health agencies may approve training for percolation testing.
 - 2. Visual and Tactile Evaluation of Soil
 - a. Competencies needed:
 - (1) Identify soil types by hand texturing and observation;
 - (2) Identify presence or absence of soil structure;
 - (3) Identify type and grade of soil structure;
 - (4) Recognize evidence of highest seasonal water surface;
 - (5) Identify layers and interfaces that will interfere with effluent movement;
 - (6) Determine the most promising depth for infiltrative surface of OWTS and for percolation tests, if used; and
 - (7) Understand basic principles of OWTS siting and design.
 - b. Possible demonstrations of competence in visual and tactile evaluation of soil:
 - (1) Degree in soil science, agronomy, geology, other majors if a course(s) in soil morphology was included; or
 - (2) Attendance at training or workshop for soil evaluation for OWTS including both class and field work.
 - (i) If the training or workshop includes an exam to verify acceptable completion of the course, a passing grade on the exam must be attained.

- c. The Division must approve training for visual and tactile evaluation of soil.

43.6 Wastewater Flow and Strength

A. Wastewater Flows

1. A local public health agency may require the installation of a meter to measure flow into the facility or the OWTS.
2. Single-Family Residential Homes:
 - a. Design flow per person must 75 gallons per day (gpd).
 - b. A local public health agency may only increase the wastewater design flow per person to 100 gpd on a case by case basis, where justified.
 - c. The minimum design flow for a new home must be for a two-bedroom house unless otherwise noted in this regulation. The minimum design flow for the repair or replacement of an OWTS of an existing one-bedroom home must be for one-bedroom unless bedrooms are added.
 - d. For homes up to and including three bedrooms, the assumed number of persons per bedroom is two for design purposes.
 - e. For homes with more than three bedrooms, the assumed number of persons is six persons (first three bedrooms x two persons per bedroom) plus one additional person for each bedroom more than three bedrooms.
 - f. A local public health agency may increase the number of persons per bedroom to two for all bedrooms for design purposes.
 - g. Table 6-1 summarizes the design flows for single-family residential homes up to six bedrooms. A local public health agency has authority to adjust these values as described in sections 43.6.A.2.b. and 43.6.A.2.f.
 - h. If a new home has unfinished areas, a local public health agency may increase the number of bedrooms used for the design of the OWTS by one or two bedrooms based on an assumption that 150 square feet of unfinished space can be converted into a bedroom, if the space can meet building code requirements for a bedroom.

Table 6-1 Single-Family Residential Design Flows

# Bedrooms	Occupancy (# of Persons)	Wastewater Flow Per Person (gallons/day)	Design Flow (gallons/day)
2	4	75	300
3	6	75	450
4	7	75	525
5	8	75	600

6	9	75	675
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3. Auxiliary Buildings

- a. If a single-family home has an auxiliary building, such as a non-commercial shop with plumbing fixtures, the flow may be conveyed to the OWTS of the home, or to a separate OWTS constructed to handle the flow from the auxiliary facility.
- b. If the flow from the auxiliary building is only generated by residents of the home, it will be assumed that the OWTS for the home will be adequately sized to include the auxiliary building if the flows are combined.
- c. If the auxiliary building will have users in addition to residents and the flow from the auxiliary building will flow to the OWTS of the home, the design flow of the home must include the increased use.
- d. If the auxiliary building has a separate OWTS, the facility must be sized on the basis of Table 6-2 and a septic tank detention time of 48 hours.

4. Multi-Family and Commercial On-site Wastewater Treatment Systems

- a. Design flow values and strengths for multi-family and commercial systems must be determined from:
 - (1) Table 6-2; or
 - (2) An analysis of flows and strengths from at least three comparable facilities or from the facility, if it is an existing facility, must be submitted to the local public health agency for approval. The analysis must include:
 - (i) Metered water flows for inside use only for at least a year, or if use is seasonal, for a full season. If metered flows are less than full capacity, they must be paired with actual use in units of persons present or meals served or other units as appropriate so that an actual daily rate per unit can be determined. The daily rate per unit times the number of units at full occupancy will be the design flow.
 - (ii) Total Suspended Solids and BOD₅ or CBOD₅ tests at times of full use. At least three samples taken at least one week apart are required. Sampling that provides equivalent and representative data through "composite sampling" may be allowed
 - (iii) Explanation and justification for the comparability of the tested facilities with the proposed facility.

5. Flow Equalization

- a. Flow equalization may be used if a facility has flows that vary from day to day by more than four times the average flow.
- b. The highest peak assumed must be at least equal to the full capacity of the facility.

- c. The stored flow must be distributed to the soil treatment area before the next greater-than-average peak.
- d. Flow equalization may be used only if:
 - (1) The facility is non-residential;
 - (2) The facility is only used for one purpose;
 - (3) Flows will follow a predictable pattern; and
 - (4) There is a long-term expectation that size and pattern of the flows will remain the same.
- e. Timed dosed pressure distribution or timed dosed NDDS must be used. The soil treatment area reduction for pressure distribution (Table 10-2) must not be used in addition to the flow equalization reduction.
- f. Contingency plans must be made for expanding the capacity of the OWTS in the event of changed use at the facility.

TABLE 6-2 For Design Purposes, the Estimated Daily Wastewater Flow and BOD₅ Load Per Person Unless Otherwise Noted

RESIDENTIAL WASTEWATER	GPD	BOD₅ IN POUNDS PER DAY
Single-family dwellings	75	.20
Auxiliary buildings, by fixture type		
Bath/Shower	14.7	.014
Dishwasher	1.8	.002
Kitchen sink with garbage grinder	5.8	.052
Laundry washer	19.5	.037
Lavatory	8.4	.021
Water closet (toilet)	24.8	.029
Hotels and motels per room	75	.15
Multiple-family dwellings or apartments	75	.20
Boarding and rooming houses (users absent during working hours)	50	.15

Tiny Homes ³ , per unit	150	.40
Mobile home	75	.20
Mobile home park per space	300	.80
COMMERCIAL WASTEWATER	GPD	BOD₅ IN POUNDS PER DAY
Facilities with short-term or transient visitors		
Examples: Airports or bus stations per passenger; fairgrounds per person attending; ball parks, race tracks, stadiums, theaters or auditoriums per seat	5	.02
Airport per employee	10	.06
Barber and beauty shops per chair	100	.70 ¹
Bowling alleys per lane - toilet wastes only	5	.03 ¹
Country club per member	30	.02
County club per employee	20	.06
Dentist offices per non-wet chair	50	.14 ¹
Doctor offices per doctor	250	.80 ¹
Factories and plants exclusive of industrial wastewater per employee per eight-hour shift – no showers	20	.05
Factories and plants exclusive of industrial wastewater per employee per eight-hour shift - showers provided	35	.08
Kennels per dog	30	.20
Laundries, self-service per	400	.75

commercial washer		
Office buildings per employee per eight-hour shift	15	.06
Service stations per toilet fixture	250	.50 ¹
Stores and shopping centers per square foot of retail space	.1	.01 ¹
Work or construction camps semi-permanent with flush toilets	50	.17
Work or construction camps semi-permanent without flush toilets	35	.02
FOOD SERVICE ESTABLISHMENT	GPD	BOD₅ IN POUNDS PER DAY
Restaurant open 1 or 2 meals per seat	50	.06/meal
24-hour restaurant per seat	75	.07/meal served
Restaurant with paper service only per seat	25	.01/meal served
Additional for bars and cocktail lounges per seat	30	.02
Drive-in restaurant per car space	50	.02
INSTITUTIONAL WASTEWATER WITHOUT KITCHENS UNLESS OTHERWISE NOTED	GPD	BOD₅ IN POUNDS PER DAY
Churches per seat; without any food service, or other uses	3.5	.01
Churches, per seat; warming kitchen only, no major food service	5	.01
Churches, per seat; with food service, per meal served ⁴	4	.02

Hospitals per bed space	250	.20
Nursing homes; Group homes for developmentally disabled, per bed space	125	.20
Schools, Boarding per person	100	.17
Schools, Day without cafeteria, gym or showers	15	.04
Schools, Day with cafeterias, no gym or showers	20	.08
Schools, Day with cafeterias, gym and showers	25	.10
Schools, Day additional for school workers	15	.06
RECREATIONAL AND SEASONAL WASTEWATER USE	GPD	BOD₅ IN POUNDS PER DAY
Camps, day, no meals served	15	.12
Luxury resort	125	.17
Resort night and day	50	.12
Campground per campsite ²	50	.12
Public park flush toilet per fixture per hour when park is open	36	.04 lbs./ fixture
Public park urinal per fixture per hour when park is open	10	.01 lbs./fixture
Public park shower per fixture per hour when park is open	100	.10 lbs./ fixture
Public park faucet per fixture per hour when park is open	15	.04 lbs./ fixture
Swimming pools and bathhouses	10	.06

Travel trailer parks with individual water and sewage hookup per unit ²	100	.24
Travel trailer park without individual water and sewage hookup per unit ²	50	.12

- 1 BOD levels need further verification depending on the specific use of the facility.
- 2 Laundry facilities are to be calculated on a per commercial washer basis in accordance with other elements of this table.
- 3 For the purposes of this Table, a "Tiny home" is a structure (a non-recreational vehicle) that has only one bedroom and has <400 sq.ft. of livable space, including lofts. In this instance, the OWTS may be sized for only one bedroom.
- 4 For churches with food service, the 4 gal/meal must be added to the 3.5 gal/seat to determine projected design flows.

B. Wastewater Strength

1. Table 6-3 includes levels of treatment that can be achieved by various OWTS components, excluding the soil treatment area. Systems qualifying for these treatment levels except TL1 produced by a septic tank alone must be approved under section 43.13. of this regulation. If soil treatment area or vertical separation distance reductions are permitted, the local public health agency must have a maintenance oversight program under section 43.14.D. in place.
2. High strength waste must be reduced to at least Treatment Level TL1 quality or lower before applying to a soil treatment area. Waste strength levels defined in Tables 6-3 and 6-4 must be used to determine compliance.

Table 6-3 Treatment Levels

Treatment Level	BOD ₅ (mg/L)	CBOD ₅ ¹ (mg/L)	TSS (mg/L)	Total Nitrogen (mg/L)
TL1 ²	180	-	80	60-80
TL2	-	25	30	N/A ³
TL2N	-	25	30	>50% reduction ⁴
TL3	-	10	10	N/A ³
TL3N	-	10	10	20 mg/L

Shading indicates higher treatment levels.

- 1 Requirements for CBOD₅ are only related to effluent samples from a higher level treatment system.
- 2 Domestic septic tank effluent prior to soil treatment or higher level treatment has a wide range of concentrations. These values are typical, but values used for design must account for site-specific information.
- 3 Total Nitrogen does not apply to Treatment Levels TL2 and TL3. Processes intended to reduce total nitrogen are addressed in Treatment Levels TL2N and TL3N. Any total nitrogen reductions that may be observed for TL2 and TL3 are as a result of the treatment process for BOD₅ and TSS reductions.
- 4 NSF/ANSI Standard 245 – Wastewater Treatment Systems – Nitrogen Reduction requires reduction of 50 percent rather than an absolute value.

Table 6-4 High Strength Wastewater*

	BOD₅ (mg/L)	TSS (mg/L)	Fats, Oils, Grease (FOG) (mg/L)
Septic Tank Influent	>300	>200	>50
Septic Tank Effluent	>180	>80	>25

* High strength effluent prior to a septic tank has a wide range of concentrations. These values are typical, but values used for design purposes must account for site-specific information.

43.7 Minimum Distances Between Components of an On-site Wastewater Treatment System and Physical Features

- A. Horizontal distances from the various components of a system to pertinent terrain features, including streams, lakes, water courses, springs, wetlands, wells, subsurface drains, cisterns, water lines, suction lines, dry gulches, cut banks, dwellings, other occupied buildings and property lines, must be in accordance with Table 7-1. The setback requirements are applicable for minimum system performance and treatment levels with specific modifications allowed for higher treatment levels as provided in Table 7-2. All distance setback modifications must be analyzed and approved by the local board of health or local public health agency and be in complete compliance with the variance procedures of this regulation and those of the local board of health. Acceptable methods of analyzing horizontal separation distances with higher treatment levels include but are not limited to:
 1. Analyzing the intended uses of impacted surface and/or ground waters;
 2. Contacting adjacent property owners for potential conflicts with property line encroachments; and
 3. Analyzing potential impacts that system locations may have on building foundations and other potentially affected features.
- B. Reductions in separation distances with higher level treatment must include provisions for operation and maintenance for the life of the system, as described in section 14.D.
- C. Dry Gulches, Cut Banks and Fill Areas
 1. Separation distances to dry gulches, cut banks and fill areas in Table 7-1 must apply unless the designer or design engineer determines by observation of the exposed slope of the dry gulch or cut bank or by soil profile test pit excavations that a limiting layer is present that will direct or allow the effluent from the soil treatment area to move laterally and surface. In this instance, a greater distance may be required.
 2. A lesser distance may be used if it can be demonstrated by a professional engineer or professional geologist that the use of a barrier, such as a minimum 30 mil PVC liner placed between the soil treatment area and the slope of the dry gulch, cut bank or fill area will prevent effluent surfacing laterally.
 3. The separation distance between a component and the crest of a dry gulch or cut bank will be evaluated for potential erosion or slope instability if the component and the slope are too close together. If there is potential for erosion or instability, the separation distance must be increased until the risk is minimized.

- D. Components of an OWTS listed in Table 7-1 shall be installed or located in accordance with the minimum distance requirements provided in the table or such increased distances provided by local board of health regulations.
- E. Table 7-2 provides the required site evaluation, design, and treatment level considerations necessary to evaluate the site and to design and locate the soil treatment area component of an OWTS.
 - 1. Items 1, 2 and 3 in Table 7-2 address the allowable horizontal setback distance between the soil treatment area and the following physical features:
 - a. Setback distance from soil treatment area to on-site well;
 - b. Setback distance from soil treatment area to water features; and
 - c. Setback distance from soil treatment area to a dry gulch or cut bank.
 - 2. Item 4 in Table 7-2 addresses the required vertical separation distance between the infiltrative surface of the soil treatment area and the limiting layer or the required depth of soil comprising the soil treatment area.
 - 3. The designer may select the level of treatment from Table 7-2 to be applied to the soil treatment area that is necessary in order to accommodate the site conditions, if higher level treatment for that purpose is permitted by the local public health agency.

Table 7-1 Minimum Horizontal Distances in Feet Between Components of an On-Site Wastewater Treatment System Installed After November 15, 1973 and Water, Physical and Health Impact Features

	Spring, Well, ¹ Suction Line, Potable Water Supply Cistern ⁴	Potable Water Supply Line ²	Structure w/basement, crawl space or footing drains	Structure without basement, crawl space or footing drains	Property Lines, Piped or Lined Irrigation Ditch, upslope curtain drain	Subsurface Drain, Intermittent Irrigation Lateral, Drywell, Stormwater Structure	Lake, Water Course, Irrigation Ditch, Stream, Wetland	Dry Gulch, Cut Bank, Fill Area (from Crest)	Septic Tank, Higher level treatment Unit, Dosing Tank, Vault or Privy
Septic Tank, Higher Level Treatment Unit, Dosing Tank, Vault or Vault Privy	50 ²	10 ²	5	5	10	10	50	10	--
Building Sewer or Effluent Lines	50 ²	5 ⁶	0	0	10 ²	10 ²	50 ²	10 ²	--
STA Trench, STA Bed, Unlined Sand Filter, Sub-surface Dispersal System, Seepage Pit	100 ³	25 ²	20	10	10	25	50 ³	25	5
Lined Sand Filter	60	10 ²	15	10	10	10	25	10	5
Lined Evapo-transpiration Field or Outside of Berm of Lined Wastewater Pond	60	10 ²	15	15	10	10	25	10	5

Unlined Sand Filter in Soil With a Percolation Rate Slower than 60 Minutes per Inch, Unlined or Partially Lined Evapotranspiration System, Outside of Berm of Unlined Wastewater Pond, or System Not Relying on STA for Treatment Other than Aerosol	100	25 ²	15	15	10	25	25	15	10
Slit Trench Latrine, Pit Privy	100	50 ²	25	25	25	25	100	25	N/A
System Not Relying on STA for Dispersal	100 ³	10 ²	125	125 ⁵	10	0	25 ³	10	10

NOTE: The minimum distances shown above must be maintained between the OWTS components and the features described. Where soil, geological or other conditions warrant, greater distances may be required by the local board of health or by the Water Quality Control Commission pursuant to section 25-8-206, C.R.S. and applicable regulations. For repair or upgrading of existing OWTS where the size of lot precludes adherence to these distances, a repaired OWTS must not be closer to setback features than the existing OWTS, as reviewed and approved by the local public health agency. Components that are not watertight should not extend into areas of the root system of nearby trees.

1 Includes potable wells, irrigation wells and monitoring wells set within a potable aquifer and infiltration galleries permitted as wells by the Division of Water Resources.

2 Crossings or encroachments may be permitted at the points as noted above provided that the water or wastewater conveyance pipe is encased for the minimum setback distance on each side of the crossing. A length of pipe with a minimum Schedule 40 rating of sufficient diameter to easily slide over and completely encase the conveyance must be used. Rigid end caps of at least Schedule 40 rating must be glued or secured in a watertight fashion to the ends of the encasement pipe. A hole of sufficient size to accommodate the pipe must be drilled in the lowest section of the rigid cap so that the conveyance pipe rests on the bottom of the encasement pipe. The area in which the pipe passes through the end caps must be sealed with an approved underground sealant compatible with the piping used. Other methods of encasement that provide equal protection are allowed. These methods must be reviewed and approved by the local public health agency.

- 3 Add eight feet additional distance for each 100 gallons per day of design flows between 1,000 and 2,000 gallons per day, unless it can be demonstrated by a professional engineer or geologist by a hydrologic analysis or the use of a barrier, consisting of a minimum 30 mil PVC liner or equivalent, that contamination will be minimized. If effluent meets Treatment Level 3N and the local public health agency has a maintenance oversight program in accordance with section 14.D. of this regulation, the distance addition is not required. Flows greater than 2,000 gallons per day must be hydrologically analyzed for flow, velocity, hydraulic head, and other pertinent characteristics as means of estimating distances required to minimize contamination as part of the Division site application and permitting process.
- 4 All horizontal setbacks to a potable water supply cistern must be met unless a variance by the Board of Examiners of Water Well Construction and Pump Installation Contractors is granted per section 18.2 of the Water Well Construction Rules, 2 CCR 402-2. Setback requirements which may necessitate a variance are found within section 10.2 or 11.4 of the Water Well Construction Rules, as applicable. The minimum horizontal setback that may be granted through a variance is to 25 feet.
- 5 If the structure is not used as a habitable unit, the isolation may be reduced by the local board of health to no less than 50 feet.
6. Building sewer installations shall meet the design requirements of the Colorado Plumbing Code.

Table 7-2 On-site Wastewater Treatment System Design Consideration and Treatment Requirements – Separation Distances from Soil Treatment Area

			PRESSURE DOSING REQUIRED	PRESSURE DOSING REQUIRED	PRESSURE DOSING REQUIRED
ITEM	OWTS DESIGN CONSIDERATION	Treatment Levels 1 and 2	Treatment Level 2N	Treatment Level 3	Treatment Level 3N
	<u>Horizontal Separation Distances</u>				
1	Distance from soil treatment area to on-site well	Greater than or equal to 100 feet	Greater than or equal to 100 feet	Greater than or equal to 100 feet	Greater than or equal to 100 feet ¹
2	Distance from soil treatment area to pond, creek, lake, or other surface water feature	Greater than or equal to 50 feet	Greater than or equal to 25 feet	Greater than or equal to 25 feet	Greater than or equal to 25 feet
3	Distance from soil treatment area to dry gulch or cut bank	Greater than or equal to 25 feet	Greater than or equal to 10 feet	Greater than or equal to 10 feet	Greater than or equal to 10 feet
	<u>Vertical Separation Distances</u>				
4	Treatment depth in feet from infiltrative surface to a limiting layer	4 feet ² (3 feet with pressure dosing)	Greater than or equal to 2.5 feet	Greater than or equal to 2.5 feet	Greater than or equal to 2 feet

NOTE: Treatment levels are defined in Table 6-3. Reductions in separation distances with higher level treatment may be granted only if the local public health agency regulations have included provisions for operation and maintenance.

¹ All setback distance reductions to the 100 foot requirement for wells and soil treatment areas must be in full compliance with the minimum standards and variance requirements of the State of Colorado Division of Water Resources: Rules and Regulations for Water Well Construction, Pump Installation, Cistern Installation, and Monitoring and Observation Hole/Well Construction. For TL 3N effluent, a reduction to 75 feet is allowed if a variance from the Water Well Construction Regulations is obtained.

² Reductions in the vertical separation requirements for the use of higher level treatment systems with seepage pits are not allowed. The bottom of the excavation of a seepage pit must be a minimum of four feet above a limiting layer.

43.8 Design Criteria – General

- A. The OWTS for single-family homes shall be designed to accommodate the proposed flows from the structure as defined in 43.6.A.2. Flow estimates for multi-family or commercial OWTS must comply with 43.6.A.4 Expected waste strength as noted in Table 6-3 and Table 6-4 must also be addressed, where applicable. Installation of low flow fixtures or the separation of toilet waste or other sources of wastewater does not allow for the reduction in the size of an OWTS.

- B. OWTS shall be designed and constructed to achieve the treatment level specified by the design.
- C. OWTS must be designed and constructed such that each component shall function, when installed and operated, in a manner not adversely affected by normal operating conditions including erosion, corrosion, vibration, shock, climatic conditions, and usual household chemicals. Each component must be free of non-functional protrusions or sharp edges, or other hazards, which could cause injury to persons, animals, or properties. Design must be such as to exclude flies and rodents and other vectors and to prevent the creation of nuisances and public health hazards and must provide for efficient operation and maintenance.
- D. Accessibility for Inspection, Maintenance, and Servicing
 - 1. Septic tanks must have watertight risers over each access manhole and all risers must extend to or above final grade.
 - 2. For new construction, the top of any septic tank, dosing tank or vault must be no deeper than four feet below finished grade.
 - 3. Each treatment component of an OWTS other than the septic tank and soil treatment area must be equipped with access manholes with risers that extend to or above final grade, located to permit periodic physical inspection, collection and testing of samples and maintenance of all components and compartments.
 - 4. Riser Lids
 - a. Each riser lid must be watertight, brought to or above the surface, and must have a secure closing mechanism, such as a lock, special headed bolts or screws, or sufficient weight (defined as 59 pounds) to prevent unauthorized access.
 - b. A local public health agency may require a secondary plug, cap, cover or screen be provided below the riser cover to prevent tank entry if the cover is unknowingly damaged or removed.
 - 5. Components that require access for maintenance must include but not be limited to submerged bearings, moving parts, pumps, siphons, valves, tubes, intakes, slots, distribution boxes, drop boxes, cleanouts, effluent screens, filters, inlet and outlet baffles, aerators, treatment equipment and other devices.
 - 6. Components must be designed and constructed so that, when installed, they must be easily maintained, sampled, and serviced according to the manufacturer's recommendations. Easy physical access to treatment components by maintenance personnel and equipment must be provided.
- E. Plumbing Codes: Plumbing fixtures, building sewers, vents, sewer lines and other appurtenances must be designed, operated and maintained so as to comply with the minimum requirements of the most recently revised locally enforceable plumbing code. In absence of a local plumbing code, designs must adhere to the Colorado Plumbing Code (3 CCR 720-1). A local plumbing permit may be required.
- F. Electrical Equipment, If Used
 - 1. All electrical work, equipment, and material must comply with the requirements of the currently applicable National Electrical Code as designated by the State Electrical Board Rules and Regulations (3 CCR 710-1). A local electrical permit may be required.

2. Electrical components must be protected from moisture and corrosive gases.
- G. Indicators of Failure or Malfunctioning for Systems Utilizing Mechanical Apparatus: A signal device must be installed which will provide a recognizable indication or warning to the user that the system or component is not operating as intended. This indication or warning must be a visual signal and an audible signal, and be located in a centralized area within visual and audible range of the system user. A signal or message may also be sent remotely to a maintenance provider.
- H. Sampling Access
1. If sampling for testing or as a requirement for a permit will be required of effluent from a component other than the soil treatment area, an accessible sampling point must be provided.
 2. If sampling of the treated wastewater from the soil treatment area will be required for testing or as a requirement for a permit, a monitoring well or wells must be constructed. Monitoring wells must be located down gradient from the soil treatment area, accessible, and provided with a properly securable cover at or above the ground surface. Monitoring wells up gradient of the system may also be required. Lysimeters or other collection devices under the soil treatment area may be used instead of a monitoring well if approved by the local public health agency or other issuer of a permit.
- I. Component Operating Instructions
1. The manufacturer of proprietary treatment units utilizing mechanical components must provide clear, concise written instructions covering the components which, when followed, must assure proper installation and safe and satisfactory operation and maintenance.
 2. If the OWTS uses public domain technology, the design engineer must provide clear, concise written instructions covering the components which, when followed, must assure proper installation and safe and satisfactory operation and maintenance.
- J. Surface Activity: Activity or use on the surface of the ground over any part of the OWTS must be restricted. The soil treatment area must not be subject to damage or soil compaction from livestock, vehicular traffic, recreational use, or other site development activity. Construction equipment not necessary to install the OWTS must be kept off of the soil treatment area to prevent undesirable compaction of the soils. If compaction occurs, the disturbed or compacted soil must be re-evaluated and/or new soil evaluations performed. The system must be redesigned if the soil permeability have changed.
- K. Floodplains
1. A new, expanded or repair/replacement OWTS installed in a 100-year floodplain must meet or exceed the requirements of the Federal Emergency Management Agency and the local emergency agency. Repairs of an existing system must meet the requirements as feasible. The system as approved by a local public health agency must be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into the floodwaters. The OWTS must be located to avoid impairment to floodwaters or contamination from them during flooding.
 2. A new or expanded OWTS must not be installed in a floodway designated in a 100-year floodplain where a conforming OWTS outside the floodway can be installed. For any new OWTS or system repair that may affect the floodway delineation, appropriate procedures must be followed including revision of the floodway designation, if necessary.

L. Business Commercial, Industrial, Institutional or Multi-Family Dwelling Wastewater Systems

1. An OWTS that will serve a business, commercial, industrial or institutional property, or a multifamily dwelling must:
 - a. Be designed by a professional engineer;
 - b. Receive only such biodegradable wastes for treatment and distribution as are compatible with those biological treatment processes as occur within the septic tank, any additional treatment unit and the soil treatment area; and
 - c. Receive authorization by rule or a class V underground injection permit from the United States Environmental Protection Agency (EPA) before an application for an OWTS permit is approved if the system may receive non-residential wastewater or is otherwise covered by the EPA underground injection control program. Subsequent to acceptance by the EPA, the local public health agency may choose to also issue a permit for this type of use.

43.9 Design Criteria – Components

A. Tanks and Vaults

1. Watertightness
 - a. Septic tanks, vaults, dosing tanks, other treatment components, risers and lids must not allow infiltration of ground water or surface water and must not allow the release of wastewater or liquids through other than designed openings.
 - b. When the final compartment of a tank is being proposed for use as a pump or siphon chamber, the wall between this chamber and the previous chamber must be watertight except for the intended hydraulic opening.
 - c. Acceptable watertightness testing methods performed at a manufacturer's site or in the field include water filling the tank or vacuum testing.
2. Tank Anchoring: In locations where ground water or floodwaters may cause instability problems to the septic tank, vault, or other treatment unit in the OWTS due to flotation, the tank, vault or unit must be anchored in a manner sufficient to provide stability when the tank is empty. Risers must be included in the buoyancy calculations.
 - a. If a manufacturer provides recommendations for anchoring designs, they may be used if they meet the conditions present at the site.
 - b. If a manufacturer does not provide recommendations for provisions to compensate for buoyancy, or if the professional engineer chooses to provide his/her own designs, the anchoring system design must be prepared by the professional engineer.
3. Identification and Data Marking: All tanks and treatment units must be permanently and legibly marked in a location for the purpose of inspection that is readily visible when inspected before backfilling. The marking inscription must include the following:
 - a. Name of manufacturer;
 - b. Model or serial number, if available;

- c. Effective volume and unit of measure;
- d. Maximum depth of earth cover and external loads the tanks is designed to resist; and
- e. Inlet and outlet identifications, if relevant.

B. Septic Tanks

- 1. The manufacturer must provide sufficient information to demonstrate that the tank will meet the design specification.
- 2. Sizing Requirements:
 - a. Sizing for residential capacity for new installations must be based upon the number of bedrooms according to Table 9-1:

Table 9-1 Minimum Septic Tank Size Based on Number of Bedrooms

Number of Bedrooms	Tank Capacity (gallons)
2 or 3	1,000
4	1,250
Each Additional	250

- b. For multi-family and non-residential applications, a septic tank must be sized to permit detention of incoming wastewater design flows for a minimum of 48 hours.
 - c. For systems that remove toilet waste for separate treatment, tank capacity may be less than 1,000 gallons, if it provides a minimum of 48 hours detention time.
 - d. Minimum tank size for new installations other than for a single-family residence is 400 gallons.
 - 3. Inspection and Testing of Septic Tank Watertightness
 - a. Testing of septic tanks must be performed and evaluated as specified in section 9 of ASTM C1227-13 (Standard Specification for Precast Septic Tanks) for concrete tanks or in Standard IAPMO/ANSI Z1000-2013 (American Standards for Prefabricated Septic Tanks) for other prefabricated septic tanks.
 - b. Each unit must be inspected in the field for conditions that may compromise its watertightness.
 - c. The inspection in the field must be conducted by the local public health agency and be performed after the tank installation but before backfilling.
 - d. If the inspection in the field indicates that the tank may be damaged or is not watertight, the inspector may require that the tank be tested for watertightness by the tank manufacturer or the system contractor.
 - 4. Septic Tank Design and Dimension Criteria

- a. A septic tank must have two or more compartments or more than one tank may be used in series. The first compartment of a two-compartment tank or the first tank in a series must hold no less than one-half of the required effective volume.
- b. Inlet invert must be at least two inches higher than the outlet invert.
- c. Inlet tee or baffle must extend above the surface of the liquid at least five inches and must extend a minimum of eight inches below the liquid surface. However the inlet tee or baffle must not extend to a depth of more than 40 percent of the liquid depth measured from the liquid surface.
- d. Outlet tee or baffle must extend at least 5 inches above and 14 inches below the outlet invert, however it must not extend to more than 40 percent of the liquid depth measured from the liquid surface. The outlet tee or baffle that accommodates an effluent screen must be located so that the effluent screen has sufficient clearance to be removed through the access opening with a riser in place.
- e. The distance from the outlet invert to the underside of the tank top must be at least ten inches.
- f. Liquid depth must be a minimum of 30 inches and the maximum depth must not exceed the tank length.
- g. The transfer of liquid from the first compartment to the second or successive compartment must be made at a liquid depth of between 35 and 40 percent of the liquid depth measured from the liquid surface.
- h. At least one access opening no less than 20 inches across must be provided in each compartment of a septic tank.
- i. A septic tank must have a minimum of 25 square feet of liquid surface area and have at least a six-foot separation between inlets and outlets. Septic tanks in series, combined, must have a minimum of 25 square feet of liquid surface area and the sum of the distances between inlets and outlets of all tanks must be at least six feet. The requirements for liquid surface area and separation between inlet and outlet may be waived for tanks with less than 750 gallon effective volume.

5. Concrete Septic Tank Structural Design

- a. Concrete septic tanks must comply with the structural design criteria of ASTM C1227-13 (Standard Specification for Precast Septic Tanks).
- b. The design for each tank model and size by each manufacturer must be certified by a professional engineer as complying with these design and structural requirements and the watertightness standard of this regulation.
- c. Certification by a professional engineer must be submitted to the Division for acceptance.
- d. Tank slab lids, mid-seam tanks, and the connections between the tank and risers must be designed to provide for a watertight seal.

6. Fiberglass, Fiberglass-Reinforced Polyester, and Plastic Tanks

- a. All fiberglass, fiberglass-reinforced polyester, and plastic tanks must meet the minimum design and structural criteria of IAPMO/ANSI Z1000-2013 (American Standards for Prefabricated Septic Tanks) and be certified by a professional engineer as meeting these standards. The professional engineer certifying the criteria must be registered or licensed in the United States, but need not be registered in Colorado.
- b. All tanks must be sold and delivered by the manufacturer or manufacturer's designated representative, preferably completely assembled. On-site tank assembly will be allowed on an as-needed basis.
- c. Tanks must be structurally sound and support external forces as specified in the standard referenced above when empty and internal forces when full. Tanks must not deform or creep resulting in deflection of more than five percent in shape as a result of loads imposed.
- d. All tanks must be constructed of sound, durable materials and not be subject to excessive corrosion, decay, frost damage, or cracking.
- e. All seams or connections including to risers must be sealed to be watertight.

7. Metal tanks are prohibited.

C. Abandonment of Tank

- 1. A tank may be completely removed and the parts disposed of safely.
- 2. If the tank will remain in place:
 - a. The tank must be pumped to remove as much waste as possible;
 - b. The bottom of the tank must be broken so the tank neither floats nor fills with water;
 - c. The top must be collapsed and the sides may be broken into the void;
 - d. The remaining void must be filled with gravel, sand or compacted soil; and
 - e. The filled excavation will be graded to surroundings, allowing for settling.
- 3. The local public health agency may require abandonment of a tank that is deemed to be a hazard.

D. Pipe Standards and Bedding Requirements:

- 1. Pipe Standards
 - a. All wastewater pipes used in portions of an OWTS that are pressurized must be constructed of compatible pipe, primer, bonding agent, and fittings. Flexible couplings to connect pipes may only be used in portions of an OWTS that are intended for gravity flow of the wastewater.
 - b. Where unperforated plastic pipe and fittings are used for gravity flow, the minimum wall thickness of the pipe must conform to ASTM Standard D 3034 or equivalent or greater strength. Schedule 40 pipe is preferred.

- c. Perforated distribution pipe surrounded by rock within a soil treatment area must have a minimum wall thickness and perforations conforming to ASTM Standard D 2729 or equivalent or greater strength. Corrugated polyethylene pipe with smooth interior that meets ASTM F405 or AASHTO M252 specifications or equivalent may be used.
 - d. Schedule 40 or pipe of equivalent or greater strength must be used for the placement of piping under driveways or roadways and in instances where sewer line setback distances are granted a variance for any reason.
 - e. Tile pipe, open-joint pipe, and cast iron pipe must not be used in an OWTS.
 - f. Pressure pipe must be rated for the intended use to accommodate pump discharge pressure.
- 2. Bedding: All system piping, except for distribution laterals within the soil treatment area, must be bedded with select material before final inspection by the local public health agency. Select bedding material must consist of loose, granular material, free from stones, clods, frozen soil, or other deleterious material. Select material may consist of on-site job-excavated or imported material. Bedding material must be mechanically compacted to support piping.
- E. Cleanouts required between the building and the septic tank:
 - 1. Cleanouts must have a secure cap and a riser extending to or easily accessible from grade. The installation of a straight tee or sanitary tee is acceptable.
 - 2. Cleanouts must be provided within five (5) feet of the outside of the building.
 - 3. Where a sewer has a change of horizontal direction greater than 45 degrees, a cleanout must be installed at the change of direction unless a cleanout already exists within 40 feet upstream of this fitting. Where more than one change of direction greater than 45 degrees occurs within 40 feet of a developed length of piping, the cleanout for the first change of direction may serve as the cleanout for all changes within that 40 feet of developed length of pipe.
 - 4. Cleanouts must be provided at intervals within the building sewer from the structure to the tank of not more than 100 feet. The effluent pipe between the septic tank and soil treatment area is exempt from this requirement
- F. Distribution Box: A distribution box, if used, must be of sufficient size to distribute effluent equally to the laterals of a trench or absorption bed system. The box must be constructed with the inlet invert at least one inch above the level of the outlet inverts. Flow equalizers or similar devices must be used to adjust the flow between laterals. Access to the box must be provided with a manhole riser with access lid at or above grade if the top of the box does not reach final grade.
- G. Drop Box: In sequential or serial distribution, a watertight box may be used to transfer the effluent to the following trench when the effluent in a trench has received the designed level for overflow to the next trench. A drop box shall have a riser at or above final grade, if the top of the drop box does not reach final grade. Outlet pipes in sequential distribution must be designed and installed so that they may be capped off for resting periods.
- H. Stepdown/Relief Pipe: In sequential or serial distribution, an unperforated pipe may be used to transfer the effluent to the following trench when the effluent in a trench has received the designed level for overflow from that trench.

I. Wastewater Pumping and Dosing Siphon Systems

1. Pumps

- a. Non-clog pump opening must have at least two-inch diameter solids handling capacity where raw wastewater is pumped. A pump opening must not have more than 3/4-inch diameter solids handling capacity if previously settled effluent is pumped.
- b. Pumps must be certified to the applicable UL or CSA electrical safety standard, bear the seal of approval of CSA, UL or an equivalent testing program and be constructed of corrosion resistant materials.
- c. Grinder pumps must also be certified to NSF/ANSI Standard 46 and bear the seal of approval of the NSF or equivalent testing and certification program.

2. Floats and Switches

- a. Automatic liquid level controls must be provided to start and shut off pumps at a frequency or level specified in the design.
- b. Floats must be mounted on a stem separate from the pump discharge piping to allow for removal, adjustment, and replacement of the float from grade without removing the pump.
- c. Float switches must be certified to the applicable UL or CSA electrical safety standard, bear the seal of approval of CSA, UL or an equivalent certification program and be constructed of corrosion resistant materials.
- d. Dosing siphons for pressure dosing and higher level treatment systems must provide for a means of determining the number of dosing events.

3. Location of Pump or Siphon

- a. A pump or a siphon may be installed in a separate tank following the septic tank. The tank must be of sufficient volume to allow pump or siphon cycling commensurate with the design capacity.
- b. The second compartment of a two-compartment septic tank may only be used as the pump tank when the tank is specifically designed for this purpose and it can be demonstrated to the satisfaction of the local public health agency that the minimum 48-hour detention time will not be decreased. The pump must be screened or provided with an approved filtering device to assure that only liquid effluent will be discharged. The transfer of liquid from the first to the second compartment must be at an elevation that is between the inlet and outlet invert elevations, and through a standard tee designed and located as per the requirements of section 43.9.B.4 .d. Siphons must not be installed in the second compartment of a two compartment tank.
- c. The use of a three-compartment septic tank, sized to provide the required effective volume in the first two compartments with the pump or siphon in the third compartment is acceptable for tanks specifically designed for this purpose. The transfer of liquid from the second to the third compartment must be at an elevation that is between the inlet and outlet invert elevation, and through a standard tee designed and located as per the requirements of section 43.9.B.4.d.

4. Pump or Siphon Discharge Piping
 - a. The discharge pipe from the pumping or siphon chamber must be protected from freezing by burying the pipe below frost level or sloping the pipe to allow it to be self-draining. Drainage must be provided through the bottom of the pump or through a weep hole located in the discharge pipe prior to exiting the tank.
 - b. The pump discharge piping must have a quick disconnect that is accessible from grade to allow for easy pump access and removal.
 - c. The pipe must be sized to maintain a velocity of two or more feet per second.
 - d. Pressure pipes must be designed to prevent air or vacuum locking and allow self draining of the pipes.
5. Access
 - a. The pump or dosing system tank, chamber, or compartment must have a minimum 24-inch diameter access riser, made of corrosion-resistant material, extending to or above ground level. A smaller diameter riser may only be installed if it is accepted by the Division as an integral component of a specific product during the product review process.
 - b. The access riser must have a watertight connection to the pump or dosing chamber/compartment to prevent infiltration or exfiltration. All other intrusions to the riser for electrical or other component access must also be watertight.
6. Splice Box
 - a. Splice boxes must be located outside the pump system access riser and be accessible from the ground surface.
 - b. Wire splices are prohibited inside the tank, dosing chamber or riser. Wire splicing must be completed with corrosion-resistant, watertight connectors.
7. Controls
 - a. Control panels or other electrical boxes used to control the functions of an OWTS must comply with the following, as appropriate:
 - (1) The pump system must have an audible and visual alarm notification in the event an excessively high water condition occurs.
 - (2) The pump must be connected to a control breaker separate from the alarm breaker and from any other control system circuits.
 - (3) An electrical disconnect must be provided within the line of sight of the pump chamber.
 - (4) The pump system must be provided with a means that will allow the pump to be manually operated; such as an H.O.A. switch (Hand/Off/Auto).

- (5) The pump system for pressure dosing and higher level treatment systems must have a mechanism for tracking both the amount of time the pump runs and the number of cycles the pump operates.
- (6) Must bear the seal of a Nationally Recognized Testing Laboratory (NRTL), such as UL or ETL.

J. Effluent Screens

- 1. A local public health agency may require that effluent screens be installed in all septic tanks in new installations and repairs where the septic tank is replaced.
- 2. If a pump or dosing siphon is used to remove septic tank effluent from the final compartment of the septic tank, the effluent must be filtered prior to dispersal into the soil treatment area. An effluent screen, pump vault equipped with a filter cartridge, or a filter on the discharge pipe, would all be considered acceptable.
- 3. The effluent screen must be cleaned at manufacturer-recommended intervals, or more often, if use patterns indicate.
- 4. An alarm may be installed on an effluent screen indicating need for maintenance. A local public health agency may require all effluent screens to be equipped with alarms.
- 5. Where an ejector pump, grinder pump or non-clog pump is proposed for use prior to the septic tank, an effluent screen must be installed on the outlet of the septic tank.
- 6. The handle of the effluent screen must extend to within 12 inches of grade.

K. Grease Interceptor Tanks

- 1. All commercial food service facilities and other facilities generating fats, oils and greases in their waste must install a grease interceptor tank.
- 2. Grease interceptor tanks shall treat only those portions of the total wastewater flow in which grease and oils are generated.
- 3. The grease interceptor must have a minimum of two compartments and must be sized proportionate to the amount of fats, oils and grease it receives, the peak flow rate through the tank, and the expected cleaning frequency.
- 4. The inlet and outlet tees or baffles must extend into the bottom 1/3 of the liquid volume, but must be at least 12 inches off the inside floor of the interceptor.
- 5. The inlet and outlet tees or baffles must extend at least 5 inches above the liquid level and must provide for a free vent area across the liquid surface.

43.10 Design Criteria – Soil Treatment Area

- A. The size and design of the soil treatment area must be based on the results of the site and soil evaluation, design criteria, and construction standards for the proposed site and OWTS selected.
- B. At proposed soil treatment area locations where any of the following conditions are present, the system must be designed by a professional engineer and approved by the local public health agency:

1. For soil types 3A, 4, 4A, 5, R-0, R-1 and R-2, and Treatment Levels TL2, TL2N, TL3, and TL3N as specified in Tables 10-1 and 10-1A of this regulation;
2. The maximum seasonal level of the ground water surface is less than four feet below the bottom of the proposed infiltrative surface;
3. A limiting layer exists less than four feet below the bottom of the proposed infiltrative surface;
4. The ground slope is in excess of thirty percent; or
5. Pressure distribution is used.

C. Calculation of Infiltrative Surface of Soil Treatment Area

1. The infiltrative surface of a trench or bed receiving any treatment level of effluent is only the bottom area. No sidewall credit is allowed except in deep gravel trenches and seepage pits that are permissible in repairs.
2. Long-term acceptance rates (LTARs) are shown in Tables 10-1 and 10-1A.
3. Factors for adjusting the size of the soil treatment area are in Tables 10-2 and 10-3.
4. The required area for a soil treatment area is determined by the following formula:

$$\text{Soil Treatment Area in square feet required} = \frac{\text{Design Flow (in gallons per day)}}{\text{LTAR (in gallons per day per square foot)}}$$

- a. Adjusted Soil Treatment Area = Required Soil Treatment Area x Size Adjustment Factor(s).
- b. Size adjustment factors for methods of application are in Table 10-2.
- c. Size adjustment factors for types of distribution media are in Table 10-3.
- d. A required soil treatment area receiving TL1 effluent may be multiplied by one size adjustment factor from Table 10-2, Table 10-3, or both.
- e. A soil treatment area receiving TL2, TL2N, TL3, or TL3N effluent must be pressure dosed.
 - (1) For products that combine distribution and higher level treatment within the same component, pressure distribution of the effluent over the soil treatment area must be used.
 - (2) TL2 – TL3N effluent may be applied by gravity flow in soil types 3, 3A, 4, 4A, or 5 for designs where reductions in the soil treatment area size or vertical/horizontal separation reductions are not being requested.
- f. The distribution media in Table 10-3 may be used for distribution of higher level treatment system effluent, but an additional reduction factor from Table 10-3 must not be used. Sizing reductions for higher level treatment systems are achieved through increased LTAR's provided in Table 10-1

Table 10-1 Soil Treatment Area Long-term Acceptance Rates by Soil Texture, Soil Structure, Percolation Rate and Treatment Level

Soil Type, Texture, Structure and Percolation Rate Range					Long-term Acceptance Rate (LTAR); Gallons per day per square foot				
Soil Type	USDA Soil Texture	USDA Soil Structure-Type	USDA Soil Structure-Grade	Percolation Rate (MPI)	Treatment Level 1 ¹	Treatment Level 2 ¹	Treatment Level 2N ¹	Treatment Level 3 ¹	Treatment Level 3N ^{1*}
R	>35% Rock (>2mm): See Table 10-1A					>35% Rock (>2mm): See Table 10-1A			
1	Sand, Loamy Sand	Single Grain	0 (Structureless)	5-15	0.80	1.40	1.40	1.55	1.55
2	Sandy Loam, Loam, Silt Loam	PR (Prismatic) BK (Blocky) GR (Granular)	2 (Moderate) 3 (Strong)	16-25	0.60	1.0	1.0	1.1	1.1
2A	Sandy Loam, Loam, Silt Loam	PR, BK, GR Massive	1 (Weak) 0 (Structureless)	26-40	0.50	0.80	0.80	0.90	0.90
3	Sandy Clay Loam, Clay Loam, Silty Clay Loam	PR, BK, GR	2, 3	41-60	0.35	0.55	0.55	0.65	0.65
3A	Sandy Clay Loam, Clay Loam, Silty Clay Loam	PR, BK, GR Massive	1 0 (Structureless)	61-75	0.30	0.45	0.45	0.55	0.55
4	Sandy Clay, Clay, Silty Clay	PR, BK, GR	2, 3	76-90	0.20	0.30	0.30	0.30	0.30
4A	Sandy Clay, Clay, Silty Clay	PR, BK, GR Massive	1 0 (Structureless)	91-120	0.15	0.20	0.20	0.20	0.20
5	Soil Types 2-4A	Platy	1, 2, 3	121+	0.10	0.15	0.15	0.15	0.15

NOTE: Shaded areas require system design by a professional engineer.

1 Treatment levels are defined in Table 6-3.

* Higher long-term acceptance rates for Treatment Level 3N may be allowed for OWTS required to have a discharge permit, if the capability of the design to achieve a higher long-term acceptance rate can be substantiated.

Table 10-1A Design Criteria for Soils with High Rock Content (Type “R” Soils) ^{1,2,3,4}

Soil Type, Percentage of Rock, LTAR, Distribution				Required Sand or Media Depth Relative to the Quality of Effluent Applied to the Distribution System				
Soil Type	Percentage and Size of Rock ⁵	Maximum LTAR (Gal./sq.ft./ day)	Type of Distribution Required	Treatment Level 1 ⁶	Treatment Level 2	Treatment Level 2N	Treatment Level 3	Treatment Level 3N
R-0	Soil Type ⁷ 1 with more than 35% Rock (>2mm)	Unlined Sand Filter: 1.0 for “Preferred Sand Media”; 0.8 for “Secondary Sand Media”	Pressure Distribution ⁸	Minimum 3-foot deep Unlined Sand Filter	Minimum 3-foot deep Unlined Sand Filter	Minimum 2.5-foot deep Unlined Sand Filter	Minimum 2.5-foot deep Unlined Sand Filter	Minimum 2-foot deep Unlined Sand Filter
R-1; Option 1	Soil Type ⁷ 2 – 5, >35 - 65% Rock (>2mm) ; with ≥50% of the Rock <20 mm (3/4 inch)	Use TL1 LTAR from Table 10-1 for the soil type corresponding to the soil matrix, with a maximum LTAR of 0.8	Pressure Distribution ⁸	Minimum 2-foot deep Unlined Sand Filter	Minimum 1-foot deep Unlined Sand Filter	Minimum 1-foot deep Unlined Sand Filter	Sand media not required	Sand media not required
R-1; Option 2	Soil Type ⁷ 2 and 2A, >35 - 65% Rock (>2mm); with ≥50% of the Rock <20 mm (3/4 inch)	The allowable LTAR's are defined in each individual treatment level column in this Table	Pressure Distribution ⁸	Remove, mix, replace 4 feet of existing material; with a maximum LTAR of 0.6	Remove, mix, replace 2 feet of existing material; with a maximum LTAR of 0.7	Remove, mix, replace 2 feet of existing material; with a maximum LTAR of 0.7	Remove, mix, replace 2 feet of existing material; with a maximum LTAR of 0.8	Remove, mix, replace 2 feet of existing material; with a maximum LTAR of 0.8
R-2	Soil Type ⁷ 2 – 5, >65 Rock (>2mm), OR ≥50% of Rock >20 mm (3/4 inch)	Use TL1 LTAR from Table 10-1 for the soil type corresponding to the soil matrix, with a maximum LTAR of 0.8	Timed, Pressure Distribution ⁸	Minimum 3-foot deep Unlined sand filter	Minimum 3-foot deep Unlined Sand Filter	Minimum 2.5-foot deep Unlined Sand Filter	Minimum 2.5-foot deep Unlined Sand Filter	Minimum 2-foot deep Unlined Sand Filter

- General guidance for Table 10-1A: The intent of the soil type R-0 is to define a material that consists of a high percentage of rock, or rock fragments, and has a percolation rate of less than 5 mpi. Soil types R-1 and R-2 consist of a high percentage of rock or rock fragments, but have a percolation rate of greater than 5 mpi. Soil types R-0 and R-2 are considered to be a “limiting layer”.
- No sizing adjustments are allowed for systems placed in type “R” soils. The maximum LTAR's are provided in this table
- The design of type “R” soil treatment systems must conform to sections 43.11.C.2 and 3.
- All systems installed in a type “R” soil must be designed by a professional engineer.
- The percentage of rock may be determined by a gradation conducted per ASTM standards, or an appropriate field evaluation by volume.
- Type “R” soil treatment systems that are designed per the criteria noted in the Treatment Level 1 column of this table do not require O/M oversight by the LPHA.
- The “Percentage and Size of Rock” column references the soil types noted in Table 10-1.
- Design of the pressure distribution system for type “R” soils shall comply with the requirements of sections 43.11.C.2.b, c, e, f, g, h and i.

D. Allowable Soil Treatment Area Sizing Adjustments:

1. The soil treatment area size determined by dividing the design flow rate by the long-term acceptance rate may be adjusted by factors for method of treatment, soil treatment area design, and type of distribution media.
2. For the purpose of the table, a "baseline system," i.e. adjustment factor of 1.00, is considered to be Treatment Level 1 (TL1) applied by gravity to a gravel-filled trench.
3. Sizing adjustments for use of the higher level treatment categories listed in Tables 10-1 will only apply provided the system is inspected and maintained as specified in the requirements of section 43.14.D, Permitting and Oversight of Maintenance for Soil Treatment Area Reductions and Vertical and Horizontal Separation Distance Reductions Based on Use of Higher Level Treatment.

Table 10-2 Size Adjustment Factors for Methods of Application in Soil Treatment Areas Accepting Treatment Levels 1, 2, 2N, 3 and 3N Effluent

Type of Soil Treatment Area	Method of Effluent Application from Treatment Unit Preceding Soil Treatment Area		
	Gravity	Dosed (Siphon or Pump)	Pressure Dosed
Trench	1.0	0.9	0.8
Bed	1.2	1.1	1.0

Table 10-3 Size Adjustment Factors for Types of Distribution Media in Soil Treatment Areas for Treatment Level 1 Systems

Type of Soil Treatment Area	Type of Distribution Media Used in Soil Treatment Area ¹		
	Category 1	Category 2	Category 3
	Rock or Tire Chips	Other Manufactured Media	Chambers or Enhanced Manufactured Media
Trench or Bed	1.0	0.9	0.7

1. All proprietary distribution products must receive acceptance and the applicable reduction through Division review per the applicable requirements of section 43.13.

E. Design of Distribution Systems

1. General

- a. The infiltrative surface and distribution laterals must be level.
 - b. The infiltrative surface must be no deeper than four feet below grade unless TL2 or higher effluent is applied to the distribution media and the system is inspected and maintained as specified in the requirements of section 43.14.D. The depth of the infiltrative surface will be measured on the up-slope side of the trench or bed.
 - c. Trenches must follow the ground surface contours so variations in infiltrative surface depth are minimized. Beds must be oriented along contours to the degree possible.
 - d. Pipe for gravity distribution must be no less than three inches in diameter.
 - e. A final cover of soil suitable for vegetation at least ten inches deep must be placed from the top of the geotextile or similar pervious material in a rock and pipe system, chamber, or manufactured media up to the final surface grade of the soil treatment area.
 - f. Following construction, the ground surface must be graded to divert stormwater runoff or other outside water from the soil treatment area. The area must be protected against erosion. Subsurface drains upslope of the soil treatment area may be installed to divert subsurface flow around the area.
 - g. Backfilling and compaction of soil treatment areas must be accomplished in a manner that does not impair the intended function and performance of the storage/distribution media and soil and distribution laterals, allows for the establishment of vegetative cover, minimizes settlement and maintains proper drainage.
 - h. Dosing may be used for soil treatment area distribution. The dose must be sized to account for the daily flow and the dosing frequency.
2. Distribution Laterals; Must meet the requirements of section 43.9.D as applicable.
- a. Distribution between laterals in a soil treatment area must be as level as possible. Uneven settling of portions of the distribution system following construction must be addressed by provisions in the design to adjust flows between laterals.
 - b. The maximum length of distribution laterals must not exceed 150 feet.
 - c. Distribution laterals longer than 100 feet must be pressure dosed or the application of the effluent must be at the center of the lateral through a distribution box.
 - d. A local public health agency may limit the length of distribution laterals to a maximum of 100 feet.
 - e. For absorption beds, the separating distance between parallel gravity distribution laterals must not exceed six feet (center-to-center), and a distribution lateral must be located within three feet of each sidewall and endwall.
 - f. The end of a distribution pipe must be capped, unless it is in a bed or trenches in a level soil treatment area, where the ends of the pipes may be looped.

- g. To promote equal distribution to the soil treatment area, the forcemain or effluent pipe must be connected to as near to the middle of the distribution header as possible. However it must be offset from any distribution lateral to prevent preferential flow.
- h. Orifices must be oriented downward unless pressure distribution is used and provision for pipe drainage is included.

3. Pressure Distribution

- a. Design of pressure distribution systems must include:
 - (1) Dose size and frequency for either proposed flows and soil type, or media long-term acceptance rate;
 - (2) Pipe diameter and strength requirements;
 - (3) Orifice size and spacing;
 - (4) A 30 – 72 inch operating head at the distal end orifice;
 - (5) Pump/siphon information; Total Dynamic Head; gallons/minute;
 - (6) Drain-back volume from forcemain; and
 - (7) Calculations, or a design software reference, that indicates the selected component sizing will provide equal flow within each active zone of the distribution system, and provide no more than a 10% flow differential from the initial orifice to the most distal end orifice within each zone.
- b. The separating distance between parallel distribution pipes in a pressure distribution absorption bed must not exceed four feet, and the outer distribution pipe must be located within two feet of each sidewall and endwall. Specific requirements for the design of sand filters are noted in section 43.11.C.2.
- c. Flushing assemblies must be installed at the distal end of each lateral and be accessible from finished grade. A sweeping 90 degree or bends limited to 45 degree must be provided.
- d. A local public health agency may require that all effluent be screened prior to discharging to a pressure distribution system. This may be accomplished by an effluent screen in the septic tank or pump chamber, or a filter placed on the discharge pipe from the pump or siphon.

F. Soil Treatment Area Requirements

- 1. Trenches
 - a. Trenches must be three feet wide or less.
 - b. The separating distance between trenches must be a minimum of four feet sidewall-to-sidewall.
 - c. Distribution laterals used in a trench must be as close to the center of the trench as possible.

2. Beds
 - a. Maximum width for a bed must be 12 feet, unless the bed receives effluent meeting Treatment Level 2 quality or better.
 - b. The separating distance between beds must be a minimum of six feet sidewall-to-sidewall.
3. Serial and Sequential Distribution:
 - a. A serial or sequential distribution system may be used where the ground slope does not allow for suitable installation of a single level soil treatment area unless a distribution box or dosing chamber is used.
 - b. The horizontal distance from the side of the absorption system to the surface of the ground on a slope must be adequate to prevent lateral flow and surfacing.
 - c. Adjacent trenches or beds must be connected with a stepdown/relief pipe or a drop box arrangement such that each trench fills with effluent to the top of the gravel or chamber outlet before flowing to succeeding treatment areas.
4. Alternating Systems
 - a. An alternating system must have two or more zones that must be alternated on an annual or more frequent basis.
 - b. For repairs, each section must be a minimum of 50 percent of the total required soil treatment area. For new installations, each separate soil treatment area must meet the minimum sizing requirements of this regulation.
 - c. A diversion valve or other approved diversion mechanism that requires the owner or operator to manually alternate zones of the OWTS may be installed on the septic tank effluent line allowing soil treatment area sections to be alternated.
 - d. The diversion mechanism must be readily accessible from the finished grade.
5. Sequencing Zone Systems
 - a. Sequencing zone systems have two or more soil treatment area sections that are dosed on a frequent rotating basis.
 - b. Where soil conditions are similar between the sections, each section area must be the same size. If soil conditions are such that long-term acceptance rates are different, each section may be sized for the same dose, but different long-term acceptance rates.
 - c. An automatic distribution valve must be used.
 - d. Dosing of each system must be evaluated by the design engineer based on projected daily flow rates, number of zones, and soil types.
6. Inspection Ports
 - a. A 4-inch inspection port accessible from ground surface must be installed at the terminal end of each lateral in a trench system and at each corner of a bed

system. The bottom of the inspection port tube must extend to the infiltrative surface and not be connected to the end of a distribution pipe.

- b. Inspection ports in chambers may be installed according to manufacturer's instructions if the infiltrative surface is visible and effluent levels can be observed from the inspection port
- c. Additional inspection ports connected to distribution pipes may be installed.
- d. In addition, a local public health agency may require an inspection port at the initial end of each lateral in a trench system.
- e. The top of inspection ports may be terminated below the final grade if each is housed in a component such as a valve box for a lawn irrigation system and has a removable cover at the ground surface.

G. Storage/Distribution Media

1. Rock and Pipe

- a. The perforated pipe must be surrounded by clean, graded gravel, rock, or other material of equal efficiency which may range in size from 1/2 inch to 2 1/2 inches. AASHTO M 43 size No. 3 coarse aggregate meets this specification.
- b. At least six inches of gravel, rock or other material must be placed below the pipe. The gravel, rock or other material must fill around the pipe and be at least two inches above the top of the distribution pipe.
- c. The top of the placed gravel or such material used must be covered with non-woven permeable geotextile meeting a maximum thickness rating of 2.0 ounces per square yard or equivalent pervious material. An impervious covering must not be used.

2. Chambers

- a. Chambers must be installed with the base of the unit on in-situ soil or, if placed on acceptable media, the manufacturer's installation instructions must be followed so as to prevent chambers from settling into the media.
- b. Installation must be according to manufacturer's instructions.
- c. Effluent may be distributed by gravity, pump or siphon.
- d. For width and square footage requirements, refer to section 43.13.E.1.d.

3. Media, Enhanced, or Other Manufactured

- a. Manufactured media must be installed with the base on the in-situ soil or placed on acceptable media meeting the manufacturer's specifications for proprietary distribution products or combined treatment/distribution products.
- b. Installation must be according to manufacturer's instructions.
- c. Pressure distribution is required for TL2-TL3N effluent, unless otherwise noted in this regulation.

4. Driplines

- a. The infiltrative surface area must be calculated using the long-term acceptance rate for the site or a more conservative value if recommended by the manufacturer.
- b. Driplines must be installed on manufacturer's spacing recommendations.
- c. Drainback must be provided for all drip lines, pipes and pumps.
- d. Provisions must be made to minimize freezing in the distribution pipes, driplines, relief valves, and control systems.
- e. Provisions must be made for filtering, back-flushing, or other cleaning.

5. Tire Chips

- a. The pipe may be surrounded with clean, uniformly-sized tire chips.
- b. Tire chips must be nominally two inches in size and may range from 1/2 inch to a maximum of four inches in any one direction.
- c. Wire strands must not protrude from the tire chips more than 0.75 inches.
- d. Tire chips must be free from balls of wire and fine particles less than two mm across.
- e. The top of the tire chips used must be covered with non-woven permeable geotextile meeting a maximum thickness rating of 2.0 ounces per square yard or equivalent pervious material. An impervious covering must not be used.

H. Soil replacement systems

The construction of a soil replacement system is permitted to bring the soil treatment area into compliance with the requirements of this regulation

1. When a soil type "R" is removed, the following requirements must be met:

- a. All added soil must comply with the following specifications:
 - (1) Added soil must meet the specifications of either "preferred" or "secondary" sand filter media, as specified in section 43.11.C.2.
 - (2) The long-term applicable rates as specified in Table 10-1A must be used. No additional sizing adjustments are allowed.
 - (3) The depth of the added media must comply with the requirements of Table 10-1A.
 - (i) In order to utilize the reduced vertical separation requirements for TL2 or higher quality effluent, the local public health agency must have a program for inspection and oversight as specified in section 43.14.D.4.

- (4) A gradation of the sand media used must be provided. The gradation must be dated no more than one month prior to the installation date. However, a gradation of the actual material placed in the excavation is recommended.
 - (5) All added soil must be completely settled prior to installation of components as specified and approved by the design engineer.
 - (6) Pressure distribution must be used.
- 2. The removal and reinstallation of in-situ soil may only be allowed where the soils are determined to be a soil type "R-1" (Option 2). The design must comply with the requirements for this soil type noted in Table 10-1A (Soil Type R-1, Option 2).
- 3. When a sand media is added to soil treatment area or to an excavation where a soil type 1-5 (Table 10-1) is the underlying soil, the following requirements must be met:
 - a. Added soil must meet the specifications of either "preferred" or "secondary" sand filter media, as specified in section 43.11.C.2.d.
 - b. Unless the design follows the criteria for a sand filter or mound system design as required in section 43.11, the TL1 long-term acceptance rate for the receiving soil must be used.
 - c. A gradation of the sand media used must be provided. The gradation must be dated no more than one month prior to the installation date. However, a gradation of the actual material placed in the excavation is recommended.
 - d. All added soil must be completely settled prior to installation of components.

I. Repairs

- 1. When space is not available or if there are other site limitations that preclude other soil treatment area options for OWTS repairs, wide beds, deep gravel trenches, deep beds and seepage pits may be considered for repairs only. Other options are vaults or higher level treatment systems, if the local board of health permits them.
- 2. Repairs to failing systems must conform to setbacks identified in Table 7-1 when possible. When this is not possible using all available methods described above, the jurisdiction with authority may permit reductions to setbacks. At no point will a setback reduction be approved by the jurisdiction less than what the existing separation is to existing OWTS. In maximizing this setback distance, all methods available in section 43.10.I.1 must be utilized including but not limited to the use of Higher Level Treatment, wide beds, seepage pits, etc., where allowed. Any setback reduction beyond what the existing failing system presents must be approved by the local board of health as outlined in section 43.4.O, if the local board of health has opted to allow variances.
- 3. Wide Beds: For repairs, beds may be wider than 12 feet without being required to receive effluent meeting Treatment Level 2 quality or better.
- 4. Deep Beds: For repairs, the infiltrative surface of a bed may be no deeper than five feet. Size adjustments as provided for in Tables 10-2 and 10-3 must not be applied. System sizing will be based strictly on the soil type and corresponding LTAR.
- 5. Deep Gravel Trenches

- a. The length of an absorption trench may be calculated by allowance for the sidewall area of additional depth of gravel in excess of six inches below the bottom of the distribution pipe according to the following formula:

$$\text{Adjusted Length} = L \times \frac{(W+2)}{(W+1+2D)}$$

Where:

L = length of trench prior to adjustment for deep gravel

W = width of trench in feet

D = additional depth in feet of gravel in excess of the minimum required six inches of gravel below the distribution pipe

- b. Maximum allowable additional depth is five feet.
- c. Percolation tests or soil profile test pit excavations must be performed at the proposed infiltrative surface depth.
- d. Size adjustments as provided for in Tables 10-2 and 10-3 must not be applied to deep gravel trenches.

6. Seepage Pits

- a. For repairs, potential for risk to public health and water quality may be evaluated by the local public health agency. If risk is low in the determination of the local public health agency, a seepage pit without higher level treatment may be used.
- b. If the risks are not low, higher level treatment of at least TL2 must be attained prior to discharge to these systems for final dispersal.
- c. A seepage pit must consist of a buried structure of precast perforated concrete, or cinder or concrete block laid dry with open joints.
 - (1) Pits must be provided with both vertical sidewall and top supporting structural concrete or other material of equal structural integrity.
 - (2) The excavation must be larger than the structure by at least 12 inches on each side and may not exceed 5 feet beyond the structure wall.
 - (3) The over-excavated volume must be filled with clean, graded gravel or rock, which may range in size from ½ inch to 2 ½ inches. AASHTO M 43 size No 3 coarse aggregate meets this specification.
 - (4) The capacity of the pit must be computed on the basis of long-term acceptance rates determined for each stratum penetrated. The weighted average of the results must be used to obtain a design figure.
 - (5) Soil strata in which the percolation is slower than 30 minutes per inch must not be used for absorption or seepage. These strata must not be included in the weighted average to determine the long-term acceptance rate.

- (6) The infiltrative surface of the pit is the vertical wall area (based on dug perimeter) of the pervious strata below the inlet plus the bottom of the excavated area.
- (7) The bottom of the pit excavation must be greater than four feet above a limiting layer.
- d. Pits must be separated by a distance equal to three times the greatest lateral dimension of the largest pit. For pits over 20 feet in depth, the minimum space between pits must be 20 feet.
- e. The requirements for the design and construction of seepage pits for the treatment and dispersal of on-site wastewater on new sites is defined in section 43.12.C.

7. Wastewater Ponds

- a. Construction of new wastewater ponds is prohibited.
- b. For repairs of an existing wastewater pond, the potential for risk to public health and water quality may be evaluated by the local public health agency. If risk is low in the determination of the local public health agency, the repair of a wastewater pond may be permitted, however the following criteria must be followed:
 - (1) A septic tank must precede the wastewater pond.
 - (2) The depth of the design volume of the wastewater pond must be at least five feet.
 - (3) A wastewater pond must have two feet of free board above the design volume of the pond.
 - (4) A wastewater pond must be fenced to keep out livestock, pets, vermin, and unauthorized people.
 - (5) Wastewater ponds must be designed on the basis of monthly water balance including design flow, precipitation, evaporation, and seepage.
 - (6) Wastewater ponds must be constructed so the seepage out of the bottom or sides does not exceed 1/32 of an inch per day. If this limit cannot be achieved using compacted natural soil materials including soil additives, an impermeable synthetic membrane liner must be used.
 - (7) If the evapotranspiration does not exceed the rate of inflow of effluent from the structure, a soil treatment area meeting the requirements of this regulation must be installed to accept the excess flow.
 - (8) Maintenance must include preventing aquatic and wetland plants from growing in or on the edge of the pond, protecting sides from erosion, and mowing grasses on the berm and around the pond.
 - (9) Wastewater ponds must be designed by a professional engineer.

8. Vaults

- a. The allowable use of vaults for repairs in a local jurisdiction is determined by the local board of health.
 - b. Criteria for vaults are in section 12.C. of this regulation.
- 9. Higher Level Treatment Options
 - a. Reduction in required soil treatment area for repairs is possible with higher level treatment only where the local public health agency meets the requirements of section 43.14.
 - b. Design criteria for higher level treatment systems are in section 43.11.
- 10. Remediation Systems
 - a. The intent of a remediation technology or process is to sufficiently increase the infiltration rate through the infiltrative surface at the bottom of an existing trench or bed and restore permeability to the soil below. Treatment levels as defined in Table 6-3 are not granted to remediation technologies.
 - b. A local public health agency may permit the use of remediation technologies or processes to address an existing failure or malfunction within a soil treatment area.
 - c. The use of a remediation technology or process constitutes an alteration to the OWTS, and therefore the owner must obtain a permit for this work from the local public health agency.
 - d. Upon approval of the local public health agency, a system owner may choose to try a remediation technology or process to see if an existing problem with the soil treatment area will be resolved. The system owner bears the risk and cost of this attempt and is aware that an additional repair may be required.
 - e. Remediation technologies and processes must not adversely affect groundwater, surface water, any existing components, the long-term effectiveness of the soil treatment area, or the environment.
 - f. If the remediation technology or process does not correct the problem with the system, a conforming OWTS must be installed per the requirements in this regulation within a time frame determined by the local public health agency.
 - g. The local public health agency may require monitoring and/or maintenance of the remediation technology or process as a stipulation of permit issuance.

43.11 Design Criteria – Higher Level Treatment Systems

- A. General
 - 1. Higher level treatment systems must be designed by a professional engineer.
 - 2. Higher level treatment systems may be public domain technology systems or proprietary systems.

- a. Public domain technology systems must be designed, installed and maintained according to established criteria and additional criteria established by the local public health agency. When design criteria are not specifically provided in this regulation, the criteria used in the design must be from a reference commonly used as an industry standard and the criteria must be cited in the design.
 - b. Proprietary systems must be designed, installed, and maintained according to manufacturer's instructions and additional criteria identified in the Technology Review and Acceptance process, section 43.13.
- 3. Reductions to soil treatment area or separation distances based on higher level treatment must not be permitted unless the local public health agency has adopted a program for permitting and oversight of inspections and maintenance in section 43.14.D.
- 4. Soil treatment areas for higher level treatment systems must be pressure dosed.
- 5. Systems must be capable of accommodating all anticipated flows and organic loads.
- 6. Ventilation and air systems: Mechanical components must be installed in a properly vented location and all vents, air intakes, and air hoses must be protected from snow, ice, or water vapor accumulations.
- 7. Covers, barriers, or other protection: All systems must be installed to include protection of openings against entry of insects, rodents, other vectors and unauthorized people.
- B. The treatment levels identified in Table 6-3 are specified in this section for public domain technology, and proprietary treatment systems will be assigned a treatment level by the technology review and acceptance process in section 43.13. Adequate maintenance for each must be required and documented as in section 43.14.D.
- C. Sand Filters
 - 1. A lined or unlined intermittent sand filter, or recirculating sand filter, may be used as a higher level treatment system prior to dispersing the effluent into a soil treatment area.
 - 2. Intermittent (Single Pass) Sand Filters; General Requirements
 - a. The treatment level for intermittent sand filters is considered TL3.
 - b. General Design Parameters: Not all combinations of the variables noted below will result in a proper distribution system design. The design engineer must justify through calculations or design software that the selected values will concur with industry standards.
 - (1) Distribution pipe size: 3/4 inch – 1.5 inches (PVC Class 200, min.)
 - (i) 2 inch distribution pipe may only be used where other design modifications cannot overcome a greater than 10% variation in the pressure head between the initial and distal orifices.
 - (2) Distribution pipe spacing: 18 inches – 48 inches
 - (3) Orifice size: 1/8 inches – 3/8 inches (Also see section 43.11.C.b.5 below)
 - (4) Orifice spacing: 18 inches – 48 inches

- (5) Operating head at the distal end of distribution pipes: 30 inches – 72 inches (60 inches typ.). Larger orifices allow for an operating head at the lower end of this range, while smaller orifices will necessitate an operating head at the higher end of this range.

c. Dosing:

- (1) Pressure distribution is required. The design of the distribution system must also comply with the requirements of 43.10.E.3.a.
- (2) Number of cycles/day: Will vary with design (Short, frequent doses are preferred.)
- (3) Proposed dose volume: Will vary with design (0.25 – 1.0) gallons/orifice/dose, or 3-5 times distribution pipe volume
- (4) Timed dosing is recommended where design considerations allow.

d. Sand Filter Treatment Media

- (1) The depth of the sand media below the distribution system must be at least 24 inches unless otherwise noted in Table 10-1A for type “R” soils.
- (2) “Preferred” sand media requirements:
 - (i) Effective size: 0.25-0.60 mm
 - (ii) Uniformity coefficient: ≤ 4.0
 - (iii) Percent fines passing #200 sieve: ≤ 3.0
- (3) “Secondary” sand media requirements:
 - (i) Effective size: 0.15-0.60 mm
 - (ii) Uniformity coefficient: ≤ 7.0
 - (iii) Percent fines passing #200 sieve: ≤ 3.0
- (4) A gradation of the sand media used must be provided. The gradation must be dated no more than one month prior to the installation date. However, a gradation of the actual material placed in the excavation is recommended.

e. Gravel Requirements

- (1) Clean, graded gravel, or rock, must range in size from 1/2 inch to 2 1/2 inches. AASHTO M 43 size No.3 coarse aggregate meets this specification.
- (2) The gravel must surround the distribution pipes used to disperse the effluent and must be at least 6 inches below and 2 inches above the pipes.

- (3) Division accepted manufactured media may be used as an alternative to specified gravel.
 - f. Filter Fabric Requirements
 - (1) The top layer of gravel must be covered with a non-woven permeable geotextile fabric meeting a maximum thickness rating of 2.0 ounces per square yard or equivalent pervious material.
 - g. Final Cover Material
 - (1) 8 inches – 10 inches of Type 1 or 2 soil with an additional 2 inches top soil
 - h. Size adjustment factors provided in Tables 10-2 and 10-3 are not applicable for sand filters.
 - i. Sand filters must not be used to treat wastewater that does not conform to TL1 treatment level or better.
3. Unlined (Open Bottom) Sand Filters
- a. All requirements of 43.11.C.2.a-i will apply to unlined sand filters.
 - b. Application rates:
 - (1) Maximum hydraulic loading rate for TL1 effluent applied to “Preferred Sand Media” in an unlined sand filter is 1.0 gal./sq.ft./day, or the long-term acceptance rate of the receiving soil for TL3 (Table 10-1) whichever results in the larger area.
 - (2) Maximum hydraulic loading rate for TL1 effluent applied to “Secondary Sand Media” in an unlined sand filter is 0.8 gal./sq.ft./day, or the long term acceptance rate of the receiving soil for TL3 (Table 10-1) whichever results in the larger area.
 - (3) Maximum hydraulic loading rate for TL2, TL2N, TL3, or TL3N effluent applied to “Preferred” or “Secondary” Sand Media in an unlined sand filter must be the long-term acceptance rate of the receiving soil for TL3, (Table 10-1).
 - c. The upper infiltrative surface of an unlined sand filter receiving TL1 – TL2 effluent must be at least three feet above a limiting layer.
 - d. The upper infiltrative surface of an unlined sand filter receiving TL2N-TL3 effluent must be at least two and one-half feet above a limiting layer.
 - e. The upper infiltrative surface of an unlined sand filter receiving TL3N effluent must be at least two feet above a limiting layer.
4. Lined Sand Filters
- a. All requirements of 43.11.C.2.a-i will apply to unlined sand filters.
 - b. Application rates:

- (1) Hydraulic loading rate for TL1 effluent applied to "Preferred Sand Media" in a lined sand filter is 1.0 gal./sq.ft./day.
 - (2) Hydraulic loading rate for TL1 effluent applied to "Secondary Sand Media" in a lined sand filter is 0.8 gal./sq.ft./day.
 - c. The minimum depth of the sand media in a lined sand filter must be two feet.
 - d. An intermediate layer of pea gravel, two inches in thickness, must be placed between the sand filter media and the coarse under-drain media to prevent the migration of sand into the lower layer of under-drain gravel. ASTM C 33, No. 8, coarse aggregate meets this specification.
 - e. A minimum four-inch diameter slotted SCH40 PVC under-drain pipe must be used to collect the treated effluent. The under-drain pipe must be installed in the center of a 5 inches thick bed of washed, graded gravel, or rock ranging in size from 1/2 inch to 2 1/2 inches. AASHTO M 43, No.3 coarse aggregate meets this specification.
 - f. Lined sand filters must have an impervious liner on the sides and bottom of the filter. The liner must consist of a minimum 30 mil thick PVC material or equivalent.
 - g. Effluent collected by the under-drain must be dispersed to a soil treatment area. The soil treatment area may be sized with a maximum long-term acceptance rate of the receiving soil for TL3 effluent.
5. Recirculating Sand Filter, Minimum Requirements:
- a. Treatment level:
 - (1) Treatment level provided within recirculating sand filters is TL3.
 - b. General Design Parameters: Not all combinations of the variables noted below will result in a proper distribution system design. Engineer must justify through calculations or design software that the selected values will concur with industry standards.
 - (1) Distribution pipe size: 3/4 inch – 2 inches (PVC Class 200, min.)
 - (2) Distribution pipe spacing: 18 inches – 36 inches (24 inches typ.)
 - (3) Orifice size: 1/8 inch – 1/4 inch
 - (4) Orifice spacing: 18 inches – 36 inches (24 inches typ.)
 - (5) Pressure head at end of distribution pipe: 24 inches – 72 inches (60 inches typ.)
 - c. Dosing:
 - (1) Timed dosed, pressure distribution is required. The design of the distribution system must comply with the requirements of section 43.10.E.3.a.

- (2) Recirculation ratio: 3:1 – 5:1
 - (3) Gallons/orifice/dose: 1 – 3 (2.0 typ.)
 - (4) Hydraulic loading: 3 - 5 gal./sq.ft./day (4 – 5 typ.)
 - (5) Dosing time “ON”; <2.5 min. (<2.0 typ.)
 - (6) Number of cycles/day: 48 – 120
- d. Top gravel requirements:
- (1) Washed, graded gravel, or rock, must range in size from 1/2 inch to 2 1/2 inches. AASHTO M 43, No.3 coarse aggregate meets this specification.
 - (2) The gravel must surround the distribution pipes used to disperse the effluent and must be at least 6 inches below and 2 inches above the pipes.
 - (3) State accepted manufactured media may be used as an alternative to specified gravel.
 - (4) Soil cover is prohibited. The upper gravel layer must be open to the atmosphere.
- e. Filter media requirements:
- (1) Effective size: 1.5 – 2.5 mm
 - (2) Uniformity coefficient: ≤ 3
 - (3) Fines passing #200 sieve: ≤ 1.0
 - (4) Media depth (min.): ≥ 24 inches
- f. Intermediate gravel layer:
- (1) An intermediate layer of pea gravel, two inches in thickness, must be placed between the coarse underdrain media and the sand filter media to prevent the migration of sand into the lower layer of under-drain gravel (ASTM C 33, No. 8, coarse aggregate).
- g. Under-drain requirements:
- (1) A minimum four-inch diameter slotted SCH40 PVC under-drain pipe must be used to collect the treated effluent. The under-drain pipe must be installed in the center of a 5 inches thick bed of washed, graded gravel, or rock ranging in size from 1/2 inch to 2 1/2 inches. AASHTO M 43, No.3 coarse aggregate meets this specification.
- h. PVC liner requirements:
- (1) Lined sand filters must have an impervious liner on the sides and bottom of the filter. The liner must consist of a 30 mil thickness PVC material or equivalent.

- i. Effluent collected from the recirculating sand filter must be discharged to a soil treatment area. The soil treatment area may be sized with a maximum long-term acceptance rate of the receiving soil for TL3N effluent.

D. Mound Systems

1. When the infiltrative surface area of the media receiving wastewater effluent is at or above the natural ground surface at any point, it shall be considered a mound system.
2. Mound systems that provide a minimum of 24 inches of sand treatment media may use the application rates for the in-situ receiving soil for TL3 effluent (Table 10-1). Size adjustment factors within Table 10-3 must not be applied to mound designs where TL3 application rates are used. However they may be applied if TL1 application rates are used.
3. Mound systems must conform to the design requirements of sections 43.11.C.3.a through e for unlined (open bottom) sand filters, with the following exceptions.
 - a. A mound system may include less than 24 inches of imported sand media on a site where a lesser depth of sand media is sufficient to meet vertical separation requirements above a limiting layer. Application rates for the in-situ receiving soil for TL1 effluent must be used when less than 24 inches of sand media is used, unless higher level treatment is provided prior to dispersal into the mound system.
 - b. For the design of a mound system where less than 24 inches of sand media is proposed, and application rates for TL1 are used, the size adjustment factors within Table 10-3 may be used.
4. The basal area must be determined using the LTAR from Table 10-1 for the in-situ receiving soil under the mound.
5. Linear loading rates must be determined. The evaluation of many factors is required for an accurate determination of the linear loading rate. While application rates for the in-situ receiving soil under the mound is a main component, placement on the slope, and percent of slope must also be addressed when defining the linear loading rate. If the movement of the effluent is primarily vertical, then the linear loading rate is not as critical. However, if the movement of the effluent will be primarily horizontal, as would be expected in soil types 3A through 5 (Table 10-1), then the linear loading rate is extremely important and long narrow mounds are strongly recommended.
 - a. When TL1 effluent is applied to the distribution media of a mound system installed above in-situ soil types 1 through 3 (Table 10-1) and R-0 through R-2 (Table 10-1A), the suggested linear loading rate is between 6 gpd/lin.ft. and 12 gpd/lin.ft. The maximum width of the distribution media in a mound system installed above these soil types is 12 feet when TL1 effluent is applied to the distribution media of a mound system.
 - b. When TL2 through 3N effluent is applied to the distribution media of a mound system installed above in-situ soil types 1 through 3 (Table 10-1) and R-0 through R-2 (Table 10-1A), the linear loading rate may exceed 12 gpd/lin.ft.; subsequently the mound may be wider than 12 feet.
 - c. When TL1 through TL3N effluent is applied to mound systems installed above in-situ soil types 3A through 5 (Table 10-1), the suggested linear loading rate is

between 3 gpd/lin.ft. and 5 gpd/lin.ft. The maximum width of the distribution media in a mound system placed above these soil types is 12 feet.

6. The final cover over a mound system must extend at least twelve inches horizontally beyond the perimeter of the distribution media prior to sloping down to existing grade. The final slope of the mound must be no greater than three feet horizontal to one foot vertical.
7. The surface of the mounded area must be planted with a suitable vegetative cover.
8. A suggested reference for the design and installation of mound systems is, "*The Wisconsin Mound Soil Absorption System: Siting, Design, and Construction Manual, January 2000*". Note that this is suggested guidance, and where the requirements of this regulation differ from those in the referenced mound document, the requirements of this regulation will govern in those cases.

E. Rock Plant Filter (Constructed Wetland) Treatment Before a Soil Treatment Area

1. A rock plant filter system must be designed by a professional engineer.
2. The design must be site specific and include specifications for: loading, capacity, dimensions, liner material, filter media, effluent depth and depth control mechanism, density and species of plant material, and other site specific information.
3. The treated effluent from a rock plant filter must be distributed to a soil treatment area.
4. Although producing higher level treatment, rock plant filters must not be assigned a treatment level higher than TL1 because of system and seasonal variability.

43.12 Design Criteria – Other Facilities

A. Evapotranspiration and Evapotranspiration/Absorption Systems:

1. Non-Pressurized Drip Dispersal System (NDDS):
 - a. An NDDS is considered a type of evapotranspiration/absorption system. However as specific design criteria is provided for an NDDS, they are exempt from the additional requirements of section 43.12.A.2, 3 and 4.
 - b. *The Colorado Professionals in Onsite Wastewater Guidelines for the Design and Installation of Non-Pressurized Drip Dispersal Systems (NDDS)*, September, 2016 is the procedural guideline in the design of a NDDS and must be followed when an NDDS is proposed.
 - c. The width of an NDDS system may be wider than 12 feet.
2. The following section provides general criteria which must be followed when an evapotranspiration or evapotranspiration/absorption bed is proposed.
 - a. The design may only be permitted in arid climates where the annual evaporation rate exceeds the annual precipitation rate by more than 20 percent, and where site characteristics dictate that conventional methods of effluent dispersal are not appropriate.
 - b. The design may only be permitted in soil types 4, 4A and 5.

- c. The system must be designed by a professional engineer.
- d. If data for the Pan Evaporation Rate is provided, it must be multiplied by 0.70, or less, to obtain the equivalent Lake Evaporation Rate.
- e. The width of the bed may be wider than 12 feet.
- f. The required capillary or wicking sand must meet the gradation requirements in Table 12-1 and be approved by the design engineer. This sand is to be covered by a crowned, thin layer of loamy-sand mix and appropriate vegetation that will assist in drawing the water to the surface.
- g. Adjustment factors as provided in Tables 10-2 and 10-3 must not be used.

Table 12-1 Gradation of Wicking Sand for Evapotranspiration Beds (Fine Sand)

Sieve Size	Percent Passing
4	100
40	50-70
200	<15

- 3. For systems designed strictly as an evapotranspiration bed, the following criteria must be met:
 - a. Design data to be furnished must include, but shall not be limited to: system dimensions, distribution system design, specifications of distribution media and wicking sand, liner material if used, bedding, properties of the soil under the system, vegetation cover, and a water balance calculation including annual precipitation and storage requirements for periods of the year when evapotranspiration does not occur..
 - b. The following formula must be used for determining the minimum area necessary for total evapotranspiration of septic tank effluent:

$$\text{Area (in square feet)}^* = \frac{\text{Design Flow (in gallons per day)} \times 586}{\text{Lake Evaporation Rate at the Site (in inches per year)}}$$

* Additional area may be required based on the annual water balance calculations.

- c. Designs will include a rock and pipe, or other Division approved proprietary distribution product, with the centerline of the distribution system 6 to 8 feet on center. A thin non-woven fabric may be placed above the distribution system. Capillary wicking of the effluent is accomplished by a uniform depth layer of the specified sand media (capillary wicks), no more than 24 inches deep, placed between and above the distribution media. The base of the evapotranspiration bed may be no more than 30 inches below finished grade.
- d. Capillary wicks which penetrate between the distribution system to the bottom of the bed, must be at least 15 percent of the bed surface area. The wicks must be uniformly spaced throughout the system.

- e. Except for dwellings, if the system is designed for summer use only, as determined by the local public health agency, the surface area may be multiplied by 0.6 to obtain the required area.
4. For systems designed as an evapotranspiration/absorption bed, the following criteria must be met.
- a. Data to be furnished must include, but is not limited to: system dimensions, distribution system design, specifications of wicking sand, properties of the soil under the evapotranspiration/absorption bed, provision for vegetation cover, and a water balance calculation including annual precipitation and storage requirements for periods of the year when evapotranspiration does not occur.
 - b. Design will include a rock and pipe, or other Division approved proprietary distribution product, with the centerline of the distribution system 6 to 8 feet on center. A thin non-woven fabric may be placed above the distribution media. Capillary wicking of the effluent is accomplished by a uniform depth layer of the specified sand media (capillary wicks) no more than 24 inches deep placed between and above the distribution media. The infiltrative surface may be no more than 30 inches below finished grade.
 - c. Capillary wicks which penetrate between the distribution system to the bottom of the bed, must be at least 15 percent of the bed surface area. The wicks must be uniformly spaced throughout the bed.
 - d. Amount of storage and evapotranspiration capacities may be reduced by the volume of effluent absorbed by the underlying soil based on the long-term acceptance rate for that soil type and the formulas provided in section 43.12.A.4.e below.
 - e. The following formula must be used for determining the minimum area necessary for evapotranspiration/absorption of septic tank effluent:

$$(1) \quad \text{Area (sq. ft.)}^* = \frac{\text{Flow (gpd)}}{(\text{LTAR} + \text{ETR})}$$

(i) LTAR refers to the long-term acceptance rate of the underlying soil as provided in Table 10-1 for TL1 effluent.

(ii) ETR refers to the evapotranspiration rate derived from the following formula:

$$\text{ETR (gal./day sq. ft.)} = \frac{\text{Lake Evaporation Rate at the Site (in inches per year)}}{586}$$

* Additional area may be required based on the annual water balance calculations.

B. Seepage Pits

- 1. The construction of new seepage pits for the treatment and dispersal of on-site wastewater on new sites is prohibited unless:
 - a. A trench or bed system will not meet the design, sizing or setback requirements of this regulation on the proposed site;

- b. The seepage pit is designed by a professional engineer; and
 - c. The design includes higher level treatment of at least TL2.
- 2. The design requirements for new seepage pits must also comply with requirements as defined in 43.10.I.6.c and d.
- 3. Pressure distribution is not required for dispersal into a seepage pit.

C. Vaults Other Than Vault Privies

- 1. Vaults for full time use in new construction are prohibited where a property can accommodate an OWTS with a soil treatment area.
- 2. A local board of health may allow or prohibit vaults for use at a permanently occupied facility, except where section 43.12.D.1 applies.
- 3. Vaults for full time use may be permitted when a failing OWTS cannot be replaced.
- 4. Vaults may be permitted for limited use occupancy on a property which cannot accommodate an OWTS with soil treatment area.
- 5. A vault may be permitted if the facility is on land where the installation of an OWTS with soil treatment area is not permitted.
- 6. Vaults may be permitted for systems where some of the wastewater flows are separated, such as toilet wastes only, into a vault. The portion not retained in the vault must be treated in an OWTS sized per the requirements of this regulation.
- 7. Variances may be granted for specialized commercial uses.
- 8. A vault, if permitted by the local public health agency, must have a minimum 500 gallon effective volume or be capable of holding a minimum of the 48-hour design wastewater flow, whichever is larger.
- 9. A visual or an audible signal device or both, indicating filling to a maximum of 75 percent capacity, must be installed to indicate when pumping is necessary.
- 10. Concrete vaults must meet the strength and watertightness requirements for septic tanks. Prefabricated fiberglass, fiberglass-reinforced polyester, and plastic tanks may be used as vaults, if the tank manufacturer provides testing criteria certifying them for this use.

D. Privies

- 1. Vault Privy
 - a. A local board of health may prohibit the new construction of vault privies.
 - b. A local board of health may prohibit the continued use of existing vault privies.
 - c. Effective volume of the vault must be no less than 400 gallons and it must be constructed of concrete or plastic. The vaults for privies must meet the structural and watertightness standards of vaults.

- d. A vault privy must be built to include: fly- and rodent-tight construction, a superstructure affording complete privacy, an earth mound around the top of the vault and below floor level that slopes downward away from the superstructure base, a floor, and a riser of concrete or other impervious material with hinged seats and covers of easily cleanable, impervious material. All venting must be fly-proofed with No. 16 or tighter mesh screening.

2. Pit Privy

- a. A local board of health may prohibit the new construction of pit privies.
- b. A local board of health may prohibit the continued use of existing pit privies.
- c. If pit privies are permitted by the local public health agency:
 - (1) The bottom of the pit must be located above at least four feet of suitable soil and four feet above a limiting layer;
 - (2) The pit must have at least 400 gallons of effective volume; and
 - (3) The superstructure must provide complete privacy and have fly- and rodent-tight construction, an earth mound around the top of the pit and below floor level that slopes downward away from the superstructure base, a floor, and a riser of concrete or other impervious material with hinged seats and covers of easily cleanable, impervious material. All venting must be fly-proofed with No. 16 or tighter mesh screening.

E. Incinerating, Composting and Chemical Toilets

- 1. The local board of health may permit incinerating, composting and chemical toilets. The use of an incinerating, composting or chemical toilet will not reduce the required size of the OWTS as noted in section 43.8.A.
- 2. Permitting of an incinerating or composting toilet may also be subject to the jurisdiction of a local agency regulating plumbing or the Colorado Plumbing Board, whichever has jurisdiction over plumbing in the location.
- 3. An incinerating or composting toilet may be used for toilet waste where an OWTS is installed for treating wastewater remaining after removal of toilet waste. Subject to local board of health or other applicable regulations or codes (e.g., Colorado Plumbing Code if a local code does not exist), the compartment may be located within a dwelling or building provided the unit complies with the applicable requirements of this regulation, and provided the installation will not result in conditions considered to be a health hazard as determined by the local public health agency. Compartment and appurtenances related to the unit must include fly-tight and vector-proof construction and exterior ventilation.
- 4. Incinerating Toilets: An approved incinerating toilet must be designed and installed in accordance with all applicable federal, state, and local air-pollution requirements and manufacturer's instructions.
- 5. Composting Toilets

- a. Composting toilets must meet the requirements of NSF/ANSI Standard 41 and bear the seal of approval of the NSF or an equivalent testing and certification program.
 - b. An approved composting toilet must treat deposits of feces, urine, and readily decomposable household garbage that are not diluted with water or other fluids and are retained in a compartment in which aerobic composting will occur.
 - c. The effective volume of the receptacle must be sufficient to accommodate the number of persons served in the design of the unit installed. The effective volume of the unit must include sufficient area for the use of composting materials which must not be toxic to the process or hazardous to persons and which must be used in sufficient quantity to assure proper decomposition.
 - d. Residue from the composting toilet must be removed when it is filled to 75 percent of capacity. Residue from the unit must be properly disposed of by methods recommended by the manufacturer and acceptable to the local public health agency. Disposal methods must prevent contamination of water and not cause a public health nuisance. Disposal using solid waste practices is recommended.
 - e. If a system will be installed where low temperature may be a factor, design and installation must address the effects of the low temperature.
 - f. Composting toilets must be operated according to manufacturer's specifications.
6. Incinerating Toilets Acceptance Requirements
- a. Incinerating toilets must meet the requirements of the NSF Protocol P157 and bear the seal of approval of the NSF or an equivalent testing and certification program.
 - b. Incinerating toilets must be operated according to manufacturer's specifications.
7. Portable Chemical Toilets
- a. A portable chemical toilet may be used by permit from the local public health agency or other agency with authority to issue permits for portable chemical toilets.
 - b. Use of a portable chemical toilet in permanently occupied buildings is prohibited except during construction or under emergency circumstances as determined by the local public health agency. Proper ventilation of a chemical toilet used inside must be required.

F. Slit Trench Latrine

- 1. If permitted by the local board of health, a slit trench latrine must be utilized only in remote or emergency situations when other approved sanitary means are unavailable. Other agencies may have more stringent regulations that must be adhered to.
- 2. A slit trench latrine must be considered a temporary convenience to be used no longer than seven days and must be backfilled and graded to match its surroundings when its use is discontinued.

3. A slit trench latrine must be located only in a place that does not adversely affect public health or the environment. The location must provide ample privacy and should be exposed to several hours of sunlight each day. A slit trench latrine must not be located:
 - a. In a building;
 - b. In a covered or partially covered location such as a cave or overhanging cliff; or
 - c. On a slope of greater than 30 percent.
 4. A slit trench latrine must be installed only in suitable soil.
 5. A slit trench latrine must be excavated approximately one foot wide and two feet deep for the required length. All human waste and tissue placed into the slit trench latrine must be covered with at least two inches of soil at least once a day or more frequently if requested by the local public health agency.
- G. Treatment Systems Other Than Those Discharging Through a Soil Treatment Area or Sand Filter System
1. For systems discharging to State Waters, see section 2.C.
 2. Systems that discharge other than through a soil treatment area or a sand filter system must:
 - a. Be designed by a professional engineer;
 - b. Be reviewed by the local board of health; and
 - c. Not pose a potential health hazard or private or public nuisance or undue risk of contamination.
 - d. Not allow drainage of effluent off of the property of origin.
 3. The local board of health may choose to permit only systems that do not allow drainage of effluent off the property of origin.
 4. The following minimum performance criteria must be required for all permitted systems pursuant to this section:
 - a. If effluent discharge is made into areas in which the possibility exists for occasional direct human contact with the effluent discharge, the effluent at the point of discharge must meet the minimum treatment criteria of TL3 effluent and specifically adhere to each of the following standards:
 - (1) The geometric mean of the *E. coli* density must not exceed 15 per 100 milliliters when averaged over any five consecutive samples, and no single sample result for *E. coli* can exceed 126 per 100 milliliters.
 - (2) The arithmetic mean of the standard five-day carbonaceous biochemical oxygen demand (CBOD₅) must not exceed ten milligrams per liter when averaged over any three consecutive samples.
 - (3) The arithmetic mean of the total suspended solids must not exceed ten milligrams per liter when averaged over any three consecutive samples.

- b. If the effluent discharge is made into an area so restricted as to protect against the likelihood of direct human contact with the discharged effluent, the effluent at the point of discharge must meet the treatment criteria of TL2 effluent and specifically adhere to each of the following standards:
 - (1) The geometric mean of the *E. coli* density must not exceed 126 per 100 milliliters when averaged over any five consecutive samples, and no single sample can exceed 325 *E. coli* per 100 milliliters.
 - (2) The arithmetic mean of the standard five-day carbonaceous biochemical oxygen demand (CBOD₅) must not exceed 25 milligrams per liter when averaged over any three consecutive samples.
 - (3) The arithmetic mean of the total suspended solids must not exceed 30 milligrams per liter when averaged over any three consecutive samples.
- 5. To determine compliance with the standards contained in this section, the required sampling frequency for *E. coli*, CBOD₅, and total suspended solid levels must be performed at least once per month when the system is in operation and the results submitted to the local public health agency for compliance with the permit requirements.
- 6. Methods of Analysis - Sampling Points:
 - a. All effluent samples must be analyzed according to the methods prescribed in the American Public Health Association, American Water Works Association, and Water Environment Federation: Standards Methods for the Examination of Water and Wastewater, 21st edition.
 - b. The sampling point must be a location that is representative of final discharge from the system.

43.13 Technology Review and Acceptance

- A. OWTS technologies must either be public domain, including but not limited to rock and pipe distribution systems, sand filters with pressure distribution and mound systems, with criteria for design, installation, maintenance and use as described in this regulation, or proprietary products that have received Division review and acceptance before the local public health agency may permit them for use.
- B. The Division must review and provide either comment or acceptance to the manufacturer for proprietary products in these technology categories:
 - 1. Proprietary treatment products (e.g. treatment systems);
 - 2. Proprietary distribution products (e.g. manufactured distribution products or subsurface dripline);
 - 3. Septic tanks;
 - 4. Others as needed.
- C. Product Acceptance Requirements – General:
 - 1. To qualify for product acceptance, manufacturers desiring to sell or distribute proprietary products in Colorado must submit a completed application to the Division in the format

provided by the Division and a report describing in detail the test procedures and data confirming the performance and properties of the product claimed by the manufacturer. Products within a single series or model line sharing distinct similarities in design, materials, capacities, configuration, and claiming the same level of treatment may be accepted under a single application. Products outside of the series or model line must be accepted under separate applications. The following information must be included in the application:

- a. Manufacturer's name, mailing address, street address, and phone number;
 - b. Contact individual's name, mailing address, street address, phone number and email address. The contact individual must be vested with the authority to represent the manufacturer in the acceptance process;
 - c. Category of product (e.g., proprietary treatment product, proprietary distribution product, septic tank);
 - d. Name, including specific brand and model, of the proprietary product;
 - e. A description of the functions of the proprietary product, along with any known limitations on the use of the product;
 - f. Product description and technical information, including dimensioned drawings; materials and characteristics; component design specifications; and volumes, design capacity, and flow assumptions and calculations, as relevant;
 - g. Siting and installation requirements;
 - h. Product performance information in appropriate product section;
 - i. Detailed description, procedure and schedule of routine service and maintenance events;
 - j. Copies of manufacturer's literature to include sales and promotion, design, installation, operation and maintenance, and owner instructions; and
 - k. Identification of information subject to protection from disclosure and trade secrets, if any.
2. Upon receipt of an application, the Division must verify that the application is complete and meets the requirements for which the product is being evaluated. If the application is found to be complete, and the requirements of this section needed to accept the product are met, the Division will place the product on a list of accepted proprietary products for the type of product. Installation and use of accepted products must comply with the requirements noted on the acceptance document provided by the Division.
 3. Manufacturers must have readily accessible and up to date information for designers, regulators, product owners, and other interested parties about their product including:
 - a. Product manuals;
 - b. Design instructions;
 - c. Installation instructions;

- d. Operation and maintenance instructions; and
 - e. A list of representatives and manufacturer-certified service providers in Colorado, if any. If none exist, information on how service on the product will be provided in Colorado.
4. If, at any time after a proprietary product has been accepted for use, the Division receives information that the product so accepted does not meet the required standards, or in any way constitutes a public health or environmental hazard, the Division may, at its discretion, revoke the product acceptance. The Division shall notify the manufacturer and local public health agencies within 30 days of any revocation.
- D. Proprietary Treatment Product Acceptance Requirements
- 1. If a proprietary treatment product is submitted to meet a specific treatment level, a report with test procedures and data must be submitted to the Division to demonstrate that it can meet the treatment level for which the approval is being requested on a consistent basis in actual installations. The Division must approve the test methods and programs. Test results from product certification testing must also be submitted.
 - 2. If a product is accepted for a specific treatment level, the product may also be used for applications requiring lower treatment levels. Reductions based on higher level treatment may not be applied unless the local public health agency has a maintenance oversight program in place as described in section 43.14.D.
 - 3. Field Performance Testing
 - a. Testing must be performed by a neutral third party.
 - b. Testing for residential applications must be performed on a minimum of 12 single-family homes under normal operating conditions unless otherwise noted below:
 - (1) If the proprietary treatment product is requesting TL2 acceptance and that product has received NSF/ANSI 40 certification, the number of home sites to be tested may be reduced to six. The NSF/ANSI 40 certification must be submitted if the reduced number of test sites is requested.
 - (2) If the proprietary treatment product is requesting TL2N acceptance and that product has received NSF/ANSI 245 certification, the number of home sites to be tested may be reduced to six. The NSF/ANSI 245 certification must be submitted if the reduced number of test sites is requested.
 - c. Each system must be tested over a period of at least one year.
 - d. Each system must be sampled at least four times during the year with the sampling evenly distributed throughout the year.
 - e. Laboratory results for all parameters for which acceptance is being requested must be submitted.
 - f. Testing may be performed in Colorado under a Product Development Permit.

- g. Testing may be performed in locations other than Colorado. As part of the testing, the manufacturer must define, to the acceptance of the Division, what adjustments or modifications to the product will be required to compensate for the following conditions:
 - (1) Increased elevation results in lower atmospheric pressure and lower oxygen content. Adjustments or modifications to the treatment process may be required to compensate for these conditions and those adjustments or modifications must be specified.
 - (2) Winter season conditions in Colorado include cold temperatures that may affect product performance. Adjustments or modifications to the treatment process may be required to compensate for these conditions and those adjustments or modifications must be specified. This item must be addressed if nitrogen reductions are claimed.
- h. The report conclusions must indicate the proprietary treatment unit can consistently be expected to meet the treatment level for which acceptance is being requested.
- i. The report must include estimated operating costs for the first five years of the treatment system's life. This must include both estimated annual electricity or other energy costs, and routine inspection and maintenance costs, including replacement of parts.
 - (1) Energy and other costs are to be based on typical Denver, Colorado, costs at the time of the acceptance request.
 - (2) Replacement part costs must include shipping and handling.
 - (3) If media or other major part replacement is expected during the normal life of the system, the cost of replacement and the typical replacement interval must be included even if replacement is not expected within five years.
- j. If a proprietary product had been previously accepted for use in Colorado under NSF/ANSI 40 or equivalent testing and at least one product unit had been installed in Colorado prior to June 30, 2013, the acceptance for use in Colorado may continue as treatment level 2. A request for this continued acceptance must be submitted to the Division on the forms provided by the Division. Documentation of a product installation must be provided.

E. Proprietary Distribution Product Acceptance Requirements

- 1. Proprietary manufactured distribution products must:
 - a. Be constructed or manufactured from materials that are non-decaying and non-deteriorating and do not leach chemicals when exposed to septic tank effluent and the subsurface soil environment;
 - b. For gravity distribution systems, the product must provide a liquid storage volume at least equal to the storage volume within the assumed 30 percent void space in a rock and pipe distribution system assuming six inches of rock below the pipe and two inches above the pipe;

- c. Maintain the integrity of the trench or bed. The material used, by its nature and its manufacturer-prescribed installation procedures, must withstand the physical forces of the soil sidewalls, soil backfill and the weight of equipment used in the backfilling; and
 - d. If the width of a proprietary manufactured distribution product is within 90 percent of the width of the excavation, it may be approved as being equivalent to the full width of the excavation, if information is provided that demonstrates distribution over the full width. Thus, the product must cover at least 90 percent of the excavated area in either a trench or bed configuration in order to receive sizing adjustments provided in Table 10-3.
- 2. Chambers:
 - a. Include a sidewall that is structurally sound and capable of allowing aeration of the infiltrative surface and exfiltration of effluent while minimizing the intrusion of soil.
- 3. Enhanced manufactured media:
 - a. The product must be wrapped in a fabric that promotes movement of the effluent through the fabric and prevents intrusion of soil. Manufacturer must demonstrate that the product has been adequately tested and functions as intended.
 - b. For enhanced manufactured media that requires a specified layer of sand or other media to be placed below the actual product, the vertical separation requirements of this regulation will be determined from the base of the sand or other media, as the sand or media is an integral part of the component.
 - c. For products that allow for sand extensions beyond the actual manufactured component, the distance of sand allowed from the edge of the excavation to the manufactured component may be up to six inches in a trench system and 24 inches in a bed system.
 - d. If sand media is proposed by the manufacturer as an integral part of the distribution product, it must meet the size and uniformity specifications as noted by the manufacturer.
- 4. Other manufactured media:
 - a. In order to receive sizing adjustments provided in Table 10-3, the product must cover at least 90 percent of the excavated area in either a trench or bed configuration without the use of gravel, stone or other aggregate containing fines, which may compromise soil permeability.
- 5. Proprietary subsurface dripline products must:
 - a. Be warranted by the manufacturer for use with OWTS effluent;
 - b. Specify required treatment level of influent to the driplines;
 - c. Be designed for resistance to root intrusion; and
 - d. Incorporate emitters that may be controlled either by use of pressure-compensation emitters or with a pressure regulator.

F. Septic Tank Acceptance Requirements

1. Septic tank design must conform to the requirements of section 43.9.B. of this regulation.
2. Each manufacturer must annually test five percent of its tanks for watertightness at the manufacturing facility, unless the tanks are certified for use as a septic tank by the International Association of Plumbing and Mechanical Officials (IAPMO) or Canadian Standards Association (CSA), or the manufacturer participates in the Plant Certification Program of the National Precast Concrete Association (NPCA).
3. Watertightness results must be sent to the Division on an annual basis unless otherwise addressed in section 43.13.F.2 above. The manufacturer must provide information that specifies measures taken to repair a tank that fails the watertightness test. The manufacturer must also define the measures taken to prevent similar problems in future tanks.
4. IAPMO, CSA, and NPCA certifications must be submitted to the Division for acceptance. Current certifications must be submitted to the Division on an annual basis.

G. Other Product Acceptance Requirements

1. The Division may adopt review and acceptance requirements for additional products as needed.

43.14 Operation and Maintenance

- A. Responsibility: The owner must be responsible for maintenance of an OWTS unless the responsibility has been contractually assigned to a tenant or a third party or a public, quasi-public, or political subdivision.
- B. Service Label: For higher level treatment systems or other components under a service contract, a clearly visible, permanently attached label or plate giving instructions for obtaining service must be placed at a conspicuous location.
- C. The local board of health may adopt regulations for:
1. Scheduling of maintenance and cleaning;
 2. Practices adequate to ensure performance of an OWTS; and/or
 3. Submission of proof of maintenance and cleaning to the local public health agency by the owner of the system.
- D. Permitting and Oversight of Maintenance for Soil Treatment Area Reductions and Vertical and Horizontal Separation Distance Reductions Based on Use of Higher Level Treatment
1. Purpose: Reductions in requirements for soil treatment areas, vertical separation distances to limiting layers or reductions in horizontal separation distances by using higher level treatment systems are based on the criteria that these systems are functioning as designed. If these criteria are not met, failure or malfunction is likely, which could result in damage to public health and water quality.
 2. The local board of health may choose to permit reductions in the size of soil treatment areas and horizontal and vertical separation distances based on higher level treatment of effluent, only if an oversight program for inspection, maintenance, and repair is

implemented by the local public health agency. The local public health agency may designate a separate entity to conduct and maintain the oversight of this program. However, enforcement of the requirements of this regulation will remain with the local board of health. System monitoring may be required.

3. A local board of health is not required to allow reductions in soil treatment areas or vertical or horizontal separation distances based on higher level treatment. If these reductions are not allowed, the local board of health is not required to implement section 43.14.D.
4. Before permitting systems with a reduced soil treatment area as a result of higher level treatment, a local public health agency must develop an oversight program for inspections, maintenance, recordkeeping and enforcement to ensure and document that the systems are meeting the designed higher level treatment standards. At a minimum:
 - a. Maintain accessible records that indicate:
 - (1) Owner and contact information;
 - (2) Address and legal description of property;
 - (3) Location of OWTS specifying location of septic tank, higher level treatment system, soil treatment area and other components;
 - (4) Description of OWTS installed;
 - (5) Level of treatment to be provided;
 - (6) Copy of current contract with a service provider;
 - (7) Inspection and maintenance performed:
 - (i) Dates system was inspected and/or maintained;
 - (ii) Name and contact information of inspector and/or maintenance provider;
 - (iii) Condition of system at inspection; and
 - (iv) Maintenance tasks performed;
 - (8) Permits, if required by the local public health agency for the work performed; and
 - (9) Condition of system at completion of any maintenance activity.
 - b. Frequency of inspection and maintenance must be the most frequent of:
 - (1) Manufacturer recommendations for proprietary systems or design criteria requirements for public domain technology;
 - (2) Local public health agency or Division requirements;

- (3) For higher level treatment systems, two inspections at six-month intervals for the first year of operation, followed by annual inspections for the life of the system.

5. Owner responsibilities:

- a. Ensure OWTS is operating, maintained and performing according to the required standards for the designated treatment level;
- b. Maintain an active service contract with a maintenance provider at all times; and
- c. Each time his/her current contract with a maintenance provider is renewed or replaced, send a copy to the local public health agency within 30 days of signing.

6. Maintenance provider responsibilities:

- a. Must notify the local public health agency when a service contract has been terminated.
- b. Must obtain appropriate training/certification for specific proprietary treatment products as provided by the manufacturer necessary to provide the required operation and maintenance for said products.

E. Monitoring and Sampling

1. For an OWTS for which monitoring of effluent is required, the local public health agency or delegated third party must collect and test effluent samples to ensure compliance with the provisions of this regulation.
2. Sampling may be required by the local public health agency in conjunction with an enforcement action.
3. Any owner or occupant of property on which an OWTS is located may request the local public health agency to collect and test an effluent sample from the system. The local public health agency may perform such collection and testing services. The owner or occupant must pay for these services.
 - a. If the local public health agency or a delegated third party collects and tests effluent samples, a fee not to exceed that which is allowed by the OWTS Act may be charged for each sample collected and tested. Payment of such charge must be stated in the permit as a condition for its continued use.
 - b. Conditions when a local public health agency can require routine monitoring:
 - (1) Indications of inadequate performance;
 - (2) Location in sensitive areas;
 - (3) Experimental systems; and/or
 - (4) Systems under product development permits.
 - c. Sampling and analysis must be performed according to American Public Health Association, American Water Works Association, and Water Environment

43.15 Severability

The provisions of this regulation are severable, and if any provisions or the application of the provisions to any circumstances are held invalid, the application of such provision to other circumstances, and the remainder of this regulation will not be affected thereby.

43.16 Materials Incorporated by Reference

Throughout these regulations, standards and requirements by outside organizations have been adopted and incorporated by reference. The materials incorporated by reference cited herein include only those versions that were in effect as of April 10, 2017, and not later amendments to the incorporated material.

Materials incorporated by reference are available for public inspection during normal business hours from the Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246. Copies may be purchased from the source organizations.

43.17 – 43.21 Reserved

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43.24 Statement of Basis, Specific Statutory Authority and Purpose: April 10, 2017 Rulemaking, Final Action May 8, 2017, Effective June 30, 2017

The provisions of sections 25-10-101 through 113, C.R.S. provide the specific statutory authority for adoption of this regulation. 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

The April 10, 2017 Commission hearing culminated efforts of an extensive stakeholder process. Stakeholders from all sectors of the onsite industry including, regulators, practitioners and manufacturers reviewed and provided comment on the proposed revisions to Regulation 43.

The adoption of Regulation 43 in June of 2013 was the first major revision to these regulations since 1994. The purpose of the revision was to reflect current standards applied to the On-site Wastewater Treatment System industry and to provide more options and flexibility in design and local regulation. Subsequent to the implementation of Regulation 43 it was noted that several sections throughout the regulation were in need of clarification. These items were defined and addressed by the stakeholders for the 2017 modification. In addition, there were a few sections within the regulation that were perceived to be in conflict with other sections of the regulation. These items were also identified and addressed by the stakeholders. Other various sections throughout the regulation were modified so as to provide clarity to the intent of that specific section as well as the overall regulation.

To align with the Colorado Legislative Drafting Manual, Chapter 5, 5.7.1 Guidelines for the Use of Plain Language and Principles of Grammar and Style, the Commission replaced technical language with plain language, where possible, and also replaced "shall" with "must" or "will" throughout the regulation when a thing or person "is required to" meet a condition for a consequence to apply.

Section 43.3

New definitions for the following terms were added to assist in the clarification of regulatory requirements: accessible, bedroom, deficiency, record drawing, and repair. The following definitions were also added to

provide clarification on system design and separation requirements: basal area, cistern, cut-bank, holding tank, linear loading rate, enhanced manufactured media.

The definition of “competent technician” was revised to more accurately define this term per the actual requirements of the regulation.

The definition of “domestic wastewater treatment works” was corrected to match the Colorado Water Quality Control Act.

The definition of “effective size” was revised to provide an accurate definition of this item.

The definition of “failure” was revised to further clarify what the stakeholders decided actually constitutes the failure of an OWTS and to assist in system evaluation under the Transfer of Title program.

The definition of “infiltrative surface” was revised to further clarify the distinct soil interfaces that would be considered an infiltrative surface.

A definition of “limiting layer” was developed to provide clarity and to address perceived conflicts between the separate definitions of limiting condition and restrictive layer, which were both removed. This new term will serve as the standard term for several site conditions that require specific OWTS design considerations. This term was applied at various locations within the regulation as appropriate.

The definition of “liner” was revised to clarify the minimum thickness requirement of the liner material.

The definition of “malfunction” was revised to further define a condition that required attention, but would not necessarily be defined as a failure.

The definition of “manufactured media” was revised to clarify the difference between this component and the newly created category for “enhanced manufactured media”.

The definition of “mound” was revised to address the perceived conflict between the definition of a mound and the requirements for a mound in the design criteria within the regulation.

The definitions of “pressure distribution” and “dosing, pressure” were revised to further state the requirements of a distribution system in order to be considered a pressure dosed system.

The definitions of “sand filter, lined sand filter, and unlined sand filter” were revised to provide consistency and clarity across these three items.

The definition of “soil profile hole” was removed from the regulation as it is no longer used. Soil evaluations are now conducted by a visual and tactile evaluation of a soil profile test pit excavation.

The definition of “suitable soil” was revised to more concisely define the intent of the regulation, and to include new concepts and terms used in this revision.

The definition of “wastewater, high strength” was revised to further clarify the requirements and to accurately equate to Table 6-3 found later in the regulation.

An abbreviation for Non-pressurized Drip Dispersal System was added to Table 3-1.

Section 43.4

The Commission modified 43.4.A.1 from a reference to “equal to or greater than 2000 gpd” to “greater than”, to match the Colorado Water Quality Control Act.

The Commission modified sections 43.4.A.2 and 3 to refer to the update or revision of a local regulation compared to a promulgation or adoption as was required with the initial acceptance of Regulation 43.

The Commission modified section 43.4.F.2 by removing the term “as-built” and inserting “record drawing”, with additional requirements. This revision was suggested by industry to address potential legal concerns when using the term “as-built”.

The Commission revised the section on “Product Development Permits”, and removed the “Experimental Systems” section. The verbiage from the “Experimental Systems” section was modified and relocated to the “Product Development Permit” section; 43.4.I to be consistent with the OWTS Act. The Commission also further defined how a product can “qualify” for testing under a product development permit, and that local agencies are to supply the Division with a copy of the completed product development permit.

The Commission modified section 43.4.L; Transfer of Title Inspections. These modifications included extending the time that an inspection report was valid and redefining what items noted in the report were required to be repaired or replaced prior to issuance of an acceptance document, while others items were only required to be identified to the owner. The Commission also removed the set time frame required to complete repairs per an acceptance waiver, now allowing the local public health agency to define the length of time allowed by the waiver.

The Commission renamed section 43.4.M from “Renewable Permits” to “Permits for the Continued Use of an OWTS”. The intent was to provide consistency where permits were issued for operation and maintenance of existing systems and for the acceptance of an OWTS at the time of Transfer of Title.

The Commission modified section 43.4.N.5.d to rescind the requirement that a variance to an off-site feature must not be granted without written consent of the owner of the property containing said feature. The Commission decided that this section could cause a taking of property without evidence of an environmental or public health concern. A clause was added to ensure that the adjacent property owner of the feature in question was notified of the time and date of the hearing.

The Commission modified section 43.4.N.5.g to further clarify that variances for system sizing or separation reductions were not allowed with the use of higher level treatment systems unless the LPHA had implemented a system maintenance and oversight program.

The Commission modified section 43.4.O.2 to also prohibit the repair of an existing cesspool; requiring the installation of a conforming OWTS. Previously, only new installations were prohibited.

The Commission decided to not provide additional requirements for the disposal of septage within section 43.4.O.5. The Commission recommends compliance with EPA 40 CFR, Part 503 Biosolids Rule as additional guidance regarding provisions and requirements for land application, surface disposal, pathogen destruction, vector attraction reduction and incineration of biosolids.

The Commission modified items within 43.4.P; Cease and Desist Orders, from allowing “a reasonable period of time” to bring the system into compliance, to “30 days”, to accurately comply with the requirements of the Colorado On-site Wastewater Treatment System Act.

The Commission modified items within 43.4.Q.1 to reference the correct statute regarding a Class 1 petty offense.

The Commission inserted sections from the OWTS Act, 25-10-113 (2) and (3), C.R.S., into 43.4.Q.2 and 3 to clarify the allowance for penalties based on comments received from local public health agencies.

Section 43.5

The Commission modified items within 43.5.B and C to further clarify what is required as part of a “Preliminary Investigation” and a “Reconnaissance Visit” prior to the design of an OWTS.

The Commission modified items within 43.5.D.1 to match the delayed implementation language of the original Regulation 43. Specifically, that following three years after the original effective date of Regulation 43 (June 30, 2013), a soil profile test pit excavation must be conducted during a site evaluation. The Commission also required a minimum of two soil profile test pit excavations to determine soil type and identify if any limiting layers exist. A percolation test still may be conducted in addition to the excavation in order to obtain additional information.

The Commission included a requirement indicating that the minimum depth of a soil profile test pit excavation must be to a limiting layer, or at least four feet below the infiltrative surface of the proposed soil treatment area.

The Commission included a specific reference to the evaluation of soil consistence and other similar conditions that may interfere with treatment and dispersal of effluent.

The Commission clarified the “Procedures for performing percolations tests”, in order to coincide with proper methodology for soil percolation testing.

The Commission modified items within 43.5.E.1; “Marking of Soil Profile Test Pit Excavations or Percolation Holes”, to require that excavations shall be suitably barricaded to prevent unauthorized access.

The Commission modified section 43.5.F.1.g indicating that site plan drawings are to include a fixed non-degradable temporary or permanent benchmark to ensure a more accurate OWTS installation, consistent with the approved design plans.

The Commission modified section 43.5.G.3 indicating that a design document for all dosing systems must now include calculations for total dynamic head and gallons per minute. Scaled drawings must now include separation distances to water supplies and surface water on both the subject and adjacent properties. Elevations or relative depth for the infiltrative surface, septic tank invert, and all other OWTS components must be provided.

The Commission removed the specific reference to septic tanks in former section 43.5.G.3.e regarding specifications for loads for burial depth and ground water, noting that per 43.13 the division must review and accept septic tanks from a manufacturer prior to the allowance of the installation of the tank.

The commission included the requirement that the proposed site for the soil treatment area be protected not only during OWTS construction, but also prior to OWTS construction so as to prevent soil compaction from other site activities.

The Commission modified items within 43.5.J.2.b to allow for a testing requirement within the soils training for a competent technician, if the training or workshop includes an exam.

Section 43.6

The Commission modified section 43.6.A.2 to only allow for a local public health agency to increase the design flow per person from 75 gpd to 100 gpd, “on a case-by-case basis”. This will increase statewide consistency but retain local flexibility where justified.

The Commission modified section 43.6.A.4 to allow for composite sampling when testing wastewater from multi-family or commercial systems.

The Commission included the allowance in section 43.6.A.5.e for the installation of a timed dosed NDDS where flow equalization is utilized.

The Commission made the following modifications to Table 6-2: separated out flows by fixture type to clarify that calculating flows using fixture values is strictly for auxiliary buildings; inserted estimated flows from a “tiny home” (<400 sq. ft.); increased the estimated flows for travel trailer parks with individual sewer and water connections to 100 gpd (this is in compliance with NFPA 1194, Section 7.8.2); provided additional direction for OWTS sizing for a church and group home.

The Commission made the following modifications to Table 6-3: indicated that septic tank effluent will be measured in BOD₅ and higher level treatment effluent will be measured in cBOD₅ so as to adhere to industry standards. Also, the constant of multiplying BOD₅ by 0.85 to obtain cBOD₅ was removed since there is not a set ratio for these constituents.

The Commission created Table 6-4 to assist in further clarifying the existing definition of “Wastewater, High Strength”.

Section 43.7

The Commission made the following modifications to Table 7-1: created separate isolation requirements for structures with and without basements, crawl spaces or footing drains to an OWTS; revised the separation requirements from a cistern to an OWTS to comply with the Water Well Contractors rules; added separation requirements from upslope curtain drains to an OWTS; added irrigation wells and monitoring wells set in a potable aquifer under well setbacks; added an allowance for other methods of encasement for crossings and encroachments; and referenced the Colorado Plumbing Code regarding the separation requirements to a building sewer.

The Commission made the following modifications to Table 7-2: expanded the vertical separation requirements above a limiting layer for TL2N and TL3 effluent to two and one-half feet to recognize that these treatment levels do not provide the same treatment as TL3N; further clarified that a horizontal separation reduction to 75 feet is allowed for TL3N effluent only after a variance is obtained from the Water Well Contractors Rules; and noted that the minimum vertical separation from the bottom of a seepage pit to a limiting layer is four feet.

Section 43.8

The Commission inserted a requirement within 43.8.D indicating that the maximum depth to the top of a new septic tank, new dosing tank or new vault shall be four feet and further clarified the requirements for riser lids. These requirements will allow for proper maintenance of each component.

The Commission further explained that the “sufficient weight” of a riser lid is defined as 59 pounds. This aligns with industry standards.

The Commission expanded the requirements within 43.8.G by requiring both an audio and visual alarm signal to ensure that the user will be notified if an electrical component is not functioning properly.

Section 43.9

The Commission modified section 43.9.A.1 to require a watertight seal between the final and the previous compartment of a tank if the last compartment is used as a pump or siphon chamber.

The Commission modified sections within 43.9 to reference the most current national standards for septic tank construction.

The Commission modified section 43.9.B.4 to ensure that the design of septic tanks, baffles, tees and access openings follow accepted industry standards.

The Commission inserted requirements for cleanouts in sewer lines so as to allow for proper access for maintenance.

The Commission inserted a section that requires a siphon-dosed system for pressure dosing and higher level treatment systems to be able to track the number of doses to the soil treatment area.

The Commission further clarified section 43.9.I.3 which references the design requirements for multiple compartment tanks that use the final compartment for the installation of a pump or dosing siphon.

The Commission inserted a section that provides for a smaller diameter riser over a pump chamber, but only when the riser is an integral component of a specific product that is accepted by the Division.

The Commission inserted a section that requires all intrusions on a pump chamber riser to be watertight.

The Commission modified the section on “Controls” to align with applicable codes and industry standards. This section now requires the following: To comply with applicable electrical codes, an electrical disconnect must be provided within line of sight of the pump chamber. To assist in operation and maintenance, a means of tracking both the pump run time and number of cycles for pressure dosing and higher level treatment systems is now required. All panels or boxes must bear the seal of a Nationally Recognized Testing Laboratory (NRTL), such as UL or ETL was expanded from only allowing UL listed.

The Commission modified section 43.9.J by defining what type of effluent screening is acceptable when effluent is dosed from the final compartment of a septic tank, and inserted a section that requires an effluent screen to be placed on the outlet from the septic tank when an ejector pump, grinder pump or non-clog pump is used prior to the septic tank.

The Commission inserted a section that requires the handle of an effluent screen to extend to within 12 inches of grade to allow for ease of maintenance.

The commission expanded the section relating to the size and design of “grease interceptor tanks” and their internal components to bring the regulations more into alignment with accepted industry standards.

Section 43.10

The Commission inserted a section that allows for the application of higher level treated effluent by gravity distribution in soil types 3, 3A, 4, 4A, and 5 for designs where reductions in soil treatment area size or vertical/horizontal separation are not applied.

The Commission modified Table 10-1 to allow for increased long-term application rates (10%+/-) in cases where higher level treated effluent is applied to a soil type 1, 2, 3, or 3A. These increases are within accepted industry parameters for the application of treated effluent. This was completed to modify parts of the current regulation whereby certain designs using the sizing adjustment factors provided in Tables 10-2 and 10-3 would be smaller in size than a design applying higher level treated effluent to the same site. With this modification, the commission removed section 43.10.D.3, which only allowed for a fifty percent size reduction to the baseline system when the size adjustments for Tables 10-2 and 10-3 were applied. The Commission also modified the identifiers for soil structure so as to accurately concur with the USDA soils manual.

The Commission removed soil type “0” from Table 10-1 and placed it within a new Table 10-1A. This new table was created to address concerns from local agencies regarding design requirements within the current regulation for sites with a high content of rock. To clarify and provide flexibility, the table includes three “Type R” soil identifiers describing a soil that contains a certain percentage and size of rock that is

allowed, how it is to be applied to the soil, at what rate it is to be applied, and the depth of treatment sand that is required below the distribution system. This table will provide for more engineered design options in these soil types. While percentages of media sizes are determined by weight through ASTM gradation testing, the Commission chose to also allow characterization of rock size percentages by volume, similar to USDA field methods, to provide designers the ability to evaluate rock percentages in the field. The Commission recommends that future discussions regarding changes to this regulation include consideration of whether the regulation should allow a facility to apply for a variance from the design criteria requirements outlined in Table 10-1A where alternative or additional testing methods have been conducted and where it can be demonstrated that the alternative design will provide equal or improved treatment of the effluent.

The Commission modified Table 10-3 to clarify the manufactured media terminology by creating new categories for proprietary manufactured distribution media; “Enhanced Manufactured Media” and “Other Manufactured Media” (both defined in the definition section of this revision). Other Manufactured Media will receive a 0.9 reduction in system size, while Enhanced Manufactured Media will receive a 0.7 reduction in system size. Additional sections for these two types of manufactured media indicating design and installation criteria has been provided in section 43.10.G. The acceptance criteria for these products defined in section 43.13.E have also been expanded.

The Commission clarified Section 43.10.E.1.b by stating that the infiltrative surface may only be greater than four feet deep if TL2 or greater effluent is applied and the system is inspected and maintained as per section 43.14.D of this regulation. The Commission also modified the maximum infiltrative surface depth for systems installed on a slope. The 4 foot maximum depth will now be measured from the up-slope side of the trench or bed. This provides consistency throughout the regulation and promotes aerobic conditions within the treatment zone.

The Commission clarified various sections of the regulation by revising specific references of distribution “lines”, to distribution “laterals”.

The Commission inserted a sub-section in 43.10.E.2 which requires the forcemain or distribution pipe to be connected to a distribution header as near to the center of the header as possible. The intent is to provide more equal distribution to the entire distribution system.

The Commission moved and expanded the section on “Pressure Distribution” to ensure that system designs align with industry standards. This section now requires the following: the inclusion of pump information, drain-back volume and calculations or a design software reference that indicates equal flow to the entire distribution system will be provided, parallel distribution lines must not exceed four feet center to center and the outer distribution pipe must be located at least two feet to the sidewall and endwall, and flushing assemblies must be installed on each lateral and be accessible from grade. A LPHA may require that all effluent dosed to a pressure distribution system be screened prior to entering the distribution system.

The Commission modified the section on trenches by reducing the required distance between adjacent trenches from six feet to four feet (sidewall to sidewall) to assist in constructing systems on sites with steep slopes or restricted area.

The Commission modified the section on inspection ports by requiring a 4 inch minimum inspection port at the terminal end of each lateral in a trench system and at each corner of a bed system. This modification was implemented after discussions with local public health agencies relative to the Commission’s request in the original Statement of Basis and Purpose that stakeholders consider inspection ports at both ends of distribution lines.

The Commission modified the section on “Alternating Systems”, now requiring each new soil treatment area in an alternating system meet the minimum sizing requirements of the regulation. The fifty percent sizing will remain for repairs to existing systems.

The Commission modified various sections of the regulation to provide a consistent size requirement for coarse aggregate (stone) when it is used. All applicable sections were changed to reference a range in size from ½" to 2 ½". AASHTO M 43 size No. 3 coarse aggregate is noted as meeting this specification.

The Commission modified and greatly expanded on Section 10.H, "Soil Replacement Systems" in response to local agency and practitioner comments. Three cases are now described. Case 1, for use with a soil type R; added soil must meet either the specifications of "preferred" or "secondary" sand media (as defined in section 43.11.C). Sand depth requirements and application rates are defined in Table 10-1A. Case 2, for use with a soil type R-1 (option 2); a maximum rock percentage and rock size has been defined. Soil depth requirements and application rates are defined in Table 10-1A. Case 3, for use when sand is proposed to be added above a soil type 1 – 5. Added soil must meet either the specifications of "preferred" or "secondary" sand media (defined in section 43.11.C). In each case where sand is added, a recent gradation of the sand media must be provided to ensure the quality of the product.

The Commission inserted a section that further defines the allowance for the reductions to setbacks in a repair situation where an existing OWTS is failing.

The Commission inserted a section for the allowance of "deep beds" in a repair situation of up to five feet deep. However, size adjustments allowing area reductions within Tables 10-2 and 10-3 may not be used in this case.

The Commission removed the reference of a "bed" from the section on "Deep Gravel Trenches".

The Commission modified the following items within the section on Seepage Pits (Repairs): Changed the reference from a vertical cylinder to a "structure of precast perforated concrete with holes, or cinder or concrete block laid dry with open joints.", noted that the excavation may not exceed 5 feet beyond the structure wall, revised the infiltrative surface to include the entire bottom area of the excavation, required that the bottom of a seepage pit must be a minimum of four feet above a limiting layer in all instances, and moved the requirements for the installation of "new" seepage pits to section 43.12.C for clarity.

The Commission moved the section on Remediation Systems from section 43.13.F and included it within the section on "repairs", 43.10.I. The Commission also removed remediation systems from the divisions review for proprietary products acceptance and placed the acceptance under the control of the local public health agencies along with some specific review parameters.

Section 43.11

The Commission modified the following items within the section on Sand Filters: The treatment levels for single-pass and recirculating sand filters was defined. General design parameters for sand filters were established to ensure that the design of such systems will comply with accepted industry standards. Exact specifications (effective size, and uniformity coefficient) for "preferred" and "secondary" sand media are defined in this section. A recent gradation of the sand media (no more than one month old) must be provided to ensure the quality of the product.

The Commission modified the following items within the section on a Unlined Sand Filters: Application rates and sand depth requirements for "preferred" and "secondary" sand media was defined relative to the quality of effluent the was applied to the infiltrative surface.

The Commission modified the following items within the section on a Lined Sand Filters: Application rates and sand depth requirements for "preferred" and "secondary" sand media was defined. General design parameters for lined sand filters were established to ensure that the design of such systems will comply with accepted industry standards.

The Commission modified the following items within the section on Recirculating Sand Filters: General design parameters for recirculating sand filters were established to ensure that the design of such

systems will comply with accepted industry standards. Specifications included, lateral and orifice spacing, recirculation ratios, gallons/dose, timer settings, media requirements, under-drain and liner requirements.

The Commission modified the section on “mound systems” to clarify design requirements and to bring the design criteria into alignment with accepted industry standards. The following items are noted: General mound design specifications, distribution piping requirements, sand media specifications, loading rates, vertical separation requirements, grading requirements, among others, have been further defined.

Section 43.12

The Commission moved and expanded on Section 43.12.A in order to clarify its original intent. This section was moved to 43.8.A as it references “general design criteria” which is a more appropriate location. This section was expanded to ensure that all OWTS for single family homes are sized per the flow requirements from section 43.6.A.2, and that the installation of low-flow fixtures or the separation of toilet waste does not allow for the reduction in the size of an OWTS. This is also consistent with the requirements of Regulation 86.

The Commission inserted the section on “Non-Pressurized Drip Dispersal System” in response to local agency and practitioner comments. A Non-Pressurized Drip Dispersal System is considered a type of an evapotranspiration/absorption system. The general design specifications noted in the “Colorado Professionals in Onsite Wastewater Guidelines for the Design and Installation of Non-Pressurized Drip Dispersal Systems (NDDS) September, 2016” must be followed when these systems are proposed.

The Commission modified the section on Evapotranspiration and Evapotranspiration/Absorption Systems. General design parameters for evapotranspiration and evapotranspiration/absorption systems were established to ensure that the design of such systems will comply with accepted industry standards.

The Commission expanded on the design requirements for “new” seepage pits. New items in this section state that the general design requirements for the repair of these systems must be followed. New seepage pits will only be allowed when the site cannot accommodate a trench or bed system. Pressure distribution is not required when TL2 or higher effluent is applied to the seepage pit.

The Commission modified the section on Wastewater Ponds by adding, “at least” when referencing the required depth of five feet.

The Commission modified the section on “Treatment Systems Other Than Those Discharging Through a Soil Treatment Area or Sand Filter System”. The following item was added: “These types of systems must not allow drainage of effluent off of the property of origin.”

The Commission modified all references to “fecal coliform”. Those references were changed to “*E. coli*”.

Section 43.13

The Commission modified section 43.13.D.3.b, reducing the number of residential home test sites for proprietary treatment products from twelve to six if the product received NSF/ANSI certification for the treatment level requested.

The Commission clarified section 43.13.D.3.j, noting that manufacturers that request continued acceptance of their product must submit a request for this acceptance and provide documentation of an actual installation to the Division.

The Commission clarified the section regarding the requirements for the testing of proprietary higher level treatment systems outside of Colorado.

The Commission revised section 43.13.E.1, noting that a “gravity” proprietary distribution product must provide equivalent storage volume to a rock and pipe system. Pressure distribution products are exempt from this requirement.

The Commission clarified section 43.13.E.1, noting that a proprietary distribution product must cover at least 90 percent of the excavation in order to receive sizing adjustments provided for in Table 10-3.

The Commission clarified section 43.13.F, providing more detail regarding the requirements for the acceptance of proprietary remediation products.

The Commission clarified the testing and reporting requirements for septic tank manufacturers’ testing of five percent of the tanks. The testing must be conducted “annually” and submitted to the Division, or the certifications from IAPMO, CSA or NPCA must be submitted to the Division on an annual basis.

Section 43.14

The Commission modified section 43.14.C.2 by allowing the local public health agency to designate a separate entity to maintain the oversight of OWTS maintenance where reductions in soil treatment area or vertical/horizontal separation distances are applied. The enforcement of the requirements of the regulation must remain with the local agency.

The Commission modified section 43.14.D.2 in response to local agency comments. The regulation now allows for the local public health agency to designate a separate entity to conduct and maintain the oversight program for the inspection and maintenance of higher level treatment systems. However the enforcement of the requirements of the regulation will remain with the local board of health.

The Commission modified section 43.14.D.4.b. The frequency of inspection and maintenance for higher level treatment systems was changed to require, at a minimum, two inspections at six month intervals for the first year of system operation, then once every 12 months for the life of the system; or more stringent as required by the manufacturer or the local public health agency. The Commission recommended that future discussions regarding changes to this regulation explore whether higher level treatment systems should be required to conduct ongoing sampling for the life of that system.

The Commission inserted sections which define specific requirements of maintenance providers for higher level treatment systems. Providers must notify the LPHA when a contract has been terminated, and the provider must obtain appropriate training for specific proprietary treatment products from the manufacturer.

The Commission declined to adopt a mandatory operations and maintenance requirement for all onsite wastewater treatment systems. The Commission recommends that future discussions regarding changes to this regulation explore what level of operations and maintenance is needed for the different levels of these systems and how that should best be accomplished. In addition, the Commission encourages the future discussions consider whether onsite treatments system professionals should have certification or training requirements.

PARTIES TO THE RULEMAKING HEARING

1. Tri-County Health Department
2. Mesa County
3. Underground Solutions, Inc.
4. Infiltrator Water Technologies

5. Colorado Professionals in Onsite Wastewater (CPOW)
 6. Colorado Directors of Environmental Health
-

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Office of the Attorney General

Tracking number: 2016-00640

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 05/08/2017

5 CCR 1002-43

REGULATION NO. 43 - ON-SITE WASTEWATER TREATMENT SYSTEM REGULATION

The above-referenced rules were submitted to this office on 05/10/2017 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.

May 24, 2017 08:52:30

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Hazardous Materials and Waste Management Division

CCR number

6 CCR 1007-1 Part 03

Rule title

6 CCR 1007-1 Part 03 RADIATION CONTROL - LICENSING OF RADIOACTIVE
MATERIAL 1 - eff 06/30/2017

Effective date

06/30/2017

**PUBLICATION INSTRUCTIONS FOR
6 CCR 1007-1, PART 3, LICENSING OF RADIOACTIVE MATERIAL**

Adopted by the Board of Health on May 17, 2017; effective July 15, 2017

[* * * = indicates omission of unaffected rules]

[Publication Instructions: STRIKE the first 8 lines of the current rule and replace with the following revised rule text. The change updates the adopted and effective dates and relocates them for consistency with other rules.]

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL - LICENSING OF RADIOACTIVE MATERIAL

6 CCR 1007-1 PART 03

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

Adopted by the Board of Health May 17, 2017; effective July 15, 2017.

LICENSING OF RADIOACTIVE MATERIAL

* * *

[Publication Instructions: Following 3.1.4.2(6), INSERT the following new rule provision.]

- 3.1.4.3 In accordance with Section 24-4-103(12.5)(c), CRS, <https://www.colorado.gov/cdphe/radregs> identifies where incorporated material is available to the public on the internet at no cost. If the incorporated material is not available on the internet at no cost to the public, copies of the incorporated material has been provided to the State Publications Depository and Distribution Center, also known as the State Publications Library. The State Librarian at the State Publication Library retains a copy of the material and will make the copy available to the public.

* * *

[Publication Instructions: STRIKE the current unnumbered section header and 3.7, and replace with the following revised rule language.]

ADDITIONAL EXEMPTIONS

3.7 Carriers

Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this Part and Parts 5, 7, 16, 19, and 22 and the requirements for a license set forth in Section 25-11-103, CRS to the extent that they transport or store radioactive material in the regular course of carriage for another or storage incident thereto.

* * *

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Tracking number: 2017-00126

Opinion of the Attorney General rendered in connection with the rules adopted by the

Board of Health

on 05/17/2017

6 CCR 1007-1 Part 03

RADIATION CONTROL - LICENSING OF RADIOACTIVE MATERIAL

The above-referenced rules were submitted to this office on 05/19/2017 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.

May 24, 2017 08:55:47

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Hazardous Materials and Waste Management Division

CCR number

6 CCR 1007-1 Part 04

Rule title

6 CCR 1007-1 Part 04 RADIATION CONTROL - STANDARDS FOR PROTECTION
AGAINST RADIATION 1 - eff 06/30/2017

Effective date

06/30/2017

**PUBLICATION INSTRUCTIONS FOR
6 CCR 1007-1, PART 4, STANDARDS FOR PROTECTION AGAINST RADIATION**

Adopted by the Board of Health on May 17, 2017; effective July 15, 2017

[* * * = indicates omission of unaffected rules]

[Publication Instructions: STRIKE the first 9 lines of the current rule and replace with the following revised rule text. The change updates the adopted and effective dates and relocates them for consistency with other rules.]

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL - STANDARDS FOR PROTECTION AGAINST RADIATION

6 CCR 1007-1 Part 04

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

Adopted by the Board of Health May 17, 2017; effective date July 15, 2017.

PART 4: STANDARDS FOR PROTECTION AGAINST RADIATION

STANDARDS FOR PROTECTION AGAINST RADIATION

* * *

[Publication Instructions: Following 4.1.4.1, INSERT the following new rule provision.]

4.1.4.2 In accordance with Section 24-4-103(12.5)(c), CRS, <https://www.colorado.gov/cdphe/radregs> identifies where incorporated material is available to the public on the internet at no cost. If the incorporated material is not available on the internet at no cost to the public, copies of the incorporated material has been provided to the State Publications Depository and Distribution Center, also known as the State Publications Library. The State Librarian at the State Publication Library retains a copy of the material and will make the copy available to the public.

* * *

[Publication Instructions: STRIKE current unnumbered paragraph “Table 4B3...”, and INSERT the following revised rule provision. The paragraph is revised to correct a typographical error in the last sentence.]

Table 4B3 “Releases to Sewerage”

The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in 4.35. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^6 (ml). The factor of 7.3×10^6 (ml) is composed of a factor of 7.3×10^5 (ml), the annual water intake by reference man, and a factor of 10, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a reference man during a year, would result in a committed effective dose equivalent of 0.5 rem (5 mSv).

* * *

[Publication Instructions: In the Appendix 4C Table, 3rd column, STRIKE the current “Quantity (uCi)” value for Protactinium-230 and replace with the value 0.1. as illustrated below. There are no other changes to the table or values. The updated value for Pa-230 makes it consistent with federal rules.]

Radionuclide	Abbreviation	Quantity (μCi)
* * *	* * *	* * *
Protactinium-230	Pa-230	0.1
* * *	* * *	* * *

* * *

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Tracking number: 2017-00127

Opinion of the Attorney General rendered in connection with the rules adopted by the

BOH

on 05/17/2017

6 CCR 1007-1 Part 04

RADIATION CONTROL - STANDARDS FOR PROTECTION AGAINST RADIATION

The above-referenced rules were submitted to this office on 05/19/2017 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.

May 24, 2017 08:56:03

Cynthia H. Coffman
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Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Hazardous Materials and Waste Management Division

CCR number

6 CCR 1007-1 Part 22

Rule title

6 CCR 1007-1 Part 22 RADIATION CONTROL PHYSICAL PROTECTION OF
CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL 1 - eff
06/30/2017

Effective date

06/30/2017

PUBLICATION INSTRUCTIONS FOR
6 CCR 1007-1, PART 22, PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL

Adopted by the Board of Health on May 17, 2017; effective July 15, 2017

[* * * = indicates omission of unaffected rules]

[Publication Instructions: STRIKE the first 9 lines of the current rule and replace with the following revised rule language. The change updates the adopted and effective dates and relocates them for consistency with formatting in other rules.]

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL – PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL

6 CCR 1007-1 Part 22

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

Adopted by the Board of Health May 17, 2017; effective date July 15, 2017

Affected licensees shall be compliant with this Part on or before March 19, 2016

* * *

[Publication Instructions: Following 22.2.2.2, INSERT the following new rule provision.]

- 22.2.2.3 In accordance with Section 24-4-103(12.5)(c), CRS, <https://www.colorado.gov/cdphe/radregs> identifies where incorporated material is available to the public on the internet at no cost. If the incorporated material is not available on the internet at no cost to the public, copies of the incorporated material has been provided to the State Publications Depository and Distribution Center, also known as the State Publications Library. The State Librarian at the State Publication Library retains a copy of the material and will make the copy available to the public.

* * *

[Publication Instructions: STRIKE the current second occurrence of 22.9.7.A, and replace with the following revised rule provision. Sub-items B, and C remain unchanged. The current provision is replaced due to a prior numbering error in the rule in which 22.9.7 occurs twice.]

22.9.8 Records.

- A. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

* * *

[Publication Instructions: STRIKE 22.11.3 (including subsections A, B, and C) and replace with the following revised 22.11.3 rule provision. The current provision is updated due to information and organizational changes at NRC.]

22.11.3 Procedures for processing of fingerprint checks.

- A. For the purpose of complying with this Part, licensees shall submit to the U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, Rockville, MD 20852-2738, ATTN: Criminal History Program, Mail Stop TWB-05 B32M, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 1-630-829-9565, or by email to FORMS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <http://www.nrc.gov/site-help/e-submittals.html>.
- B. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at 301-492-3531.) Combined payment for multiple applications is acceptable. The U.S. Nuclear Regulatory Commission publishes the amount of the fingerprint check application fee on the NRC's public Web site. (To find the current fee amount, go to the Electronic Submittals page at <http://www.nrc.gov/site-help/e-submittals.html> and see the link for the Criminal History Program under Electronic Submission Systems.)
- C. The U.S. Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks.

* * *

[Publication Instructions: STRIKE 22.16.3 including all subsections and replace with the following revised rule provision. The current provision is updated to correct a cross-reference error in subsection C.1]

22.16.3 Training.

- A. Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training must include instruction in:
 - 1. The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;
 - 2. The responsibility to report promptly to the licensee any condition that causes or may cause a violation of Department requirements;
 - 3. The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and
 - 4. The appropriate response to security alarms.
- B. In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training must be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.
- C. Refresher training must be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training must include:
 - 1. Review of the training requirements of 22.16.3 and any changes made to the security program since the last training;
 - 2. Reports on any relevant security issues, problems, and lessons learned;
 - 3. Relevant results of Department inspections; and
 - 4. Relevant results of the licensee's program review and testing and maintenance.
- D. The licensee shall maintain records of the initial and refresher training for 3 years from the date of the training. The training records must include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.

* * *

[Publication Instructions: STRIKE 22.23 including all subsections and replace with the following revised rule provision. The current provision is updated to correct a prior numbering error.]

22.23 Reporting of Events.

- 22.23.1 The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Department. In no case shall the notification to the Department be later than 4 hours after the discovery of any attempted or actual theft, sabotage, or diversion.
- 22.23.2 The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the Department
- 22.23.3 The initial telephonic notification required by 22.23.1 must be followed within a period of 30 days by a written report submitted to the Department address specified in 22.4. The report must include sufficient information for Department analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

* * *

[Publication Instructions: STRIKE 22.27.A.1 and replace with the following revised rule provisions. The current provision updated the web site address of the NRC.]

22.27 Advance Notification of Shipment of Category 1 Quantities of Radioactive Material.

- 22.27.1 As specified in 22.27.1.A. and 22.27.1.B., each licensee shall provide advance notification to the Department and the governor of a State, or the governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the State, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.
- A. Procedures for submitting advance notification.
1. The notification to the office of each appropriate governor or governor's designee is available on the NRC's Web site at <https://scp.nrc.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Material Safety, State, Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the Department must be made to the address specified in 22.4.

* * *

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Tracking number: 2017-00128

Opinion of the Attorney General rendered in connection with the rules adopted by the

Board of Health

on 05/17/2017

6 CCR 1007-1 Part 22

**RADIATION CONTROL PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL**

The above-referenced rules were submitted to this office on 05/19/2017 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.

May 24, 2017 08:56:20

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Hazardous Materials and Waste Management Division

CCR number

6 CCR 1007-3

Rule title

6 CCR 1007-3 HAZARDOUS WASTE 1 - eff 06/30/2017

Effective date

06/30/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Solid and Hazardous Waste Commission/Hazardous Materials and Waste Management Division

6 CCR 1007-3

HAZARDOUS WASTE

Amendment of § 6.04 Annual Commission Fee

(Adopted by the Solid and Hazardous Waste Commission on May 16, 2017)

1) Revise paragraph (a) of Section 6.04 to read as follows:

§ 6.04 Annual Commission Fee.

(a) For fiscal year 2017-2018 the following fees shall be assessed:

- (1) Small quantity generators \$65;
- (2) Large quantity generators \$210;
- (3) Transporters \$70;
- (4) Non-commercial treatment, storage or disposal facilities \$400; and
- (5) Commercial treatment, storage or disposal facilities \$600

2) Add Section 8.88 {Statement of Basis and Purpose for the Rulemaking Hearing of May 16, 2017} to Part 8 of the Regulations to read as follows:

Statement of Basis and Purpose Rulemaking Hearing of May 16, 2017

8.88 Basis and Purpose.

This amendment to 6 CCR 1007-3, Part 6 is made pursuant to the authority granted to the Solid and Hazardous Waste Commission in § 25-15-314(1), C.R.S.

Amendment of § 6.04 Annual Commission Fee

Section 6.04 of the Colorado Hazardous Waste Regulations (6 CCR 1007-3) is being amended at this time by revising paragraph (a) to reflect the annual Commission fee to be assessed for fiscal year 2017-2018. This rulemaking does not change the amounts of the annual Commission fees, but only changes the rules to reflect the 2017-2018 fiscal year.

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Tracking number: 2017-00141

Opinion of the Attorney General rendered in connection with the rules adopted by the

Hazardous Materials and Waste Management Division

on 05/16/2017

6 CCR 1007-3

HAZARDOUS WASTE

The above-referenced rules were submitted to this office on 05/17/2017 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.

May 24, 2017 08:54:24

Cynthia H. Coffman
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Permanent 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
07/01/2017

Effective date

07/01/2017

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.
- .3 The degree of direction and control exercised by the company over the worker performing the service, except the division will not consider direction and control exercised pursuant to the requirements of any state or federal statute or regulation.

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 considers each working relationship individually. The Division does not rely on any single factor, but rather the totality of the circumstances and all relevant factors in accordance with applicable law. 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. When determining whether an employment relationship exists under the Colorado Employment Security Act, the Division considers factors, which may include but are not limited to:

- .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 has a business that 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 is economically independent from or is substantially 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 company for whom services are performed provides tools to the worker, except as allowed by 8-70-115 (1)(c)(VI), while on the project.
- .6 If the rate and method of payment is negotiated by the parties, is established by the worker, is established by the company for whom services are performed, or is established as part of a contract awarded through a bidding process.
- .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, as well as other types of insurance relevant to sustaining the worker's business.
- .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.

17.1.7. Industry-Specific Guidelines. The Division may adopt industry-specific guidance in collaboration with industry representatives to address unique factors and situations in that industry. When applicable, the Division considers such guidance, in addition to the applicable law and the regulations in this Part XVII when determining whether an individual is an employee or an independent contractor.

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.

17.2.3 The Director shall not use an advisory opinion previously issued pursuant to section 8-72-114 (4), C.R.S. for the purposes of initiating an unemployment insurance audit.

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.

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Tracking number: 2017-00055

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Unemployment Insurance

on 05/09/2017

7 CCR 1101-2

REGULATIONS CONCERNING EMPLOYMENT SECURITY

The above-referenced rules were submitted to this office on 05/09/2017 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.

May 24, 2017 08:47:17

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

7 CCR 1101-3

Rule title

7 CCR 1101-3 WORKERS' COMPENSATION RULES OF PROCEDURE WITH
TREATMENT GUIDELINES 1 - eff 07/01/2017

Effective date

07/01/2017

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 2 Workers' Compensation Premium Surcharges

2-5 SURCHARGE RATE

- (A) For the annual period beginning July 1, 2017 and continuing indefinitely with annual review by the Director, the workers' compensation cash fund premium surcharge rate authorized under §8-44-112(1)(a), C.R.S., shall be 0.7 percent of the amount of all premiums written, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with §10-3-208, C.R.S., and regulations promulgated thereunder, or the premium equivalent amount established in section 2-3 of this rule, for Colorado workers' compensation insurance during the period of January 1, 2017 continuing indefinitely.
- (B) For the purpose of funding the direct and indirect costs of the Premium Cost Containment program of the Division as authorized under §8-44-112(1)(b)(I), C.R.S., there is added to the surcharge imposed pursuant to Section 2-5 of this rule, an additional increment for the annual period beginning July 1, 2017 and continuing indefinitely with annual review by the Director, against workers' compensation insurance premiums written, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with §10-3-208, C.R.S., and regulations promulgated thereunder, during the period of January 1, 2017, continuing indefinitely. The amount of this assessment shall be 0.03 percent. No assessment shall be imposed upon self-insured employers under this subsection.
- (C) For the purposes of funding the financial liabilities of the Subsequent Injury Fund as authorized under §8-46-102(2)(A)(I), C.R.S. And the Major Medical Fund under §8-46-202, C.R.S., for the period beginning July 1, 2017, and continuing indefinitely with annual review by the Director, the tax shall be assessed at 0.3 percent of the amount of Workers' Compensation premiums written, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with §10-3-208, C.R.S., and regulations promulgated thereunder, or the premium equivalent amount established in Section 2-3 of this rule, for Colorado Workers' Compensation insurance during the period of January 1, 2017, continuing indefinitely.

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Office of the Attorney General

Tracking number: 2017-00134

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Workers' Compensation

on 05/10/2017

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES

The above-referenced rules were submitted to this office on 05/15/2017 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.

May 24, 2017 08:53:25

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Permanent Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Oil and Public Safety

CCR number

7 CCR 1101-5

Rule title

7 CCR 1101-5 BOILER AND PRESSURE VESSEL 1 - eff 07/01/2017

Effective date

07/01/2017

**COLORADO DEPARTMENT OF
LABOR AND EMPLOYMENT**

DIVISION OF OIL AND PUBLIC SAFETY

BOILER AND PRESSURE VESSEL REGULATIONS

7 C.C.R. 1101-5

Effective: July 1, 2017

**BOILER AND PRESSURE VESSEL 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 are to establish construction, installation, inspection, maintenance and repair requirements for boilers and pressure vessels, establish inspection and certificate of inspection fees, adopt nationally recognized codes and standards, add or clarify terminology and add or clarify the duties of owners, users, installers and inspectors in order to ensure the safe operation of boilers and pressure vessels in Colorado.

Section 1-2 Technical Rationale

The technical requirements of these regulations are generally accepted as national and international standards governing the minimum levels of acceptability for the initial design, fabrication and certification, as well as in-service inspection rating, repair, alteration and re-rating of boilers and pressures vessels. 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 §§8-20-101, 9-4-103 and 9-4-109(1)(a) of the Colorado Revised Statutes (CRS).

Section 1-4 Effective Date

These amended regulations shall be effective on July 1, 2017, and supersede all prior editions. The prior editions of these regulations were effective June 15, 2013, March 30, 2012, November 30, 2011, April 14, 2011, March 11, 2011, December 13, 2010, December 1, 2008 and December 1, 2002.

Section 1-5 Codes Incorporated by Reference

(a) The following codes are incorporated by reference:

- (1) For the construction of new boilers and pressure vessels, the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, Sections I, IV, V, VIII Divisions 1 and 2 and 3, IX, and X, 2015 edition.
- (2) For the installation, in-service inspection, repairs and alterations of boilers, pressure vessels and pressure-retaining items, the National Board Inspection Code (NBIC), 2017 edition.
- (3) For the design, materials, fabrication, erection, test, inspection, operation, and maintenance of boiler external piping, ASME B31.1, Power Piping, 2016 edition.
- (4) For the installation, inspection, repairs, alterations, rating and re-rating of pressure vessels and piping used in the petroleum and chemical processing industries:
 - (A) For pressure vessels, the API/ASME 510, 10th edition, addenda 1-3.
 - (B) For pressure piping, the API/ASME 570, 4th edition, addenda 1-4.
- (5) For the assembly, installation, maintenance and operation of controls and safety devices, ASME CSD-1, 2015 edition.
 - (A) ASME CSD-1 applies to all boilers installed, relocated or returned to service on or after January 1, 1993. The pertinent edition of ASME CSD-1 is the one adopted

by the Colorado Boiler and Pressure Vessel Regulations at the installation, re-location, or return to service date.

(6) NFPA 85, Boiler and Combustion Systems Hazards Code, 2015 edition.

(7) NB-371, Accreditation of Owner-User Inspection Organizations (OUIO), Rev 8.

(b) Interested parties may review the referenced incorporated materials by contacting the Program Manager, Boiler Inspection Program, 633 17th Street, Suite 500, Denver, CO 80202.

(c) This rule does not include later amendments to or editions of the incorporated material.

(d) Code cases approved for use by ASME are allowed to be used in the design, fabrication and testing of boilers and pressure vessels provided acceptance is first obtained from the Director.

(e) The application for a variance to the codes and standards listed above or to these regulations shall be made on the form provided by the Director.

Section 1-6 Definitions

Terms in these regulations shall have the same meaning as those found in Title 4 Article 9 of the Colorado Revised Statutes. In addition, unless the context otherwise requires:

Alteration - Any change in the item described on the original Manufacturers' Data Report that affects the pressure-containing capability of the boiler or pressure vessel. Non-physical changes, such as an increase in the maximum allowable working pressure (internal or external) or design temperature of a boiler or pressure vessel shall be considered an alteration. A reduction in minimum temperature, such that additional mechanical tests are required, shall also be considered an alteration.

Apartment house - A building with multiple family dwelling units, including condominiums and townhouses, where boilers are located in a common area outside of the individual dwelling units, such as a boiler room. The exemption for apartment houses with fewer than six units refers to the number of units, not the number of units served by a boiler. Individual dwelling units are considered residences, such that any boiler located inside an individual dwelling unit is exempt.

ANSI - The American National Standards Institute.

API - The American Petroleum Institute.

API-certified inspector - An inspector who is certified by the American Petroleum Institute to perform functions specified in API-510 or API-570.

API-510, Pressure Vessel Inspection Code - The code for maintenance inspection, repair, alteration and re-rating procedures for pressure vessels used by the petroleum and chemical process industries. API-510 is published by the American Petroleum Institute and is an approved ANSI standard.

API-570, Piping Inspection Code - The code for maintenance inspection, repair, alteration and re-rating procedures for process piping used by the petroleum and chemical process industries. API-570 is published by the American Petroleum Institute and is an approved ANSI standard.

ASME CSD-1 - The national standard entitled Controls and Safety Devices for Automatically Fired Boilers published by ASME.

Boiler, ASME Section I - A boiler falling under the scope of Section I of the ASME Boiler and Pressure Vessel Code. These are boilers in which steam or vapor is generated at a pressure more than 15

psig for use external to itself; or high temperature water boiler intended for operation at pressures exceeding 160 psig and/or temperatures exceeding 250 degrees Fahrenheit.

Boiler, ASME Section IV - A boiler or water heater falling under the scope of Section IV of the ASME Boiler and Pressure Vessel Code. These are steam boilers for operation at pressures not exceeding 15 psi, or hot water heating / hot water supply boilers for operation at pressures not exceeding 160 psi or temperatures not exceeding 250 degrees Fahrenheit.

Boiler, electric - A boiler whose source of heat is electricity.

Boiler external piping – Piping for boilers in which steam or vapor is generated at a pressure more than 15 psig for use external to itself, or a high temperature water boiler intended for operation at pressures exceeding 160 psig and/or temperatures exceeding 250 degrees Fahrenheit. This piping begins at the termination of the boiler proper and ends at:

- (1) the first circumferential joint for welding and connections; or
- (2) the face of the first flange in bolted flanged connections; or
- (3) the first threaded joint in that type of connection; and that extends up to and including the valve or valves as required in ASME B31.1.

Boiler, heating - See definition of Boiler, ASME Section IV.

Boiler, high temperature - See definition of Boiler, ASME Section I.

Boiler, hot water supply - A boiler constructed to ASME Section IV that furnishes hot water to be used externally to itself and not returned to the boiler.

Boiler, miniature - Any power boiler that does not exceed any of the following:

- 16 inches inside diameter of shell
- 20 square feet of heating surface
- Five cubic feet of gross volume exclusive of casing and insulation
- 100 psig maximum allowable working pressure

Boiler, portable or moveable - An ASME constructed boiler permanently affixed to a trailer with wheels or skid-mounted that is totally self-contained while operating and not attached to any other object for any reason either by pipe, hose or wire while operating.

Boiler, power - See Boiler, ASME Section I.

Boiler, unfired - A steam or other vapor generating system using heat external from itself, usually from the operation of a processing system or other indirect heat source.

Boiler, water tube - A boiler that has water tubes or coils which contain the heating medium constructed primarily of copper or steel material and include but are not limited to the following general attributes:

- ASME Section IV water tube boiler requires forced circulation to prevent overheating and failure of the tubes or coils and has no definitive waterline.
- ASME Section I water tube boiler may not require forced circulation and may or may not have a definitive waterline.

Btu - British thermal unit.

Certificate inspection - An inspection performed by an authorized State or Special Inspector, the report of which is used as justification for issuing, withholding or revoking the certificate of inspection.

Certificate inspection, initial - The certificate inspection conducted by a State Inspector when a new or relocated boiler is being placed in service.

Certificate of inspection - A ***certificate of inspection***, also known as a ***certificate of boiler operation***, an ***inspection certificate*** or an ***operations certificate***, is the certificate issued by the Director authorizing the operation of a boiler until a specific date.

Condemned - A boiler or pressure vessel determined by an Inspector to be so unsafe that further use is prohibited until it is satisfactorily repaired or replaced.

Director - the Director of the Colorado Department of Labor and Employment, Division of Oil and Public Safety or his or her designee.

Existing installation - Any boiler or pressure vessel that has received its initial certificate of inspection.

Forced circulation water heater - A water heater requiring forced circulation to prevent overheating and failure of the tubes or coils and has no definitive waterline.

Grace period - The time when a boiler may legally be operated without a valid certificate of inspection.

Hot water storage tank - A closed vessel connected to a regulated boiler. When heated by steam or any other indirect means, these storage tanks shall comply with ASME construction requirements if any of the following limitations are exceeded:

- Heat input of 200,000 Btu/hr
- Water temperature of 210° F
- Nominal water-containing capacity of 120 gal

Inspector, State - A person who is employed and authorized by the Director to perform certificate inspections.

Inspector, Owner-User - A person who holds a valid National Board Owner-User Commission and has passed the examination prescribed by the National Board or is an API-Certified Inspector under a jurisdictionally-approved Owner-User Inspection Organization.

Inspector, Special - A person employed by an insurance company licensed to sell or provide insurance for boilers or pressure vessels in Colorado who holds a valid commission as inspector issued by the National Board of Boiler and Pressure Vessel Inspectors and is authorized by the Director to inspect boilers insured by his or her employer.

Installer - A person or company responsible for setting up for use any regulated boiler or pressure vessel.

Jacketed steam kettle - A pressure vessel with inner and outer walls that is subject to steam pressure and stress, is used to boil or heat liquids or to cook food, and falls under the scope of ASME Section VIII Appendix 9 (Jacketed Vessels) or Appendix 19 (Electrically Heated or Gas Fired Jacketed Steam Kettles).

- (a) A direct-fired jacketed steam kettle is a jacketed steam kettle having its own independent source of energy, such as gas or electricity, for generating the steam within the jacket's walls.
- (b) An indirect-fired jacketed steam kettle is one where the steam within the jacket's walls is generated external to itself, such as from a boiler.

NBIC - The National Board Inspection Code, also known as ANSI/NB-23.

National Board - The National Board of Boiler and Pressure Vessel Inspectors.

New installation - Any boiler or pressure vessel that has not received its initial certificate of inspection at its current location.

NFPA - The National Fire Protection Association.

Non-boiler external piping - Piping outside of the boundary for boiler external piping.

Operations certificate - See **certification of inspection**.

Out of service - A boiler that has been removed from service in accordance with Section 1-8 of these regulations. A certificate of inspection is not required for an out-of-service boiler or pressure vessel.

Owner-User Inspection Organization - An owner or user of pressure-retaining items who maintains a regularly established inspection department, and whose organization and inspection procedures meet the requirements of the National Board rules or API-510/570 and are acceptable to the Director.

Pressure-retaining item (PRI) - Any boiler, pressure vessel, piping or material used for the containment of pressure, either internal or external. The pressure may be obtained from an external source, by the application of heat from a direct source, or any combination thereof.

Pressure Vessel - A container other than a boiler or piping used for the containment of pressure. See also Section VIII vessel.

PSI - Pounds per square inch.

PSIG - Pounds per square inch gage.

Repair - Work necessary to restore pressure-retaining items to a safe and satisfactory operating condition.

Re-rate - A change in the temperature rating, the maximum allowable working pressure rating, or both, of a boiler, pressure vessel or piping that shall be considered an alteration.

Scrapped - A boiler that has been cut into pieces or damaged to the point it cannot be returned to service.

Section VIII vessel - A pressure vessel falling under the scope of Section VIII of the ASME Boiler and Pressure Vessel Code.

Stand-by status - A boiler or pressure vessel not in use, but its fuel supply or source of pressure remains connected. A current certificate of inspection is required for a boiler or pressure vessel in stand-by status.

Water heater, Service or domestic-type - A closed vessel constructed to ASME Section IV used to supply potable hot water which is heated by the combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressures not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit. This system operates at 200,000 BTU per hour input or more and has a capacity of 120 gallons or more.

Section 1-7 Scope

These regulations apply to all boilers as listed in Section 1-7(a), as defined in Section 1-6, except those listed in Section 1-7(b).

(a) Boilers and pressure vessels as listed in the scope of ASME Sections I, IV and VIII.

(b) The following are not included in the scope of these regulations:

- (1) Boilers owned or operated by the federal government.
- (2) Locomotive boilers of carriers subject to the Federal Locomotive Inspection Act.
- (3) Boilers located in private residences.
- (4) Boilers located in apartment houses having less than six family units.
- (5) Boilers in any city where city boiler inspectors, record-keeping, and inspection codes are comparable to the State program where the program has been reviewed and recommended by the National Board and approved by the Director upon application to the Director with submission of proof of such comparability.
- (6) Service and domestic-type water heaters that:
 - (A) Have less than 200,000 BTU per hour input.
 - (B) Have nominal water-containing capacity of less than 120 gallons.
 - (C) Are operated at less than 210 degrees Fahrenheit.
- (7) A hot-water supply storage tank heated by steam or other indirect means meeting the parameters listed in (6) of this Section.

Section 1-8 Removing a Boiler from Service

- (a) Boilers removed from service must be done so in a safe manner. This may be accomplished by scrapping the boiler or by putting the boiler into out-of-service status. To safely put a boiler into out-of-service status, physically sever all sources of energy (water, gas, electricity, etc.), cap all fuel lines and disconnect or remove all electrical lines.
- (b) Prior to placing a boiler back in service, or when a boiler is moved and reinstalled, the boiler shall:
- (1) Comply with currently-adopted codes and standards in these regulations or be upgraded as determined by the Director.
 - (2) Comply with rules and regulations for new installations.
 - (3) Successfully pass an inspection conducted by a State boiler inspector.

Section 1-9 Registration Requirements

- (a) All boilers, including reinstalled and second-hand boilers, regardless of code of construction, shall be registered with the National Board (excluding cast iron boilers and non-standard boilers).
- (b) All fired and unfired pressure vessels, regardless of code of construction, shall be registered with the National Board, except for the following:

- (1) Vessels installed or re-installed before April 30, 1999.
- (2) Vessels built to Section VIII, Division 1 of the ASME Boiler and Pressure Vessel Code bearing the "UM" symbol before January 1, 2003.

Section 1-10 Notification Requirements

- (a) The owner, user or installer shall report to the Director the location of previously unreported, newly-installed or relocated boilers by completing the application form supplied by the Director and submitting it prior to operation. This application form will assure vital information is obtained, proper codes are utilized and timely inspections are scheduled. No fee will be charged for completing this application form.
- (b) The owner, user or insurer of any existing boiler or pressure vessel shall report to the Director any boiler that is taken out of service or scrapped within 30 days in the format required by the Director.

Section 1-11 Repairs

- (a) Repairs to pressure relief valves shall be made only by an organization that holds a valid Certificate of Authorization for use of the National Board Pressure Relief Valve Repair "VR" symbol stamp in accordance with the regulations set forth in the National Board Inspection Code. The initial installation testing and adjustments of a new pressure relief valve on a boiler or pressure vessel are not considered a repair if made by the manufacturer or assembler of the valve.
- (b) Welded repairs and alterations to boilers and pressure vessels shall be made only by an organization that holds a valid Certificate of Authorization for use of the National Board Repair "R" symbol stamp in accordance with the regulations set forth in the National Board Inspection Code or the API Pressure Vessel Inspection Code (API-510), as applicable.
- (c) The Director recommends that repairs to non-boiler external piping be made only by an organization with a written quality system manual enlisting the features of a quality system described within the NBIC.

Section 1-12 Forced-Circulation Water Heaters

- (a) All water tube or coil-type water heaters, requiring forced circulation shall have the following:
 - (1) An accepted safety control to prevent burner operation at a flow rate inadequate to protect the water heater unit against overheating, at all allowable firing rates. This safety control shall shut down the burner and prevent restarting until an adequate flow is restored. Positive means shall be provided to determine, during testing, that the accepted safety control has functioned upon an inadequate flow condition.
 - (2) A manually-operated remote shutdown switch or circuit breaker which shall be located just outside the water heater room door and marked for easy identification. If the potential for tampering exists, the switch shall be located just inside the door. If there is more than one door to the water heater room, there shall be a switch located at each door. The emergency shutdown switch or circuit breaker must:
 - (A) Disconnect all power to the burner controls.
 - (B) Be wired in series with all safety controls of the boiler circuit.
 - (C) Allow circulation pumps to continue running.

ARTICLE 2 INSPECTIONS

Section 2-1 Inspection Schedule

(a) All new and reinstalled boilers shall receive an initial certificate inspection by a State Inspector. Upon successful installation, completion of inspection and payment of fees, the Director shall issue a certificate of boiler and pressure vessel inspection.

(b) Pursuant to 9-4-108 CRS, all owners or responsible parties of regulated boilers shall allow access for inspection of a boiler as requested by a State or Special Inspector.

(c) Except as permitted in (c)(1) of this Section, power boilers and high-temperature water boilers shall receive a certificate inspection annually, which shall be an internal inspection where construction permits; otherwise, it shall be as complete an inspection as possible. Such boilers shall also be inspected externally on an annual frequency while under normal operating conditions.

(1) Alternative internal inspection requirements

(A) The inspection frequency for fully-attended power boilers and high-temperature boilers may be extended to 36 months if the following requirements are met and approved by the Director:

(1) Continuous boiler water treatment under the direct supervision of persons trained and experienced in water treatment for the purpose of controlling and limiting corrosion and deposits.

(2) Record-keeping available for review, showing:

(i) The date and time the boiler is out of service and the reason therefore.

(ii) Daily analysis of water samples that adequately show the conditions of the water and elements or characteristics that are capable of producing corrosion or other deterioration to the boiler or its parts.

(3) Controls, safety devices, instrumentation and other equipment necessary for safe operation are up-to-date, in service, calibrated and meet the requirements of an appropriate safety code for that size boiler, such as NFPA 85, ASME CSD-1, National Board Inspection Code ANSI/NB-23 or jurisdictional requirements and are not compromised.

(B) Inspection intervals greater than 36 months may be granted at the discretion of the Director.

(d) ASME Section IV boilers covered by these rules and regulations shall receive a certificate inspection every two years, with an internal inspection at the discretion of a State or Special Inspector, where construction permits.

(1) Steam or vapor boilers shall have an external inspection or an internal inspection every two years.

(2) Hot water heating and hot water supply boilers shall have an external inspection every two years and, where construction permits, an internal inspection at the discretion of the State or Special Inspector.

- (3) Water heaters, including hot water storage tanks, shall have an external inspection every two years which shall include an inspection of the function of all controls and devices.
- (4) Indirect-fired jacketed steam kettles shall be inspected when the boiler providing steam to the kettle is inspected, although no certificate of inspection shall be issued by the Director.
- (5) Hot water storage tanks shall be inspected when the hot water heating boiler or hot water supply boiler is inspected, although no separate certificate of inspection will issued by the Director.
- (e) Based upon documentation of such actual service conditions by the owner or user of the operating equipment, the Director may, at his/her discretion, permit variations in the inspection frequency requirements as provided in the Act.
- (f) Historical boilers, defined as steam boilers of riveted construction that are preserved, restored or maintained for hobby or demonstration use, shall be subjected to an initial certificate inspection followed by a certificate inspection every three years thereafter if stored inside a shelter and annually if stored outdoors. The initial inspection shall include ultrasonic thickness testing of all pressure boundaries provided by an authorized non-destructive examination testing entity as defined in NBIC. All thinned areas shall be monitored and recorded on the inspection report both to the owner and Director's electronic copy in the comments section.
- (g) When a boiler, water heater, or direct-fired jacketed steam kettle that is required to have an operating certificate has a noted deficiency or a requirement for repair from an inspector authorized to inspect boilers or pressure vessels in the State of Colorado, the Inspector shall re-inspect the pressure-retaining item within 90 days from the date the requirement or deficiency was first noted. The Inspector may omit this re-inspection at his/her discretion.

Section 2-2 Condemning a Boiler

- (a) Conditions which a State or Special Inspector may determine to be unsafe include: bypassed safety controls, inoperative safety valves, an excessive gas leak and any other condition that, in the Inspector's judgment, means the boiler should be condemned.
- (b) The owner or user must shut down the condemned boiler or pressure vessel as directed by the Inspector. If neither the owner nor user is available, the Inspector will cause the boiler to be shut down.
- (c) The Inspector will affix to a condemned boiler or pressure vessel a notice that it has been condemned and may not be used until satisfactory repairs are made, as determined by a re-inspection by an authorized State or Special Inspector.

Section 2-3 Inspections of Exempt Vessels

State or Special Inspectors may perform inspections of exempt boilers or pressure vessels, upon receiving a written request from the boiler owner and based upon inspector availability. The inspector will notify the boiler owner of any safety code violations. An inspection fee and a certificate fee will be charged according to the schedule established by Article 4 of these regulations.

Section 2-4 Inspection of Insured Vessels by a State Inspector

If an insurance company has not submitted to the Director an inspection report of an insured boiler or pressure vessel by 90 days after the expiration date of the certificate of inspection, the Director may send a State Inspector to perform the certificate inspection. Such an inspection by a State Inspector becomes the certificate inspection, regardless of whether the Special Inspector also performs the inspection, and will be invoiced at the State inspection rate.

Section 2-5 Submission of Inspection Reports by Special Inspectors

Special Inspectors shall file their inspection reports either by entering data into the web-based inspection entry form approved by the Director or by electronic transfer of data between the insurance company and the Director. If the electronic transfer of data option is selected, the insurance company is responsible for all costs to develop and implement this functionality.

Section 2-6 Inspections Required before Shipment to Colorado

Before a new power boiler or a used/secondhand boiler or pressure vessel may be shipped for installation in the Director's jurisdiction, an inspection must be made by an Inspector authorized by the Director or by any Inspector holding a valid National Board Commission. The purpose of this inspection is to assess the integrity of the vessel and assure it meets the original design specification. Prior to installation, an application shall be filed by the owner or user of the boiler or pressure vessel with the Director for approval.

ARTICLE 3 CERTIFICATE OF INSPECTION

Section 3-1 Requirement of Certificates

A valid certificate of inspection is required for all boilers that are included in the inspection fee schedule established by these regulations and that are in operational or stand-by status. A certificate of inspection is not required for a boiler that is out of service or scrapped as defined by these regulations.

Section 3-2 Grace Periods

- (a) A boiler may legally be operated without a current, valid certificate of inspection in the following situations:
 - (1) A new or existing boiler has received its initial inspection by a State Inspector, and:
 - (A) No violations were noted or proper notice has been made that all noted violations have been corrected.
 - (B) An enforcement document has not been issued for non-payment of invoiced inspection fees.
 - (2) An existing boiler has an expired certificate because the boiler was not inspected in a timely manner, provided the owner/owner's representative has not hindered the performance of that inspection.
- (b) The Director may extend the grace period provided there is no undue risk to public safety.
- (c) No grace period applies for any boiler when the certificate of inspection has been suspended for non-compliance with safety requirements of these regulations.

ARTICLE 4 INSPECTION AND CERTIFICATE FEES

The following inspection fee schedule applies to all inspections performed on or after July 1, 2017.

Table 4-1: Boiler Inspection and Certificate Fees					
Boiler type Inspection type BTU input	Inspection Frequency	Certificate Issued?	Inspection Fee		Certificate Fee
			State Inspector	Insurance Inspector	
All Boilers Initial internal/external inspection	Initial after installation	Yes	\$100	N/A	\$25
ASME Sec I Power Boiler Internal (water-side) inspection					
≥ 5,000,000 btu/hr input	Annual	Yes	\$100	\$15	\$25
≥ 1,000,000 but < 5,000,000 btu/hr input	Annual	Yes	\$85	\$15	\$25
< 1,000,000 btu/hr input	Annual	Yes	\$70	\$15	\$25
ASME Sec I Power Boiler External (fire-side) inspection following the internal certificate inspection					
All capacities	Annual	No	\$50	\$15	N/A
ASME Sec I Power Boiler External (fire-side) inspection where construction does not permit internal inspection					
≥ 5,000,000 btu/hr input	Annual	Yes	\$85	\$15	\$25
≥ 1,000,000 but < 5,000,000 btu/hr input	Annual	Yes	\$75	\$15	\$25
< 1,000,000 btu/hr input	Annual	Yes	\$65	\$15	\$25
ASME Sec IV Heating Boiler External (fire-side) inspection					
≥ 5,000,000 btu/hr input	Every 2 years	Yes	\$85	\$15	\$25
≥ 1,000,000 but < 5,000,000 btu/hr input	Every 2 years	Yes	\$75	\$15	\$25
< 1,000,000 btu/hr input	Every 2 years	Yes	\$65	\$15	\$25
Water heaters inspected as boilers due to BTU input, capacity (gallons), or temperature					
All capacities	Every 2 years	Yes	\$35	\$15	\$25
Direct-fired Jacketed Steam Kettles External inspection					
All capacities	Every 2 years	Yes	\$35	\$15	\$25
Exempt boilers and pressure vessels External inspection					
All capacities	Upon request	No	\$85	\$0	\$0
Historical boiler External inspection					
All capacities	Every 3 years	Yes	\$85	\$15	\$25
Historical boiler Internal inspection					
All capacities	Every 3 years	Yes	\$85	\$15	\$25

ARTICLE 5 OWNER-USER INSPECTION ORGANIZATIONS

Section 5-1 Requirement

- (a) Any person, firm, partnership, or corporation operating boilers or pressure vessels in Colorado may seek approval and registration as an owner-user inspection organization by filing an application with the Director on the prescribed forms.
- (b) The applicant shall show the name of the organization, its principal address in the jurisdiction and the name and address of the person or persons having supervision over inspections made by said organization on the application and registration. The applicant shall report changes in supervisory personnel to the director within 30 days after any such change.
- (c) Each owner-user inspection organization shall:
 - (1) Conduct inspections of its non-exempt boilers, utilizing only qualified owner-user inspectors.
 - (2) Retain on file at the location where equipment is inspected a true record or copy of the report of each inspection signed by the owner-user inspector who performed the inspection.
 - (3) Promptly notify the Director of any boiler or pressure vessel that does not meet the requirements for safe operation.
 - (4) Maintain inspection records that include a list of non-exempt boilers, showing the serial number and such abbreviated description as may be necessary for identification, the date of the last inspection of each unit, the approximate date of the next inspection and documentation of all repairs. Such inspection records shall be readily available for examination by the Director during business hours.
 - (5) Transmit a statement annually to the Director, on a date mutually agreed upon. Such statement shall be signed by the individual having supervision over the inspections made during the period covered. The statement shall include the number of boilers inspected during the year and shall certify that each inspection was conducted in accordance with the inspection requirements provided by these regulations.
- (d) A state-issued certificate of inspection is required for boilers inspected by an owner-user inspection organization when all of the requirements in this Section are met.
- (e) An individual or organization performing an inspection pursuant to this Section shall have liability insurance appropriate for the size and scope of the relevant inspection.

ARTICLE 6 ACCIDENT REPORTS AND INVESTIGATIONS

Section 6-1 Reporting Accidents

- (a) The owner or user shall notify the Director within 24 hours of the explosion of any boiler or pressure vessel, or of any accident involving a boiler, pressure vessel or boiler external piping that involves bodily injury or death to any person. The initial accident report may be by telephone (303-318-8484) or email (cdle_boiler@state.co.us).
- (b) If the initial report is not on the form required by the State Boiler Section, that form must be completed and submitted within seven days of the explosion.

Section 6-2 Prohibition against Removal of Boiler or Pressure Vessel

In the event of an explosion, personal injury or death, the boiler, pressure vessel, power piping and any associated parts shall not be removed or disturbed before permission has been given by the Director, except for the purpose of saving human life or limiting consequential damage.

Section 6-3 Investigation of Accidents

The Director shall investigate any accident or explosion reported to the Division to determine the cause, if possible, and shall maintain a record of all such reports and investigations.

ARTICLE 7 ENFORCEMENT

Section 7-1 Enforcement Program

The Director provides these regulations to assist the regulated community with maintaining safe and proper operation of regulated boilers and pressure vessels. When a regulated boiler or pressure vessel is found to be out of compliance with these regulations, the Director will pursue enforcement actions. The enforcement process will include requiring the boiler owner to make repairs and other actions to bring the boiler or pressure vessel back into compliance. During and following the enforcement process, the Director will continue to assist the boiler owner to remain in compliance. The enforcement process may include monetary penalties up to \$1,000 per boiler or pressure vessel per day of violation according to §8-20-104 CRS if the enforcement obligations are not implemented according to the required schedule.

Section 7-1-1 Notice of Violation

- (a) A Notice of Violation (NOV) may be issued when a boiler or pressure vessel is found to be out of compliance with these regulations or §8-20 and 9-4 CRS.
- (b) Pursuant to §9-4-105(3) CRS, the NOV may include condemnation of a boiler or pressure vessel that has been determined to be unsafe, and the NOV shall constitute sufficient notice to cease and desist operation of the boiler or pressure vessel such that no further notice by the Director is required. In the case of a condemned boiler or pressure vessel, a re-inspection by a State or Special Inspector must be performed to document that satisfactory repairs were completed before the boiler or pressure vessel may be operated.
- (c) Within 10 working days after an NOV has been issued, the person issued the NOV may file a written request with the Director for an informal conference regarding the NOV. If the person issued the NOV 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 prescribed time frame, the Director may then seek judicial enforcement of the NOV, or an Enforcement Order may be issued.

Section 7-1-2 Enforcement Order

- (a) An Enforcement Order may be issued when the violations included within an NOV are not resolved within the prescribed time frame. The Enforcement Order may include increased fines up to \$1,000 per boiler or pressure vessel for each day of violation pursuant to §8-20-104(4)(a) CRS. In addition, the Enforcement Order may include a cease and desist order per §9-4-108 CRS to discontinue use of the boiler or pressure vessel. The Director shall not issue a cease and desist order for a boiler operated without a valid certificate of inspection if the sole reason for failure to have the certificate of inspection is that the boiler was not inspected in a timely manner.
- (b) Within 10 working days after an Enforcement Order has been issued, the boiler owner may file a written request with the Executive Director for an informal conference regarding the Enforcement Order. If the boiler owner 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 seek judicial enforcement of the Enforcement Order.

Section 7-1-3 Informal Conference

- (a) Upon receipt of the request, the Director shall provide the boiler owner with notice of the date, time and place of the informal conference. The Director shall preside at the informal conference, during which the boiler owner and Division personnel may present information and arguments regarding the allegations and requirements of the NOV or the Enforcement Order.

- (b) Within 20 days after the informal conference, the Director shall issue a Settlement Agreement in which the violations from the NOV 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 or schedule in the Settlement Agreement are not satisfied, either an Enforcement Order will be issued or the Director may seek judicial enforcement of the previously-issued Enforcement Order.

CYNTHIA H. COFFMAN
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Office of the Attorney General

Tracking number: 2017-00124

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Oil and Public Safety

on 05/09/2017

7 CCR 1101-5

BOILER AND PRESSURE VESSEL

The above-referenced rules were submitted to this office on 05/09/2017 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.

May 24, 2017 08:48:31

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 2505-10

Rule title

10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE,
AND RULE HISTORY 1 - eff 06/30/2017

Effective date

06/30/2017

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning Community Mental Health Services Program Capitation Rate Setting

Rule Number: MSB 16-08-01-A

Division / Contact / Phone: Payment Reform / Adam Schafer / 3038665450

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 16-08-01-A, Revision to the Medical Assistance Rule Concerning Community Mental Health Services Program Capitation Rate Setting
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) 8.215.6.C.3, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
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 Yes hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.215.6.C.3 with the proposed text beginning at 8.215.6.C.3 through the end of 8.215.6.C.3. The rule is effective June 30, 2017.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning Community Mental Health Services Program Capitation Rate Setting

Rule Number: MSB 16-08-01-A

Division / Contact / Phone: Payment Reform / Adam Schafer / 3038665450

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).

This rule currently states that behavioral health organizations (BHO) must maintain a medical loss ratio (MLR) of 77%. New federal guidelines require that these organizations maintain a MLR of 85%. This proposed rule change will require BHOs to maintain a MLR of 85%.

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:

42 C.F.R. 438.(c)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
25.5-5-411, C.R.S. (2009).

Initial Review
Proposed Effective Date

04/14/17
06/30/17

Final Adoption
Emergency Adoption

05/12/17

DOCUMENT #03

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning Community Mental Health Services Program Capitation Rate Setting

Rule Number: MSB 16-08-01-A

Division / Contact / Phone: Payment Reform / Adam Schafer / 3038665450

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.

This rule change has the unlikely potential to have a very small fiscal impact on behavioral health organizations. There is a small potential that taxpayers could benefit slightly due to behavioral health organizations running more efficiently.

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

This rule has the unlikely potential to have a very small fiscal impact on behavioral health organizations. It is possible that the behavioral health organizations will be run more efficiently if these entities were performing at an MLR below 85% previously.

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 will be no costs to the Department or any other agency due to this proposed rule.

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

The benefits of this rule change will be that state rule will be in alignment with federal regulations. There are no probable costs. Probable costs of inaction is that the state rule would not be in agreement with federal regulations.

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

There are no other methods.

DO NOT PUBLISH

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.

There no other methods that would achieve this purpose.

8.215 COMMUNITY MENTAL HEALTH SERVICES PROGRAM CAPITATION RATE SETTING

8.215.6 COST CONTAINMENT MECHANISMS

- 8.215.6.A. The Department shall establish cost-effective, capitated rates for community mental health services in a manner that includes cost containment mechanisms.
- 8.215.6.B. The cost containment mechanisms shall be consistent with the principles of actuarial soundness, as determined by the independent actuary.
- 8.215.6.C. These cost containment mechanisms shall include:
1. Limiting costs and data considered in rate setting to that reasonable based upon enrollees' need for services within the scope of services in the behavioral health organizations' contracts.
 2. Establishing health status based risk adjusted case rates for a negotiated portion of the actuarially sound capitation rate. Case rates shall be calculated based upon a statewide average cost, providing BHOs an incentive for efficiency relative to peers.
 3. Requiring that behavioral health organizations maintain medical loss ratios in excess of 85% of total Medicaid capitations. Medical loss ratios of less than 85% shall result in a refund due the Department in the amount the medical loss is less than that threshold.
- 8.215.6.D. The Department may, upon consultation and feedback from the behavioral health organizations and the stakeholder community, implement other cost containment mechanisms that it finds necessary to constrain rate growth to a level that is sustainable and appropriate.

DO NOT PUBLISH

Title of Rule: Revision to the Colorado Indigent Care Program Rule Concerning Modernizing the CICP, Section 8.900

Rule Number: MSB 16-11-22-A

Division / Contact / Phone: Special Financing / Taryn Graf / 303-866-5634

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 16-11-22-A, Revision to the Colorado Indigent Care Program Rule Concerning Modernizing the CICP, Section 8.900
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) 8.900, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
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 Yes hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.900 with the proposed text beginning at 8.900 through the end of Appendix A. This rule is effective June 30, 2017.

DO NOT PUBLISH

Title of Rule: Revision to the Colorado Indigent Care Program Rule Concerning Modernizing the CICIP, Section 8.900

Rule Number: MSB 16-11-22-A

Division / Contact / Phone: Special Financing / Taryn Graf / 303-866-5634

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 changes to this rule are intended to modernize the CICIP to remain an effective safety net for qualified low-income Coloradans to receive discounted health care services while decreasing the administrative burden for Colorado Indigent Care Program providers and simplifying the financial determination process for applicants and providers. The proposed rule also creates a formal advisory council for the CICIP and promotes payment reform for CICIP clinics.

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:

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2016);
25.5-3-101 through 25.5-3-111, C.R.S. (2016)

Initial Review
Proposed Effective Date

04/14/17
06/30/17

Final Adoption
Emergency Adoption

05/12/17

DOCUMENT #04

DO NOT PUBLISH

Title of Rule: Revision to the Colorado Indigent Care Program Rule Concerning Modernizing the CICIP, Section 8.900

Rule Number: MSB 16-11-22-A

Division / Contact / Phone: Special Financing / Taryn Graf / 303-866-5634

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.

Existing program policies currently are strictly prescriptive about how providers are to determine income for applicants and what sliding fee scale they must adhere to. This rule update allows more flexibility for hospital providers to decide what liquid assets they want to include and which deductions from applicant income they want to allow when determining client financial eligibility for the CICIP. The proposed rule also permits clinics to align their income determination processes and sliding fee scale for CICIP with their income determination processes and sliding fee scale for their federal grants. This rule effects CICIP hospitals, clinics, clients, and applicants. The program covers Coloradoans up to 250% of the Federal Poverty Level who are not eligible for Medicaid or CHP+.

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

This rule change will make the income determination process easier for both applicants and providers. Applicants will have less documentation to provide about their financial status, and providers will be able to align their income determination processes with their own internal charity care programs if they so choose. Since the definition of income is changing, it is possible that the number of people eligible for the program may also change. It is not possible to estimate if the number of people eligible will be higher or lower due to these changes. The general guiding principle adhered to when developing these proposed changes was to hold clients harmless.

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.

The Department of Health Care Policy and Financing sees no fiscal impact of this rule change for the Department. The funds for the Colorado Indigent Care Program are appropriated, and this rule update will have no effect on the appropriation. The clinic appropriation is \$6,119,760. Funding for hospitals will continue in accordance with rule 8.2000.

DO NOT PUBLISH

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

Updating this rule to decrease the administrative burden may incentivize providers to continue to remain providers of the program, even with the decreased client population. The update also makes changes to the payment methodology for the clinics by adding quality metrics to the formula. The addition of these quality metrics incentivizes clinic providers towards improved health outcomes for clients in order to increase their payments. The update also creates a formal stakeholder forum which ensures there will always be stakeholder input, and creates a group that is representative of the providers as a whole and includes consumer advocate input. The stakeholder forum will ensure the program is well run and meets the needs of low-income, uninsured clients. The update also simplifies the client copayment table, helping to ensure that clients are charged the intended amount for the services they receive. Providers will also be able to use a modified sliding fee scale, provided that the scale meets Department standards outlined in the proposed rule. The Department will also take the opportunity with this update to simplify the administrative policy (not specifically prescribed in detail in the new proposed rule) around data reporting requirements for providers by both collapsing breakouts of information fields, and reducing the number of times throughout the year that providers need to submit data. Language in the existing rule that was identified as confusing or unclear in a regulatory review conducted in the summer of 2015 has been either deleted or clarified.

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

Since the Department of Health Care Policy and Financing does not foresee any fiscal impact of this rule change, there are not any less costly methods that were considered.

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.

The Department and the workgroup considered other possible changes to the program that would require legislative changes or budget actions, including changing the program's name and the addition of a Department controlled audit of providers. The Department is not pursuing legislative changes at this time given potential political changes for lower-income Americans receiving health insurance through the health exchange. Providers will continue to conduct self-audits under the proposed new rule. The Department may pursue a state-administered audit through the Budget process. The feedback the Department has received through our various forums has been positive and favorable to the proposed changes.

8.900 COLORADO INDIGENT CARE PROGRAM (CICP)

PROGRAM OVERVIEW AND LEGAL BASIS

The Colorado Indigent Care Program (CICP) is a program that distributes federal and State funds to partially compensate Qualified Health Care Providers for uncompensated costs associated with services rendered to the indigent population. Qualified Health Care Providers who receive this funding render discounted health care services to Colorado residents, migrant workers and legal immigrants with limited financial resources who are uninsured or underinsured and not eligible for benefits under the Medicaid Program or the Children's Basic Health Plan.

The Colorado Department of Health Care Policy and Financing (Department) administers the CICP by distributing funding to Qualified Health Care Providers who serve eligible persons who are indigent. The CICP issues procedures to ensure the funding is used to serve the indigent population in a uniform method. Any significant departure from these procedures will result in termination of the approval of, and the funding to, a health care provider. The CICP is authorized by state law at part 1 of article 3 of title 25.5, C.R.S. (2016).

The CICP does not offer a specified discounted medical benefit package or an entitlement to medical benefits or funding to individuals or medical providers. The CICP does not offer a health coverage plan as defined in Section 10-16-102 (34), C.R.S. Medically indigent persons receiving discounted health care services from Qualified Health Care Providers are subject to the limitations and requirements imposed by part 1 of article 3 of title 25.5, C.R.S.

8.901 DEFINITIONS

- A. Applicant means an individual who has applied at a Qualified Health Care Provider to receive discounted health care services.
- B. Children's Basic Health Plan or the Child Health Plan Plus (CHP+) means the Children's Basic Health Plan as defined in article 8 of title 25.5, C.R.S. (2016).
- C. Client means an individual whose application to receive discounted health care services has been approved by a Qualified Health Care Provider.
- D. Clinic Provider means any Qualified Health Care Provider that is a community health clinic licensed or certified by the Department of Public Health and Environment pursuant to C.R.S. §25-1.5-103, a federally qualified health center as defined in 42 U.S.C. 1395x (aa)(4), or a rural health clinic, as defined in 42 U.S.C. 1395x (aa)(2).
- E. Colorado Indigent Care Program or CICP or Program means the Colorado Indigent Care Program as authorized by state law at part 1 of article 3 of title 25.5, C.R.S. (2016).
- F. Denver Metropolitan Area means the Denver-Aurora-Lakewood, CO metropolitan area as defined by the Bureau of Labor Statistics.
- G. Department means the Department of Health Care Policy and Financing established pursuant to title 25.5, C.R.S. (2016).
- H. Emergency Care means treatment for conditions of an acute, severe nature which are life, limb, or disability threats requiring immediate attention, where any delay in treatment would, in the judgment of the responsible physician, threaten life or loss of function of a patient or viable fetus.

- I. General Provider means a general hospital, birth center, or community health clinic licensed or certified by the Department of Public Health and Environment pursuant to Section 25-1.5-103(1)(a)(I) or (1)(a)(II), C.R.S., a federally qualified health center, as defined in 42 U.S.C. 1395x (aa)(4), a rural health clinic, as defined in 42 U.S.C. 1395x (aa)(2), a health maintenance organization issued a certificate authority pursuant to Section 10-16-402, C.R.S., and the University of Colorado Health Sciences Center when acting pursuant to Section 25.5-3-108 (5)(a)(I) or (5)(a)(II)(A), C.R.S. For the purposes of the Program, General Provider includes associated physicians.

42 U.S.C. 1395x is incorporated by reference. Such incorporation, however, excludes later amendments to or editions of the referenced material. Pursuant to Section 24-4-103(12.5), C.R.S., the Department of Health Care Policy and Financing maintains either electronic or written copies of the incorporated texts for public inspection. Copies may be obtained at a reasonable cost or examined during regular business hours at 1570 Grant Street, Denver, Colorado 80203. Additionally, any incorporated material in these rules may be examined at any State publications depository library.

- J. Hospital Provider means any Qualified Health Care Provider that is a general hospital licensed or certified by the Department of Public Health and Environment pursuant to Section 25-1.5-103, C.R.S. and which operates inpatient facilities.
- K. Liquid Resources means resources that can be readily converted to cash, including but not limited to checking and savings accounts, health savings accounts, prepaid bank cards, certificates of deposit less the penalty for early withdrawal.
- L. Medicaid means the Colorado medical assistance program as defined in article 4 of title 25.5, C.R.S.
- M. Qualified Health Care Provider means any General Provider who is approved by the Department to provide, and receive funding for, discounted health care services under the Colorado Indigent Care Program.
- N. Spend Down means when an Applicant uses his or her available Liquid Resources to pay off part or all of a medical bill to lower his or her financial determination to a level that will allow him or her to qualify for the Program.
- O. Urgent Care means treatment needed because of an injury or serious illness that requires immediate treatment.

8.902 PROVISIONS APPLICABLE TO QUALIFIED HEALTH CARE PROVIDERS

- A. Requirements for Qualified Health Care Providers
1. Agreements will be made annually between the Department and Qualified Health Care Providers through an application process.
 2. Agreements may be executed with Hospital Providers throughout Colorado that meet the following requirements:
 - a. Licensed or certified as a general hospital or birth center by the Department of Public Health and Environment.
 - b. Hospital Providers shall assure that Emergency Care is available to all Clients throughout the Program year.

- c. Hospital Providers shall have at least two obstetricians with staff privileges at the Hospital Provider who agree to provide obstetric services to individuals under Medicaid. In the case where a Hospital Provider is located in a rural area (that is, an area outside of a metropolitan statistical area, as defined by the Executive Office of Management and Budget), the term “obstetrician” includes any physician with staff privileges at the Hospital Provider to perform non-emergency obstetric procedures.

This requirement does not apply to a Hospital Provider in which the inpatients are predominantly under 18 years of age or which does not offer non-emergency obstetric services as of December 21, 1987.

- d. Using the information submitted by an Applicant, the Qualified Health Care Provider shall determine whether the Applicant meets all requirements to receive discounted health care services under the Program. If the Applicant is eligible to receive discounted health care services under the Program, the Qualified Health Care Provider shall determine an appropriate copayment for the Client. Hospital Providers shall determine if the Applicant is eligible to receive discounted services under the Program at the time of application, unless required documentation is not available, in which case a determination should be made within 15 working days of the date the Applicant provides a signed application and such other information, written or otherwise, as is necessary to process the application. Hospital Providers shall determine Client financial eligibility using the following information:

- I. Income from each Applicant age eighteen (18) and older;
- II. Household size, where all non-spouse or civil union partner, non-student adults ages eighteen (18) to sixty-four (64) included on the application must have financial support demonstrated or attested to; and
- III. Liquid Resources. Including Liquid Resources in the financial eligibility determination is optional for Hospital Providers. If a Hospital Provider chooses to include Liquid Resources in the financial eligibility determination, at least \$2,500 must be protected for each family member counted in household size, and the Hospital Provider must include a Spend Down opportunity.

- e. Hospital Providers shall submit a Sliding Fee Scale for Department approval with their annual application that shows copayments for different service categories divided into at least three income tiers covering 0 to 250% of the federal poverty level. Copayments shall be expressed in dollar amounts and shall not exceed the copayments in the Standard Client Copayment Table found in Appendix A.
- f. Hospital Providers shall submit Program utilization and charge data in a format and timeline determined by the Department.

- 3. Agreements may be executed with Clinic Providers throughout Colorado that meet the following minimum criteria:

- a. Licensed or certified as a community health clinic by the Department of Public Health and Environment, or certified by the U.S. Department of Health and Human Services as a federally qualified health center or rural health clinic.

- b. Using the information submitted by an Applicant, the provider shall determine whether the Applicant meets all requirements to receive discounted health care services under the Program. If the Applicant is eligible to receive discounted health care services under the Program, the Qualified Health Care Provider shall determine an appropriate copayment for the Client. Clinic Providers should determine if the Applicant is eligible to receive discounted services under the Program at the time of application, unless required documentation is not available, in which case a determination should be made within 15 days of the date the Applicant provides a signed application and such other information, written or otherwise, as is necessary to process the application. Clinic Providers who are federally qualified health centers shall determine Client financial eligibility as required under federal regulations and guidelines. Clinic Providers who are not federally qualified health centers shall determine Client financial eligibility using the following information:
 - I. Income from each Applicant age eighteen (18) and older, and
 - II. Household size.
- c. Clinic Providers shall submit a Sliding Fee Scale for Department approval with their annual application that shows copayments for different service categories. Copayments for Clients between 0 and 100% of the federal poverty level shall be nominal or \$0. Sliding Fee Scales shall have at least three tiers between 101 and 250% of the federal poverty level.
 - I. Sliding fee scales used by federally qualified health centers approved by the federal government meet all requirements of the Program.
 - II. Copayments for Clients between 101 and 250% of the federal poverty level may not be less than the copayments for Clients between 0 and 100% of the federal poverty level.
 - III. The same sliding fee scale shall be used for all Clients eligible for the Program.
 - IV. Sliding fee scales shall be reviewed by the Qualified Health Care Provider on a regular basis to ensure there are no barriers to care.
- d. Clinic Providers shall submit Program data and quality metrics with their annual application. Specific quality metrics are listed in Section 8.905.B. The data and quality metrics shall be submitted in a format determined by the Department and provided as part of the annual application.

4. Determination of Lawful Presence

- a. Qualified Health Care Providers shall develop procedures for handling original lawful presence documents to ensure that the documents are not lost, damaged or destroyed. Qualified Health Care Providers shall develop and follow procedures for returning or mailing original documents to Applicants within five business days of receipt.
- b. Qualified Health Care Providers shall accept copies of an Applicant's lawful presence documentation that have been verified by other CICP providers, Medical Assistance sites, county departments of social services, or any other entity designated by the Department of Health Care Policy and Financing through an agency letter, provided that the verification identifies that the copy is from an

original and that the individual who reviewed the document(s) signifies such by including their name, organization, address, telephone number and signature on the copy.

- c. Qualified Health Care Providers shall retain photocopies of the Applicant's affidavit and lawful presence documentation.
- d. Qualified Health Care Providers shall not discriminate against Applicants on the basis of race, national origin, gender, religion, age or disability. If an Applicant has a disability that limits the Applicant's ability to provide the required evidence of citizenship or lawful presence, the provider shall assist the individual to obtain the required evidence.
 - I. Examples of reasonable assistance that may be expected include, but are not limited to, providing contact information for the appropriate agencies that issue required documents; explaining the documentation requirements and how the Applicant may provide the required documentation; or referring the Applicant to other agencies or organizations which may be able to provide assistance.
 - II. Examples of additional assistance that shall be provided to Applicants who are unable to comply with the documentation requirements due to physical or mental impairments or homelessness and who do not have a guardian or representative who can provide assistance include, but are not limited to, contacting any known family members who may have the required documentation; contacting any known health care providers who may have the required documentation; or contacting other social services agencies or organizations that are known to have provided assistance to the Applicant.
 - III. The Qualified Health Care Provider shall not be required to pay for the cost of obtaining required documentation.
 - IV. The Qualified Health Care Provider shall document its efforts of providing additional assistance to the Applicant and retain such documentation.
- 5. Qualified Health Care Providers shall provide the Applicant and/or representative a written notice of the provider's determination as to the Applicant's eligibility to receive discounted services under the Program. If eligibility to receive discounted health care services is granted by the Qualified Health Care Provider, the notice shall include the date when eligibility began. If eligibility to receive discounted health care services is denied, the notice shall include a brief, understandable explanation of the reason(s) for the denial. Every notice of the Qualified Health Care Provider's decision, whether an approval or a denial, shall include an explanation of the Applicant's appeal rights found at Section 8.902.B in these regulations.
- 6. Qualified Health Care Providers shall screen all Applicants for eligibility for Medicaid and the Children's Basic Health Plan and refer Applicants to those programs if they appear eligible. The Qualified Health Care Provider shall refer Applicants to Colorado's health insurance marketplace for information about private health insurance.

B. Client Appeals

- 1. If an Applicant or Client feels that a financial determination or denial is in error, he or she shall only challenge the financial determination or denial by filing an appeal with the

Qualified Health Care Provider who determined eligibility to receive discounted health care services under the CACP pursuant to this Section 8.902. There is no appeal process available through the Office of Administrative Courts.

2. Instructions for Filing an Appeal

The Qualified Health Care Provider shall inform the Applicant or Client that he or she has the right to appeal the financial determination or denial if he or she is not satisfied with the Qualified Health Care Provider's decision.

If the Applicant or Client wishes to appeal the financial determination or denial of the application, the Applicant or Client shall submit a written request for appeal to the Qualified Health Care Provider, which includes any documentation supporting the reasons for the request.

3. Appeals

An Applicant or Client may file an appeal if he or she wishes to challenge the accuracy of his or her initial financial determination.

A Client or Applicant shall have 15 calendar days to request an appeal from the date of the Qualified Health Care Provider's decision.

If the Qualified Health Care Provider receives the Applicant's or Client's appeal after the 15 working day deadline, the Qualified Health Care Provider shall notify the Applicant or Client in writing that the appeal was denied because it was not submitted timely. At the discretion of the Qualified Health Care Provider and for good cause shown, including a death in the Applicant's or Client's immediate family member, the Qualified Health Care Provider may review an appeal received after 15 working days.

An Applicant or Client can request an appeal for the following reasons:

- a. The initial financial determination or denial was based on inaccurate information because the family member or representative was uninformed;
- b. The Applicant or Client believes that the calculation is inaccurate for some other reason; or
- c. Miscommunication between the Applicant or Client and the financial determination technician cause incomplete or inaccurate data to be recorded on the application.

Each Qualified Health Care Provider shall designate a manager to review appeals. An appeal involves receiving a written request from the Applicant or Client, and reviewing the application completed by the financial determination technician, including all back-up documentation, to determine if the application to receive discounted health care services under the CACP is accurate.

If the manager finds that the initial financial determination or denial is not accurate, the designated manager shall correct the financial determination to receive discounted health care services under the CACP and assign the correct financial determination to the Applicant or Client. The correct financial determination is effective retroactive to the initial date of application, and charges incurred 90 days prior to the initial date of application must be discounted. The Qualified Health Care Provider shall notify the Applicant or

Client in writing of the results of an appeal within 15 working days following receipt of the appeal request from the Applicant or Client.

4. Provider Management Exception

Each Qualified Health Care Provider shall designate a manager to review provider management exceptions. At the discretion of the Qualified Health Care Provider and for good cause shown, the designated manager may grant the Applicant or Client a provider management exception to the Client's financial determination. This process can be used during the initial financial determination, simultaneously with an appeal, or within 15 working days of the Qualified Health Care Provider's decision regarding an appeal.

A Client may request and a Qualified Health Care Provider may grant a provider management exception if the Client can demonstrate that there are circumstances that should be taken into consideration when establishing his or her initial financial determination. Provider Management Exceptions shall always result in a lower Client financial determination.

A Client may request a provider management exception simultaneously with an appeal, or within 15 working days of the Qualified Health Care Provider's decision regarding an appeal.

The facility shall notify the Client in writing of the Qualified Health Care Provider's findings within 15 working days of receipt of the written request.

The Qualified Health Care Provider must note provider management exceptions on the application. Qualified Health Care Providers shall treat Clients equitably in the provider management exception process.

A financial determination from a provider management exception is effective as of the initial date of application. Charges incurred 90 days prior to the initial date of application must be discounted. Qualified Health Care Providers are not required to honor provider management exceptions granted by other Qualified Health Care Providers.

C. Financial Eligibility

General Rule: An Applicant shall be financially eligible for discounted health care services under the CICIP if his or her household income is no more than 250% of the most recently published federal poverty level (FPL) for a household of that size.

1. Qualified Health Care Providers determine eligibility for the CICIP and shall maintain auditable files of applications for discounted health care services under the CICIP.
2. The determination of financial eligibility process looks at the financial circumstances of a household as of the date that a signed application is completed.
3. All Qualified Health Care Providers must accept each other's CICIP financial determinations unless the Qualified Health Care Provider believes that the financial determination was determined incorrectly, the Qualified Health Care Provider's financial determination process is materially different from the process used by the issuing Qualified Health Care Provider, or that the financial determination was a result of a provider management exception.
4. CICIP eligibility is retroactive for services received from a Qualified Health Care Provider up to 90 days prior to application.

5. Documentation concerning the Applicant's financial status shall be maintained by the provider.
6. Beyond the distribution of available funds made by the CICIP, allowable Client copayments, and other third-party sources, a provider shall not seek payment from a Client for the provider's CICIP discounted health care services to the Client.
7. Emergency Application for Providers
 - a. In emergency circumstances, an Applicant may be unable to provide all of the information or documentation required by the usual application process. For emergency situations, the Qualified Health Care Provider shall follow these steps in processing the application:
 - I. Use the regular application to receive discounted health care services under the CICIP, but indicate emergency application on the application.
 - II. Ask the Applicant to give spoken answers to all questions and to sign the application to receive discounted health care services under the CICIP.
 - III. Determine a federal poverty level based on the spoken information provided.
 - b. An emergency application is good for only one episode of service in an emergency room and any subsequent service related to the emergency room episode. If the Client receives any care other than the emergency room visit, the Hospital Provider must request the Client to submit documentation to support all figures on the emergency application or complete a new application. If the documentation submitted by the Client does not support the earlier, spoken information, the Hospital Provider must obtain a new application from the Client. If the Client does not submit any supporting documentation or complete a new application upon the request of the provider, the provider shall use the information contained in the emergency application.
 - c. In emergency circumstances, an Applicant is not required to provide identification or execute an affidavit as specified at 10 C.C.R. 2505-10, Section 8.904.D.

D. Audit Requirements

The Qualified Health Care Provider shall provide the Department with an annual audit compliance statement in a format as specified by the Department. The purpose of the audit requirement is to furnish the Department with a separate audit report, which attests to the Qualified Health Care Provider's compliance with the use of CICIP funding and other requirements for participation.

E. HIPAA

The CICIP does not meet the definition of a covered entity or business associate under the Health Insurance Portability and Accountability Act of 1996 at 45 CFR 160.103. The CICIP is not a part of the Colorado Medical Assistance Program, nor of Health First Colorado, Colorado's Medicaid program. CICIP's principal activity is the making of grants to providers who serve eligible persons who are medically indigent. The state personnel administering the CICIP will provide oversight in the form of procedures and conditions to ensure funds provided are being used to serve the target population, but they will not be significantly involved in any health care decisions or disputes involving a Qualified Health Care Provider or Client.

8.903 DISCOUNTED HEALTH CARE SERVICES

- A. Funding provided under the CICIP shall be used to provide Clients with discounted health care services determined to be medically necessary by the Qualified Health Care Provider.
- B. All health care services normally provided at the Qualified Health Care Provider should be available at a discount to Clients. If health care services normally provided at the Qualified Health Care Provider are not available to Clients at a discount, Clients must be informed that the services can be offered without a discount prior to the rendering of such services.
- C. Qualified Health Care Providers receiving funding under the CICIP shall prioritize the use of funding such that discounted health care services are available in the following order:
 - 1. Emergency Care;
 - 2. Urgent Care; and
 - 3. Any other medical care.
- D. Additional discounted health care services may include:
 - 1. Emergency mental health services if the Qualified Health Care Provider renders these services to a Client at the same time that the Client receives other medically necessary services.
 - 2. Qualified Health Care Providers may provide discounted pharmaceutical services. The Qualified Health Care Provider should only provide discounted prescriptions that are written by doctors on its staff, or by a doctor that is under contract with the Qualified Health Care Provider. Qualified Health Care Providers shall exclude prescription drugs included in the definition of Medicare Part-D from eligible Clients who are also eligible for Medicare.
 - 3. Qualified Health Care Providers may provide packages of services to patients with modified copayment requirements.
 - a. Packages of services benefit Clients who need to utilize services more often than average Clients. Things that would be beneficial to the client include but are not limited to charging a lower copay, charging the copay on an alternative schedule (i.e. once a week, or ever other time), or setting a cap on the amount or number of copayments made towards the packaged services. Examples of packages may include but are not limited to oncology treatments, physical therapy, and dialysis.
 - b. Qualified Health Care Providers may provide a prenatal benefit with a predetermined copayment designed to encourage access to prenatal care for indigent women. This prenatal benefit shall not cover the delivery or the hospital stay, or visits that are not related to the pregnancy. The Qualified Health Care Provider is responsible for providing a description of the services included in the prenatal benefit to the Client prior to services rendered. Services and copayments may vary among sites.
- E. Excluded Discounted Health Care Services

Funding provided under the CICIP shall not be used for providing discounted health care services for the following:

1. Non-urgent dental services.
2. Nursing home care.
3. Chiropractic services.
4. Sex change surgical procedures.
5. Cosmetic surgery.
6. Experimental and non-United States Federal Drug Administration approved treatments.
7. Elective surgeries that are not medically necessary.
8. Court ordered procedures, such as drug testing.
9. Abortions - Except as specified in Section 25.5-3-106, C.R.S.
10. Mental health services in clinic settings pursuant to Section 25.5-3-110, C.R.S., part 2 of article 66 of title 27, C.R.S., any provisions of article 22 of title 23, C.R.S., or any other provisions of law relating to the University of Colorado Psychiatric Hospital.

8.904 PROVISIONS APPLICABLE TO CLIENTS

A. Overview of Requirements

In order to qualify to receive discounted health care services under available CICIP funds, an Applicant shall satisfy the following requirements:

1. Execute an affidavit regarding citizenship status;
2. Be lawfully present in the United States;
3. Be a resident of Colorado;
4. Meet all CICIP eligibility requirements as defined by state law and procedures; and
5. Furnish a social security number (SSN) or evidence that an application for a SSN has been submitted, where required by 10 C.C.R. 2505-10, Section 8.904.G (2016).

B. Applicants

1. Any adult age 18 and older may apply to receive discounted health care services on behalf of themselves and members of the Applicant's family household.
2. If an Applicant is deceased, the executor of the estate or a family member may complete the application on behalf of the Applicant. The family member completing the application will not be responsible for any copayments incurred on behalf of the deceased member.
3. The application to receive discounted health care services under available CICIP funding shall include the names of all members of the Applicant's family household. All non-spouse or civil union partner, non-student adults ages 18-64 must have financial support demonstrated or attested to in order to be included in household size. All minors and those 65 or older do not need documentation of financial support to be counted in

household size. Income from spouses or civil union partners and all non-student adults must be included in the application.

4. A minor shall not be rated separately from his or her parents or guardians unless he or she is emancipated or there exists a special circumstance. A minor is an individual under the age of 18.

C. Signing the Application

The Applicant or an authorized representative of the Applicant must sign the application to receive discounted health care services submitted to the Qualified Health Care Provider within 90 calendar days of the date of health care services. If an Applicant is unable to sign the application or has died, a spouse, civil union partner, relative, or guardian may sign the application. Until it is signed, the application is not complete, the Applicant cannot receive discounted health care services under the CACP and the Applicant has no appeal rights. All information needed by the provider to process the application must be submitted before the application is signed.

D. Affidavit

1. Each first-time Applicant, or Applicant seeking to reapply, eighteen (18) years of age or older shall execute an affidavit stating:
 - a. That he or she is a United States citizen, or
 - b. That he or she is a legal permanent resident, or is otherwise lawfully present in the United States pursuant to federal law.
2. For an Applicant who has executed an affidavit stating that he or she is lawfully present in the United States but is not a United States citizen, the provider shall, within 30 days of the application date, verify lawful presence through the Federal Systematic Alien Verification of Entitlement Program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security. Until verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence.

E. Establishing Lawful Presence

1. Each first-time Applicant, or Applicant seeking to reapply, eighteen (18) years of age or older shall be considered lawfully present in the country if they produce a document or waiver in accordance with 1 CCR 204-30 Rule 5 (effective August 30, 2016), which is hereby incorporated by reference. This incorporation of 1 CCR 204-30 Rule 5 excludes later amendments to, or editions of, the referenced material. Pursuant to Section 24-4-103 (12.5), C.R.S., the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at: Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203. Certified copies of incorporated materials are provided at cost upon request.
2. Submission of Documentation

Lawful presence documentation may be accepted from the Applicant, the Applicant's spouse, civil union partner, parent, guardian, or authorized representative in person, by mail, or facsimile.
3. Expired or absent documentation for non-U.S. citizens

- a. If an Applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the Applicant to the local Department of Homeland Security office to obtain documentation of status.
- b. In unusual circumstances involving Applicants who are hospitalized or medically disabled or who can otherwise show good cause for their inability to present documentation and for whom securing such documentation would constitute undue hardship, if the Applicant can provide an alien registration number, the provider may file U.S.C.I.S. Form G-845 and Supplement, along with the alien registration and a copy of any expired Department of Homeland Security document, with the local Department of Homeland Security office to verify status.
- c. If an Applicant presents a receipt indicating that he or she has applied to the Department of Homeland Security for a replacement document, file U.S.C.I.S. Form G-845 and Supplement with a copy of the receipt with the local Department of Homeland Security office to verify status.

F. Residence in Colorado

An Applicant must be a resident of Colorado. A Colorado resident is a person who currently lives in Colorado and intends to remain in the state.

Migrant workers and all dependent family members must meet all of the following criteria to comply with residency requirements:

1. Maintains a temporary home in Colorado for employment reasons;
2. Meet the lawful presence criteria, as defined in paragraph E of this Section; and
3. Employed in Colorado.

- G. Social security number(s) shall be required for all Clients receiving discounted health care services under the Program. If an Applicant does not have a social security number, documentation that the Applicant has applied for a social security number must be provided to complete the application to receive discounted health care services under the Program. This section shall not apply to unborn children or homeless individuals who are unable to provide a social security number.

H. Applicants Not Eligible

1. The following individuals are not eligible to receive discounted services under the CICIP:
 - a. Individuals for whom lawful presence cannot be verified.
 - b. Individuals who are being held or confined involuntarily under governmental control in State or federal prisons, jails, detention facilities or other penal facilities. This includes those individuals residing in detention centers awaiting trial, at a wilderness camp, residing in half-way houses who do not have freedom of movement and association, and those persons in the custody of a law enforcement agency temporarily released for the sole purpose of receiving health care.
 - c. College students whose residence is from outside Colorado or the United States that are in Colorado for the purpose of higher education. These students are not Colorado residents and cannot receive services under the CICIP.

- d. Visitors from other states or countries temporarily visiting Colorado and have primary residences outside of Colorado.
- e. Persons who qualify for Medicaid. However, Applicants whose only Medicaid benefits are the following shall not be excluded from consideration for CICIP eligibility:
 - I. QMB benefits described at Section 10 C.C.R. 2505-10, Section 8.100.6.L (2016) of these regulations;
 - II. SLMB benefits described at Section 10 C.C.R. 2505-10, Section 8.1006.M (2016), or
 - III. The QI1 benefits described at Section 10 C.C.R. 2505-10, Section 8.100.6.N (2016).
- f. Individuals who are eligible for the Children's Basic Health Plan.

I. Health Insurance Information

The Applicant shall submit all necessary information related to health insurance, including a copy of the insurance policy or insurance card, the address where the medical claim forms must be submitted, policy number, and any other information determined necessary.

J. Subsequent Insurance Payments

If a Client receives discounted health care services under the CICIP, and their insurance subsequently pays for services, or if the Client is awarded a settlement, the insurance company or patient shall reimburse the Qualified Health Care Provider for discounted health care services rendered to the Client.

8.905 DEPARTMENT RESPONSIBILITIES

A. Provider Application

1. The Department shall produce and publish a provider application annually.
 - a. The application will be updated annually to incorporate any necessary changes and update any Program information.
 - b. The application will include data and quality metric submission templates.
2. The Department shall determine Qualified Health Care Providers annually through the application process.
3. An agreement will be executed between the Department and Denver Health for the purpose of providing discounted health care services to the residents of the City and County of Denver, as required by Section 25.5-3-108 (5)(a)(I), C.R.S.
4. An agreement will be executed between the Department and University Hospital for the purpose of providing discounted health care services in the Denver Metropolitan Area and complex care that is not contracted for in the remaining areas of the state, as required by Section 25.5-3-108 (5)(a)(II), C.R.S.
5. The Department shall produce and publish a provider directory annually.

B. Payments to Providers

1. Funding for hospitals shall be distributed in accordance with 10 CCR 2505-10 Section 8.2000 and 8.905 B.5.
2. Clinics
 - a. Funding for Clinic Providers is appropriated through the Colorado General Assembly under the Children's Hospital, Clinic Based Indigent Care line item. Effective July 1, 2018, funding for clinics shall be separated into two different groups, as follows:
 - I. Seventy-five (75) percent of the funding will be distributed based on Clinic Providers' write off costs relative to the total write off costs for all Clinic Providers.
 - II. Twenty-five (25) percent of the funding will be distributed based on a points system granted to Clinic Providers based on their quality metric scores multiplied by the Clinic Provider's total visits from their submitted Program data.
 - b. The quality metric scores will be calculated based on the following four metrics. The metrics are defined by the Health Resources & Services Administration (HRSA):
 - I. Preventative Care and Screening: Body Mass Index (BMI) Screening and Follow Up
 - II. Preventative Care and Screening: Screening for Clinical Depression and Follow-up Plan
 - III. Diabetes: Hemoglobin A1c Poor Control
 - IV. Controlling High Blood Pressure
 - c. Write off costs will be calculated as follows:
 - I. Distribution of available funds for indigent care costs will be calculated based upon historical data. Third-party liabilities and the patient liabilities will be deducted from total charges to generate medically indigent charges.
 - II. Clinic Providers shall deduct amounts due from third-party payment sources from total charges declared on the summary statistics submitted to the Department.
 - III. Clinic Providers shall deduct the full patient liability amount from total charges, which is the amount due from the Client as identified in the CICP Standard Client Copayment Table, as defined under Appendix A in these rules, or an alternative sliding fee scale that is submitted by the provider with the annual application for the CICP and approved by the Department. The summary information submitted to the Department by the provider shall include the full CICP patient liability amount even if the Clinic Provider receives the full payment at a later date or through several smaller installments or no payment from the Client.

- IV. Medically indigent charges will be converted to medically indigent costs using the most recently available cost-to-charge ratio from the Clinic Provider's cost report or other financial documentation accepted by the Department.
 - d. The Department shall notify Clinic Providers of their expected payment no later than July 31 of each year. The notification shall include the total expected payment and a description of the methodology used to calculate the payment.
 - e. For the 2017-18 Program year, Clinic Provider payments will be based solely on calendar year 2016 write-off costs relative to the total write off costs for all Clinic Providers. Write off charges shall be calculated as described in part c of this section.
 - 3. Pediatric Major Teaching Hospital Payment. Hospital Providers shall qualify for additional payment when they meet the criteria for being a major teaching hospital provider and when their Medicaid-eligible inpatient days combined with indigent care days (days of care provided under the Colorado Indigent Care Program) equal or exceed 30 percent of their total inpatient days for the most recent year for which data are available. A major teaching hospital provider is defined as a Colorado hospital, which meets the following criteria:
 - a. Maintains a minimum of 110 total Intern and Resident (I/R) F.T.E.'s;
 - b. Maintains a minimum ratio of .30 Intern and Resident (I/R) F.T.E.'s per licensed bed;
 - c. Qualifies as a Pediatric Specialty Hospital under the Medicaid Program, such that the hospital provides care exclusively to pediatric populations.
 - d. Has a percentage of Medicaid-eligible inpatient days relative to total inpatient days that equal or exceeds one standard deviation above the mean; and
 - e. Participates in the Colorado Indigent Care Program

The Major Teaching Hospital Rate is set by the Department such that the payment will not exceed the appropriation set by the General Assembly.

C. Provider Appeals

- 1. Any provider who submits an application to become a Qualified Health Care Provider whose application is denied may appeal the denial to the Department.
- 2. The provider's first level appeal must be filed within five (5) business days of the receipt of the denial letter. The Department's Special Financing Division Director will respond to any first level appeals within ten (10) business days of receipt of the appeal.
- 3. If a provider disagrees with the Department's Special Financing Division Director's first level appeal determination, they may file a second level appeal within five (5) business days of the receipt of the first level appeal determination. The Department's Executive Director will respond to the second level appeal within ten (10) business days of the receipt of the second level appeal.

D. Advisory Council

The Department shall create a CICIP Stakeholder Advisory Council, effective July 1, 2017. The Executive Director of the Department shall appoint 11 members to the CICIP Stakeholder Advisory Council. Members shall include:

1. A member representing the Department;
2. Three consumers who are eligible for the Program or three representatives from a consumer advocate organization or a combination of each;
3. A representative from a federally qualified health center as defined at 42 U.S.C. 1395x (aa)(4);
4. A representative from a rural health clinic as defined at 42 U.S.C. 1395x (aa)(2), or a representative from a clinic licensed or certified as a community health clinic by the Department of Public Health and Environment, or a representative from an organization that represents clinics who are not federally qualified health centers;
5. A representative from either Denver Health or University Hospital;
6. A representative from an urban hospital;
7. A representative from a rural or critical access hospital;
8. A representative of an organization of Colorado community health centers, as defined in the federal "Public Health Service Act", 42 U.S.C. sec. 254b;
9. A representative from an organization of Colorado hospitals.

Members shall serve without compensation or reimbursement of expenses. The Executive Director shall at least annually select a chair for the council to serve for a maximum period of twelve months. The Department shall staff the council. The council shall convene at least twice every fiscal year according to a schedule set by the chair. Members of the council shall serve three-year terms. Of the members initially appointed to the advisory council, the executive director shall appoint six for two-year terms and five for three-year terms. In the event of a vacancy on the advisory council, the executive director shall appoint a successor to fill the unexpired portion of the term of such member.

The council shall

1. Advise the Department of operation and policies for the Program
2. Make recommendations to the Medical Services Board regarding rules for the Program

E. Annual Report

1. The Department shall prepare an annual report concerning the status of the Program to be submitted to the Health and Human Services committees of the Senate and House of Representatives, or any successor committees, no later than February 1 of each year.
2. The report shall at minimum include charges for each Qualified Health Care Provider, numbers of Clients served, and total payments made to each Qualified Health Care Provider.

10 CCR 2505-10 § 8.900 APPENDIX A: STANDARD CICP CLIENT COPAYMENT

A. Client Copayments - General Policies

A Client is responsible for paying a portion of his or her medical bills. The Client's portion is called the Client Copayment. Qualified Health Care Providers are responsible for charging the Client a copayment. Qualified Health Care Providers may require Clients to pay their copayment prior to receiving care (except for Emergency Care). Qualified Health Care Providers may charge copayments in accordance with the Standard Client Copayment Table or an alternate sliding fee scale that is submitted by the provider with the annual application for the CICP and approved by the Department.

Percent of FPL	0 - 40% and Homeless	0 - 40%	41 - 62%	63 - 81%	82 - 100%	101 - 117%	118 - 133%	134 - 159%	160 - 185%	186 - 200%	201 - 250%
Ambulatory Surgery	\$0	\$15	\$65	\$105	\$155	\$220	\$300	\$390	\$535	\$600	\$630
Inpatient Facility	\$0	\$15	\$65	\$105	\$155	\$220	\$300	\$390	\$535	\$600	\$630
Hospital Physician	\$0	\$7	\$35	\$55	\$80	\$110	\$150	\$195	\$270	\$300	\$315
Emergency Room	\$0	\$15	\$25	\$25	\$30	\$30	\$35	\$35	\$45	\$45	\$50
Emergency Transportation	\$0	\$15	\$25	\$25	\$30	\$30	\$35	\$35	\$45	\$45	\$50
Outpatient Hospital Services	\$0	\$7	\$15	\$15	\$20	\$20	\$25	\$25	\$35	\$35	\$40
Clinic Services	\$0	\$7	\$15	\$15	\$20	\$20	\$25	\$25	\$35	\$35	\$40
Specialty Outpatient	\$0	\$15	\$25	\$25	\$30	\$30	\$35	\$35	\$45	\$45	\$50
Prescription	\$0	\$5	\$10	\$10	\$15	\$15	\$20	\$20	\$30	\$30	\$35
Laboratory	\$0	\$5	\$10	\$10	\$15	\$15	\$20	\$20	\$30	\$30	\$35
Basic Radiology & Imaging	\$0	\$5	\$10	\$10	\$15	\$15	\$20	\$20	\$30	\$30	\$35
High-Level Radiology & Imaging	\$0	\$30	\$90	\$130	\$185	\$250	\$335	\$425	\$580	\$645	\$680

There are different copayments for different service charges. The following information explains the different types of medical care charges and the related Client Copayments under the Standard Client Copayment Table.

1. Inpatient facility charges are for all non-physician (facility) services received by a Client while receiving care in the hospital setting for a continuous stay of 24 hours or longer.
2. Ambulatory Surgery charges are for all non-physician (facility) Ambulatory Surgery operative procedures received by a Client who is admitted to and discharged from the hospital setting on the same day. The Client is also responsible for the corresponding Hospital Physician charges.
3. The Hospital Physician charges are for services provided directly by a physician in the hospital setting, including inpatient, ambulatory surgery, and emergency room care.
4. Clinic Services charges are for all non-physician (facility) and physician services received by a Client while receiving care in the outpatient clinic setting. Outpatient charges include primary and preventive medical care. This charge does not include radiology or laboratory services performed at the clinic.
5. Emergency Room charges are for all non-physician (facility) services received by a Client while receiving Emergency Care or Urgent Care in the hospital setting for a continuous stay less than 24 hours (i.e., emergency room care).
6. Specialty Outpatient charges are for all non-physician (facility) and physician services received by a Client while receiving care in the specialty outpatient setting. These services can be provided in standalone clinics and outpatient hospital settings. Specialty Outpatient charges include distinctive medical care (i.e., oncology, orthopedics, hematology, pulmonary) that is not normally available as primary and preventive medical care. Specialty Outpatient charges do not include radiology, laboratory, emergency room, or ambulatory surgery services provided in a hospital setting.
7. Emergency Transportation charges are for transportation provided by an ambulance.
8. Laboratory Service charges are for all laboratory tests received by a Client while receiving care in the outpatient hospital or clinic setting. Laboratory Service charges may not be charged in addition to charges for emergency room or inpatient services provided in the hospital setting.
9. Basic Radiology and Imaging Service charges are for all radiology and imaging services received by a Client while receiving care in the outpatient hospital or clinic setting. Basic Radiology and Imaging Service charges may not be charged in addition to charges for emergency room or inpatient services provided in the hospital setting.
10. Prescription charges are for prescription drugs received by a Client at a Qualified Health Care Provider's pharmacy as an outpatient service. To encourage the availability of discounted prescription drugs, providers are allowed to modify (increase or decrease) the Prescription Copayment with the written approval of the Department.
11. High-Level Radiology and Imaging Service charges are for Clients receiving a Magnetic Resonance Imaging (MRI), Computed Tomography (CT), Positron Emission Tomography (PET) or other Nuclear Medicine services, Sleep Studies, or Catheterization Laboratory (cath lab) in the outpatient hospital, emergency room, or clinic setting.

12. Outpatient Hospital Service charges are for all non-physician (facility) and physician services received by a Client while receiving non-Emergency Care or non-Urgent Care in the outpatient clinic setting. Outpatient Hospital Services charges include primary and preventive medical care. This charge does not include radiology, laboratory, emergency room, or ambulatory surgery services provided in a hospital setting.
13. Clients who are seen in the hospital setting in an observation bed should be charged the emergency room copay if their stay is less than 24 hours and the inpatient facility copay if their stay is 24 hours or longer.

B. Homeless Clients, Clients living in transitional housing, Clients residing with others, or recipients of Colorado's Aid to the Needy Disabled financial assistance program, who are at or below 40% of the Federal Poverty Level are exempt from Client Copayments.

1. Homeless. A person is considered homeless who lacks a fixed, regular, and adequate night-time residence or has a primary night time residency that is: (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations, (B) an institution that provides a temporary residence for individuals intended to be institutionalized, or (C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. This does not include an individual imprisoned or otherwise detained pursuant to federal or state law.

In addition, homeless Clients are exempt from Client Copayments, the income verification requirement, and providing proof of residency when completing the CACP application.

2. Transitional Housing. Transitional housing is designed to assist individuals in becoming self-supporting, but not referenced in 8.904.E.2. Clients living in transitional housing must provide a written statement from their counselor or program director asserting that they are participating in a transitional housing program.

In addition, transitional housing Clients are exempt from the income verification requirement when completing the CACP application.

3. Residing with Others. Clients who have no permanent housing of their own and who are temporarily living with a person who has no legal obligation to financially support the Client are considered residing with others. The individual allowing the Client to reside with him or her may be asked to provide a written statement confirming that the Client is not providing financial assistance to the household and that the living arrangement is not intended to be permanent.

4. Recipient of Colorado's Aid to the Needy Disabled financial assistance program. A Client who is eligible and enrolled to receive the monthly grant award from Colorado's Aid to the Needy Disabled financial assistance program.

In addition, recipients of Colorado's Aid to the Needy Disabled financial assistance program are exempt from Client Copayments, and the income verification requirement when completing the CACP application.

C. Client Annual Copayment Cap

1. Homeless Clients whose financial determination is between 0 and 40% of the federal poverty level are exempt from copayments, so their copayment cap is \$0. Clients whose financial determination is between 0 and 40% of the federal poverty level who are not homeless have a copayment cap that is the lesser of 10% of the family's net income or \$120. Clients who are also Old Age Pension Health and Medical Care Program clients

have a copayment cap of \$300 as mandated by 10 CCR 2505-10 8.941.10. For all other CICIP Clients, annual copayments shall not exceed 10% of the family's financial determination.

2. Clients who are also Old Age Pension Health and Medical Care Program clients have annual copayment caps based on a calendar year. All other Client annual copayment caps (annual caps) are based on the Client's date of eligibility.
 3. Clients are responsible for any charges incurred prior to the determination of the Client's financial eligibility.
 4. Clients are responsible for tracking their CICIP copayments and informing the provider in writing, including documentation, within 90 days after meeting or exceeding their annual cap. If a Client overpays the annual cap and informs the Qualified Health Care Provider of that fact in writing, the Qualified Health Care Provider shall reimburse the Client for the overpayment.
 5. A CICIP Client is eligible to receive a new determination if his or her financial or family situation has changed since the initial financial determination. CICIP copayments made under the prior financial determination will not count toward a new CICIP copayment cap and the Client's annual copayment cap resets when the Client completes a new application.
 6. An annual cap applies only to charges incurred after a Client is eligible to receive discounted health care services, and applies only to discounted services incurred at a CICIP Qualified Health Care Provider.
- D. The Client must pay the lower of the copayment listed, the patient responsibility portion if the Client is insured, or actual charges.
- E. Clients shall be notified at or before time of services rendered of their copayment responsibility.
- F. Grants for Client Copayments

Grants from foundations to Clients from non-profit, tax exempt, charitable foundations specifically for Client copayments are not considered other medical insurance or income. The provider shall honor these grants and may not count the grant as a resource or income.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning Managed Care
Grievance and Appeals, Section 8.209
Rule Number: MSB 17-01-18-A
Division / Contact / Phone: Delivery System and Payment Innovation / Colleen McKinney /
x5128

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Health Care Policy and Financing / Medical Services
Name: Board
2. Title of Rule: MSB 17-01-18-A, Revision to the Medical Assistance Rule
Concerning Managed Care Grievance and Appeals, Section
8.209
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) 8.209 p. 52-61, Colorado Department of Health Care Policy and Financing,
Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
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 Yes
hearing).

PUBLICATION INSTRUCTIONS*

Replace the text at 8.209 with the proposed text beginning at 8.209 through the end of
8.209.7.K. The rule is effective June 30, 2017.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning Managed Care Grievance and Appeals, Section 8.209

Rule Number: MSB 17-01-18-A

Division / Contact / Phone: Delivery System and Payment Innovation / Colleen McKinney / x5128

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 revisions to Section 8.209 will ensure full compliance with 42 CFR 438 Subpart F- Grievance and Appeal System.

The rule proposes the following revisions to Section 8.209:

- Includes Prepaid Ambulatory Health Plans (PAHPs) as being required to follow the same grievance and appeals process as MCOs and PIHPs
- Adds numbers to the definitions in accordance with guidance from the Secretary of State
- Includes a definition of Managed Care Organization to align with federal definitions
- Changes "Action" to "Adverse Benefit Determination" and the accompanying definition to align with federal definitions
- Redefines "Fair Hearing" as "State Fair Hearing"
- Removes the definition for "Timely Filing," as the term is not used anywhere in the rule, and moves the information to the appropriate section in the rule
- Changes the timeline for a member to file an appeal from 30 calendar days to 60 calendar days of receiving a notice of adverse benefit determination
- Clarifies that the health plan is responsible for following an oral appeal with a written record of the appeal
- Changes the expedited appeal timeline from 3 working days to 72 hours
- Requires the member to exhaust the health plan level appeals process before being able to request a state fair hearing
- Changes the timeline for a member to request a state fair hearing from 30 calendar days to 120 calendar days of receiving the health plan's notice of appeal determination

Initial Review

04/14/17

Final Adoption

05/12/17

Proposed Effective Date

06/30/17

Emergency Adoption

DOCUMENT #07

DO NOT PUBLISH

- Includes information for when a member may request a State Fair Hearing due to the health plan not adhering to notice and timing requirements
- Removes the timeline for a member to file a grievance
- Requires the health plan to use the State established method when notifying a member of their grievance resolution
- Removes the definition of "Quality of Care Complaint," as the term is not used anywhere in the rule and is covered through the definition of "Grievance"
- Includes the requirements of the information kept in each Grievance and Appeal record to align with federal regulations
- Clarifies what individuals can review and decide Grievances and Appeals
- Changes certain words to reflect the language used in the rule and by the Department

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:

Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions related to Third Party Liability; Final Rule 81 FR 27498 (May 6, 2016)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
25.5-5-406, C.R.S. (2016)

Initial Review
Proposed Effective Date

04/14/17
06/30/17

Final Adoption
Emergency Adoption

05/12/17

DOCUMENT #07

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning Managed Care
Grievance and Appeals, Section 8.209

Rule Number: MSB 17-01-18-A

Division / Contact / Phone: Delivery System and Payment Innovation / Colleen McKinney /
x5128

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 people who will be affected by the proposed rule are Medicaid members who receive health care services through a MCO, PIHP, or PAHP. The Department does not anticipate any costs of implementing the proposed rule. All members under these managed care plans will benefit from a standardized grievance and appeals process.

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

The proposed rule will benefit the members under MCO, PIHP, and PAHP plans, as the grievance and appeals timeline will be the same across these health plans. Members will benefit from extended timelines to file an appeal and request a state fair hearing. Members will also benefit from being able to file a grievance at any time. The proposed rule might negatively impact members due to members now being required to exhaust their health plan's internal appeals process before requesting a state fair hearing. Currently, a member can request a state fair hearing at any time. This may slightly increase the need for the Department to provide clarification to members and providers.

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.

The Department does not anticipate any costs related to the implementation and enforcement of this rule. There is no anticipated effect on state revenue.

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

If the proposed rule does not go into effect, the 16 managed care contracts affected by this rule change would be out of compliance with federal regulations, thus potentially placing the state under disciplinary measures with CMS.

DO NOT PUBLISH

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

The rule must be changed for the Department's managed care contracts to stay in compliance with federal regulation.

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.

No other alternative methods were considered, as this rule change must be done to comply with federal regulations.

8.209 MEDICAID MANAGED CARE GRIEVANCE AND APPEAL PROCESSES

8.209.1 GENERAL PROVISIONS

Medicaid members or their Designated Client Representatives enrolled in Managed Care Organizations (MCOs) may access and utilize the Medicaid Managed Care Grievance and Appeal Systems. The Grievance and Appeal Systems shall include a Grievance process and an Appeal process for handling Grievances and Appeals at the MCO, Prepaid Inpatient Health Plan (PIHP), or Prepaid Ambulatory Health Plan (PAHP) level and access to the State Fair Hearing process for Appeals.

8.209.2 DEFINITIONS

8.209.2.A. Adverse Benefit Determination shall mean:

1. The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of covered benefit;
2. The reduction, suspension or termination of a previously authorized service;
3. The denial, in whole or in part, of payment for a service;
4. The failure to provide services in a timely manner;
5. The failure to act within the timeframes provided in § 8.209.4 below;
6. The denial of a Medicaid member's request to exercise his or her right to obtain services outside the network for members in rural areas with only one MCO; or
7. The denial of a member's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other member financial liabilities.

8.209.2.B. Appeal shall mean, for the purposes of this Section 8.209 only, a request for review by an MCO, PIHP, or PAHP of an Adverse Benefit Determination.

8.209.2.C. Designated Client Representative shall mean any person, including a treating health care professional, authorized in writing by the member or the member's legal guardian to represent his or her interests related to complaints or Appeals about health care benefits and services.

8.209.2.D. Grievance shall mean an oral or written expression of dissatisfaction about any matter other than an Adverse Benefit Determination, including but not limited to quality of care or services provided and aspects of interpersonal relationships such as rudeness of provider or employee, or failure to respect the member's rights.

8.209.2.E. Managed Care Organization (MCO) shall mean an entity that has, or is seeking to qualify for, a comprehensive risk contract under 42 CFR 438.2, and that is:

1. A Federally qualified HMO that meets the advance directives requirements of subpart I of 42 CFR 489; or
2. Any public or private entity that meets the advance directives requirements and is determined by the Secretary of the U.S. Department of Health and Human Services to also make the services it provides to its Medicaid members as accessible (in terms of timelines, amount,

duration, and scope) as those services are to other Medicaid beneficiaries within the area served by the entity; and meets the solvency standards of 42 CFR 438.116.

8.209.2.F. Prepaid Inpatient Health Plan (PIHP) shall mean an entity that provides medical services to members under contract with the State agency, and on the basis of prepaid capitation payments, or other payment arrangements that do not use State plan payment rates; provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its members; and does not have a comprehensive risk contract.

8.209.2.G. Prepaid Ambulatory Health Plan (PAHP) shall mean an entity that provides medical services to members under contract with the State agency, and on the basis of prepaid capitation payments, or other payment arrangements that do not use State plan payment rates; does not provide, arrange for, or otherwise has a responsibility for the provision of any inpatient hospital or institutional services for its members; and does not have a comprehensive risk contract.

8.209.2.H. State Fair Hearing shall mean the formal adjudication process for Appeals described at 10 CCR 2505-10, §8.057.

8.209.3 GRIEVANCESYSTEM

8.209.3.A. The Grievance System is the overall system that includes Grievances and Appeals handled at the MCO, PIHP, and PAHP level and access to the State Fair Hearing process for Appeals.

8.209.3.B. The MCO, PIHP, or PAHP shall provide a Department-approved description of the Grievance, Appeal and State Fair Hearing procedures and timeframes to all providers and subcontractors at the time the provider or subcontractor enters into a contract with the MCO, PIHP, or PAHP. The description shall include:

1. The member's right to a State Fair Hearing for Appeals.
 - a. The method to obtain a hearing, and
 - b. The rules that govern representation at the hearing.
2. The member's right to file Grievances and Appeals.
3. The requirements and timeframes for filing Grievances and Appeals.
4. The availability of assistance in the filing process.
5. The toll-free numbers that the member can use to file a Grievance or an Appeal by telephone.
6. The fact that, when requested by a member:
 - a. Benefits will continue if the member files an Appeal or a request for State Fair Hearing within the timeframes specified for filing; and
 - b. The member may be required to pay the cost of services furnished while the Appeal is pending if the final decision is adverse to the member.

8.209.3.C. The MCO, PIHP, or PAHP shall maintain record of Grievances and Appeals and submit a quarterly report to the Department. The record of each Grievance and Appeal shall include:

1. A general description of the reason for the Grievance or Appeal;
2. The date the Grievance or Appeal was received;
3. The date of each review;
4. The resolution at each level of the Grievance or Appeal, if applicable;
5. The date of resolution at each level of the Grievance or Appeal; and
6. The name of the member for whom the Grievance or Appeal was filed.

8.209.4 APPEAL PROCESS

8.209.4.A. Notice of Adverse Benefit Determination

1. The MCO, PIHP, or PAHP shall send the member written notice for each Adverse Benefit Determination. The notice shall be in writing and shall be available in English and the prevalent non-English languages spoken by members throughout the State. "Prevalent" means a non-English language spoken by a significant number or percentage of members in the service area as identified by the State.
2. The notice shall state the following:
 - a. The Adverse Benefit Determination the MCO, PIHP, or PAHP or its contractor has taken or intends to take;
 - b. The reasons for the Adverse Benefit Determination, including the right of the member to be provided upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the member's Adverse Benefit Determination. Such information includes medical necessity criteria and any processes, strategies, or evidentiary standards used in setting coverage limits;
 - c. The member's or the Designated Client Representative's right to file an MCO, PIHP, or PAHP Appeal;
 - d. The date the Appeal is due;
 - e. The member's right to request a State Fair Hearing;
 - f. The procedures for exercising the right to a State Fair Hearing;
 - g. The circumstances under which expedited resolution is available and how to request it;
 - h. The member's right to have benefits continue pending resolution of the Appeal, and how to request that benefits be continued; and
 - i. The circumstances under which the member may be required to pay the cost of these services.

3. The MCO, PIHP, or PAHP shall mail the notice of Adverse Benefit Determination within the following timeframes:
 - a. For termination, suspension or reduction of previously authorized Medicaid covered services, at least ten (10) calendar days before the date of Adverse Benefit Determination, except in the following circumstances:
 - i) The MCO, PIHP, or PAHP may shorten the period of advance notice to five (5) calendar days for the date of Adverse Benefit Determination if:
 - 1) The MCO, PIHP, or PAHP has facts indicating probable fraud by the member; and
 - 2) The facts have been verified, if possible, through secondary sources.
 - ii) The MCO, PIHP, or PAHP may mail notice not later than the date of Adverse Benefit Determination if:
 - 1) The MCO, PIHP, or PAHP has factual information confirming the death of the member;
 - 2) The MCO, PIHP, or PAHP receives a clear written statement signed by the member stating that:
 - a) He or she no longer wishes services; or
 - b) Gives information that requires termination or reduction of services and indicates that he/she understands that this is the result of supplying the information;
 - iii) The member has been admitted to an institution where he/she is ineligible under the plan for further services;
 - iv) The member's whereabouts are unknown and the post office returns mail directed to him or her indicating no forwarding address;
 - v) The MCO, PIHP, or PAHP establishes the fact that the member has been accepted for Medicaid services by another local jurisdiction, state, territory, or commonwealth;
 - vi) A change in the level of medical care is prescribed by the member's physician;
 - vii) The notice involves an Adverse Benefit Determination made with regard to the preadmission screening requirements of 1919(e) (7) of the Social Security Act; or
 - viii) Notice may be made as soon as practicable before transfer or discharge when:
 - 1) The safety of individuals in the facility would be endangered;
 - 2) The health of individuals in the facility would be endangered;

- 3) The resident's health improves sufficiently to allow a more immediate transfer or discharge;
 - 4) An immediate transfer or discharge is required by the resident's urgent medical needs; or
 - 5) A resident has not resided in the facility for 30 days.
- b. For denial of payment, at the time of any Adverse Benefit Determination affecting the claim.
 - c. For standard service authorization decisions that deny or limit services, within ten (10) calendar days. For expedited service authorizations, within seventy-two (72) hours.
 - i) If the MCO, PIHP, or PAHP extends the timeframe for making a service authorization decision, it must give the member written notice of the reason for extending the timeframe and inform the member of the right to file a Grievance to disagree with the timeframe extension.
 - ii) The MCO, PIHP, or PAHP must carry out its determination as expeditiously as the member's health condition requires, and no later than the date the extension expires.
- 8.209.4.B. The member of an MCO, PIHP, or PAHP shall file an Appeal within sixty(60) calendar days from the date of the MCO's, PIHP's, or PAHP's notice of Adverse Benefit Determination.
- 8.209.4.C. The MCO, PIHP, or PAHP shall give members reasonable assistance in completing any forms required by the MCO, PIHP, or PAHP, putting oral requests for a State Fair Hearing into writing and taking other procedural steps, including, but not limited to, providing interpretive services and toll-free numbers that have adequate TTY/TTD and interpreter capability.
- 8.209.4.D. The MCO, PIHP, or PAHP shall send the member written acknowledgement of each Appeal within two (2) working days of receipt, unless the member or designated client representative requests an expedited resolution.
- 8.209.4.E. The MCO, PIHP, or PAHP shall ensure that the individuals who make decisions on Appeals are individuals who were not involved in any previous level of review or decision-making, nor a subordinate of any such individual, and who have the appropriate clinical expertise, as determined by the Department, in treating the member's condition or disease if deciding any of the following: an Appeal of a denial that is based on lack of medical necessity, a Grievance regarding denial of expedited resolution of an Appeal, or a Grievance or Appeal that involves clinical issues.
- 8.209.4.F. The MCO, PIHP, or PAHP shall accept Appeals orally or in writing, and the MCO, PIHP, or PAHP shall be responsible for following an oral Appeal with a written Appeal, which shall then be signed by the member or Designated Client Representative unless an expedited Appeal resolution is requested. An oral Appeal shall establish the date of the Appeal.
- 8.209.4.G. The MCO, PIHP, or PAHP shall provide the member a reasonable opportunity to present evidence, and allegations of fact or law, in person as well as in writing. The MCO, PIHP, or PAHP shall inform the member of the limited time available in the case of expedited resolution.
- 8.209.4.H. The MCO, PIHP, or PAHP shall provide the member and the Designated Client Representative opportunity, before and during the Appeal process, to examine the member's

case file, including medical records and any other documents and records considered during the Appeal process.

- 8.209.4.I. The MCO, PIHP, or PAHP shall include as parties to the Appeal, the member and the Designated Client Representative or the legal representative of a deceased member's estate.
- 8.209.4.J. The MCO, PIHP, or PAHP shall resolve each Appeal, and provide notice as expeditiously as the member's health condition requires, not to exceed the following:
1. For standard resolution of an Appeal and notice to the affected parties, ten (10) working days from the day the MCO, PIHP, or PAHP receives the Appeal.
 2. For expedited resolution of an Appeal and notice to affected parties, seventy-two (72) hours after the MCO, PIHP, or PAHP receives the Appeal.
- 8.209.4.K. The MCO, PIHP, or PAHP may extend timeframes for the resolution of Appeals by up to fourteen (14) calendar days:
1. If the member requests the extension; or
 2. The MCO, PIHP, or PAHP shows that there is a need for additional information and that the delay is in the member's best interest. The MCO, PIHP, or PAHP shall give the member prior written notice of the reason for delay if the timeframe is extended.
- 8.209.4.L. The MCO, PIHP, or PAHP shall notify the member in writing of the resolution of an Appeal. For notice of an expedited resolution, the MCO, PIHP, or PAHP shall also make reasonable efforts to provide oral notice.
- 8.209.4.M. The written notice shall include the results of the disposition/resolution process and the date it was completed.
1. For Appeals not resolved wholly in favor of the member, the written notice shall include:
 - a. The right to request a State Fair Hearing and how to do so;
 - b. The right to request and to receive benefits while the hearing is pending, and how to make the request; and
 - c. That the member may be held liable for the cost of those benefits if the hearing decision upholds the MCO's, PIHP's, or PAHP's Appeal determination.
- 8.209.4.N. The member of an MCO, PIHP, or PAHP shall exhaust the MCO, PIHP, or PAHP level Appeal process before requesting a State Fair Hearing. The member shall request a State Fair Hearing within one hundred and twenty (120) calendar days from the date of the MCO's, PIHP's, or PAHP's notice of Appeal determination.
- 8.209.4.O. If the MCO, PIHP, or PAHP fails to adhere to the notice and timing requirements regarding resolution and notification of an Appeal, the member is deemed to have exhausted the Appeals process and may request a State Fair Hearing.
- 8.209.4.P. In cases where the parent or guardian of a member submits a request for a third-party review to the Department of Human Services under 27-67-104 C.R.S. of the Child Mental Health Treatment Act, the member, parent or guardian and the MCO or PIHP shall have the right to request a State Fair Hearing. The request for the State Fair Hearing shall be submitted to the

Division of Administrative Hearings within thirty (30) calendar days from the date of the determination. The State Fair Hearing shall be considered a member Appeal.

8.209.4.Q. The MCO, PIHP, or PAHP shall establish and maintain an expedited review process for Appeals when the MCO, PIHP, or PAHP determines, or the provider indicates, that taking the time for a standard resolution could seriously jeopardize the member's life or health or ability to attain, maintain or regain maximum function.

8.209.4.R. The MCO, PIHP, or PAHP shall ensure that punitive action is not taken against a provider who requests an expedited resolution or supports a member's Appeal.

8.209.4.S. If the MCO, PIHP, or PAHP denies a request for expedited resolution, it shall transfer the Appeal in the timeframe for standard resolution, make reasonable effort to give the member prompt oral notice of the denial and send a written notice of the denial for an expedited resolution within two (2) calendar days.

8.209.4.T. The MCO, PIHP, or PAHP shall, consistent with federal law, provide for the continuation of benefits while the MCO, PIHP, or PAHP level Appeal and the State Fair Hearing are pending if:

1. The member files the Appeal (a) within ten (10) calendar days of the MCO, PIHP, or PAHP sending the notice of Adverse Benefit Determination, or (b) on or before the intended date of the MCO's, PIHP's, or PAHP's proposed Adverse Benefit Determination, whichever is later;

2. The Appeal involves the termination, suspension or reduction of a previously authorized course of treatment;

3. The services were ordered by an authorized provider;

4. The original period covered by the original authorization has not expired; and

5. The member requests extension of benefits.

8.209.4.U. If at the member's request, the MCO, PIHP, or PAHP continues or reinstates the member's benefits while the Appeal is pending, the benefits shall be continued until the member withdraws the Appeal, ten days pass after the MCO, PIHP, or PAHP mails the notice providing the resolution of the Appeal against the member, a State Fair Hearing office issues a final agency decision adverse to the member, or the time period or service limits of a previously authorized service have been met.

8.209.4.V. If the final resolution of the Appeal upholds the MCO's, PIHP's, or PAHP's Adverse Benefit Determination, the MCO, PIHP, or PAHP may recover the cost of the services furnished to the member while the Appeal is pending to the extent that the services were furnished solely because of the requirements of this rule.

8.209.4.W. If the final resolution of the Appeal reverses the MCO's, PIHP's, or PAHP's Adverse Benefit Determination to deny, limit or delay services that were not furnished while the Appeal was pending, the MCO, PIHP, or PAHP shall authorize or provide the disputed services promptly and as expeditiously as the member's health condition requires.

8.209.4.X. If the final resolution of the Appeal reverses the MCO's, PIHP's, or PAHP's Adverse Benefit Determination to deny authorization of services and the member received the services while the Appeal was pending, the MCO, PIHP, or PAHP must pay for those services.

8.209.5 GRIEVANCE PROCESS

8.209.5.A The member of the MCO, PIHP, or PAHP can file a Grievance expressing his/her dissatisfaction with any matter other than an Adverse Benefit Determination at any time.

8.209.5.B The MCO, PIHP, or PAHP shall send the member written acknowledgement of each Grievance within two (2) working days of receipt.

8.209.5.C The MCO, PIHP, or PAHP shall ensure that the individuals who make decisions on Grievances are individuals who were not involved in any previous level of review or decision-making, nor a subordinate of any such individual, and who have the appropriate clinical expertise, as determined by the Department, in treating the member's condition or disease if deciding a Grievance that involves clinical issues.

8.209.5.D The MCO, PIHP, or PAHP shall accept Grievances orally or in writing.

1. The MCO, PIHP, or PAHP shall dispose of each Grievance and provide notice as expeditiously as the member's health condition requires, not to exceed fifteen (15) working days from the day the MCO, PIHP, or PAHP receives the Grievance.

8.209.5.E The MCO, PIHP, or PAHP may extend timeframes for the disposition of Grievances by up to fourteen (14) calendar days:

1. If the member requests the extension; or
2. The MCO, PIHP, or PAHP shows that there is a need for additional information and that the delay is in the member's best interest. The MCO, PIHP, or PAHP shall give the member prior written notice of the reason for delay if the timeframe is extended.

8.209.5.F The MCO, PIHP, or PAHP shall notify the member in writing of the disposition of a Grievance in the format established by the Department.

8.209.5.G The written notice shall include the results of the disposition/resolution process and the date it was completed.

8.209.5.H If the member is dissatisfied with the disposition of a Grievance provided by the MCO, PIHP, or PAHP, the member may bring the unresolved Grievance to the Department.

1. The Department will acknowledge receipt of the Grievance and dispose of the issue.
2. The disposition offered by the Department will be final.

8.209.6 OMBUDSMAN ASSISTANCE CONCERNING SERVICES FOR CLIENTS ENROLLED IN MCOS, PIHPS, and PAHPS

A. An Ombudsman under contract with the Department of Health Care Policy and Financing shall provide Ombudsman assistance concerning services for members enrolled in Medicaid MCOS, PIHPS, and PAHPS.

B. Upon request, the Ombudsman shall respond to and analyze a Grievance from a member enrolled in a Medicaid MCO, PIHP, or PAHP, or that member's Designated Client Representative, by:

1. Assisting the member or Designated Client Representative to articulate the Grievance, to understand the options available to resolve the Grievance and his/her rights and

responsibilities, and to negotiate the appropriate Grievance process for his/her MCO, PIHP, or PAHP;

2. Acting as the member's Designated Client Representative if the member requests except that the Ombudsman shall not act as the Designated Client Representative in any State Fair Hearing as described at 10 CCR 2505-10, §8.057;
3. Facilitating problem resolution with the MCO, PIHP, or PAHP, or its network providers;
4. Referring members to other agencies as appropriate, including agencies that can directly assist members in a State Fair Hearing;
5. Conducting and reporting member satisfaction studies and/or quality assessment surveys authorized by the Department to measure member experience and satisfaction with Ombudsman staff and services;
6. Providing members with information on the exclusions and limitations that may be imposed on care, services, equipment and supplies under the Medicaid benefits structure;
7. Having a practical understanding of all applicable provisions of Title X, Article 16, C.R.S. and Medicaid Volume 8 rules; and
8. Avoiding any relationship or circumstance which creates or gives the appearance of a conflict of interest.

8.209.7 COMPLIANCE REQUIREMENTS FOR ALL MCOS, PIHPS, PAHPS AND THE OMBUDSMAN

- A. MCOs, PIHPs, PAHPs, and the Ombudsman shall recognize and ensure members' rights to make and file Grievances and to Appeal Adverse Benefit Determinations through the Grievance and Appeal process for any reason.
- B. For members with a disability, if the medical necessity of a requested procedure has not been established by the MCO, PIHP, or PAHP, the requesting physician must be consulted in person or by telephone before a final determination is made. If the requesting physician is not available, another network provider of the member/Designated Client Representative's choice shall be consulted. Such consultation shall be referenced in the notice. If the requesting physician is not available and the member/Designated Client Representative does not choose another network provider within two working days of the MCO's, PIHP's, or PAHP's request to make such a choice, the MCO, PIHP, or PAHP may proceed without consultation.
- C. MCOs, PIHPs, PAHPs, and the Ombudsman shall develop written procedures for accepting, processing, and responding to all Grievances and Appeals from Medicaid members. For MCOs, PIHPs, and PAHPs, summaries of these procedures shall be disseminated to all participating providers and shall include summaries in the Member Handbook as described in Department contract requirements. The MCO, PIHP, or PAHP shall provide its complete Grievance and Appeal procedures to subcontractors and ensure subcontractor compliance with these rules and the MCO's, PIHP's, or PAHP's procedures. MCOs, PIHPs, PAHPs, and the Ombudsman shall obtain written approval from the Department for their internal Grievance and Appeals procedures.
- D. MCOs, PIHPs, PAHPs, and the Ombudsman shall establish and maintain a timely and organized system(s) for recording, tracking, and resolving Medicaid members' Grievances and Appeals as specified in contract.

- E. MCOs, PIHPs, PAHPS, and the Ombudsman shall confidentially maintain original records of all Grievances and Appeals from Medicaid members, including the original Grievance or Appeal, Adverse Benefit Determination, or resolution taken by the entity, and evidence of review activities. All such information shall be archived for ten (10) years from the date of the initial Grievance or Appeal.
- F. MCOs, PIHPs, and PAHPs shall ensure that neither cultural, expressive, or receptive communication differences negatively impact the Grievance and Appeals process. MCOs, PIHPs, and PAHPs shall provide services to facilitate members' and Designated Client Representatives' effective use of the Grievance and Appeals process, inclusive of qualified interpreters for (1) persons with communication disabilities or differences and (2) non-English-speaking members. The MCO, PIHPs, or PAHP shall consult with the member or the Designated Client Representative about the individual or medium that will assist, and such assistance shall be at the cost of the MCO, PIHP, or PAHP.
- G. MCOs, PIHPs, and PAHPs shall provide the member, Designated Client Representative, or any other person, upon written release from the member or the member's legal guardian, access to or a copy of medical records, at no cost to the member, for dates of service occurring during enrollment in the MCO, PIHP, or PAHP. Such records shall be provided within a time frame that provides members copies of their records prior to any decision on a Grievance or Appeal, or in two weeks or less, if required by C.R.S. § § 25-1-801 and 25-1-802. The MCO, PIHP, or PAHP is only obligated to provide one copy of the member's medical records free of charge for each of the Medicaid member's Grievances or Appeals.
- H. MCOs, PIHPs, and PAHPs shall monitor participating network subcontractors or providers to ensure compliance with all Grievance and Appeals rules and contract requirements.
- I. MCOs, PIHPs, PAHPs, and the Ombudsman shall handle specific Medicaid member Grievance and Appeals information in the same way that medical record information is handled confidentially under State and Federal law and regulations.
- J. Upon request by a member, the member's Designated Client Representative, or the member's provider, the MCO, PIHP, or PAHP shall disclose its standards for denial of treatments or other benefits on the grounds that such treatment or other covered benefit is not medically necessary, appropriate, effective, or efficient free of charge.
- K. To assist members in making inquiries and filing Grievances and Appeals, MCOs, PIHPs, PAHPs, and the Ombudsman shall ensure that members and Designated Client Representatives can contact them during routine business hours through a toll-free telephone number.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning the definition of a Caretaker Relative at Section 8.100.1

Rule Number: MSB 17-02-23-A

Division / Contact / Phone: Health Information Office / Ana Bordallo / 303-866-3558

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Health Care Policy and Financing / Medical Services
Name: Board
2. Title of Rule: MSB 17-02-23-A, Revision to the Medical Assistance Rule Concerning the definition of a Caretaker Relative at Section 8.100.1
3. This action is an adoption new rules
of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) § 8.100.1 , Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
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 Yes hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.100.1 with the proposed text starting at unnumbered paragraph 18 through the end of unnumbered paragraph 18. The rule is effective June 30, 2017.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning the definition of a Caretaker Relative at Section 8.100.1

Rule Number: MSB 17-02-23-A

Division / Contact / Phone: Health Information Office / 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 changes amend 10 CCR 2505-10 §8.100.1 to incorporate changes to the definition of a Caretaker Relative as defined in the Code of Federal Regulations. This policy change will align the definition of Caretaker Relative to our Medicaid State Plan Amendment. These changes include: revisions to the current definition of Caretaker Relative by updating language to include any adult with whom the child is living and who assumes primary responsibility for the dependent child's care.

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:

42 CFR §435.4

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);

Initial Review

[date]

Final Adoption

[date]

Proposed Effective Date

[date]

Emergency Adoption

[date]

DOCUMENT #

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning the definition of a Caretaker Relative at Section 8.100.1

Rule Number: MSB 17-02-23-A

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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.

With this proposed rule a Caretaker Relative with whom the child is living with and who assumes primary responsibility for the dependents' child's care can be affected if the Caretaker doesn't indicate they are primary responsible for the child. The benefit of this rule change is to ensure a Caretaker Relative may be eligible for the MAGI Parent/Caretaker Relative category, if they assume responsibility for the dependent child living in the home.

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

The proposed rule will require a caretaker relative to indicate if they are the primary caretaker for the child living in the home to be eligible for the Parent/Caretaker category or the MAGI adult category. This rule change will not increase eligibility because the Colorado Benefits Management System (CBMS) is currently in compliance with our State Plan Amendment definition.

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.

The proposed rule change aligns Colorado regulation with the Medicaid state plan. The Department already implemented the policy outlined in this document on January 1, 2014, when the state plan was amended to change the definition of caretaker relative. Therefore, there would not be any costs to the Department or any other agency due to the implementation and enforcement of the proposed rule, nor would there be any effect on state revenues.

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

The cost of inaction is that there continues to be a discrepancy between the Medicaid state plan and Colorado regulation for this issue. There are no benefits of inaction.

DO NOT PUBLISH

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

There is no alternative method for achieving the purpose of the proposed rule.

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.

There are no alternative methods for the proposed rule that were considered.

8.100.1 Definitions

300% Institutionalized Special Income Group is a Medical Assistance category that provides Long-Term Care Services to aged or disabled individuals.

1619b is section 1619b of the Social Security Act which allows individuals who are eligible for Supplemental Security Income (SSI) to continue to be eligible for Medical Assistance coverage after they return to work.

AB - Aid to the Blind is a program which provides financial assistance to low-income blind persons.

ABD - Aged, Blind and Disabled Medical Assistance is a group of Medical Assistance categories for individuals that have been deemed to be aged, blind, or disabled by the Social Security Administration or the Department.

Adult MAGI Medical Assistance Group provides Medical Assistance to eligible adults from the age of 19 through the end of the month that the individual turns 65, who do not receive or who are ineligible for Medicare.

AND - Aid to Needy Disabled is a program which provides financial assistance to low-income persons over age 18 who have a total disability which is expected to last six months or longer and prevents them from working.

AFDC - Aid to Families with Dependent Children is the Title IV federal assistance program in effect from 1935 to 1997 which was administered by the United States Department of Health and Human Services. This program provided financial assistance to children whose families had low or no income.

AP-5615 is the form used to determine the patient payment for clients in nursing facilities receiving Long Term Care.

Alien is a person who was not born in the United States and who is not a naturalized citizen.

Ambulatory Services is any medical care delivered on an outpatient basis.

Annuity is an investment vehicle whereby an individual establishes a right to receive fixed periodic payments, either for life or a term of years.

Applicant is an individual who is seeking an eligibility determination for Medical Assistance through the submission of an application.

Application Date 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.

Application for Public Assistance is the designated application used to determine eligibility for financial assistance. It can also be used to determine eligibility for Medical Assistance.

Blindness is defined in this volume as the total lack of vision or vision in the better eye of 20/200 or less with the use of a correcting lens and/or tunnel vision to the extent that the field of vision is no greater than 20 degrees.

Burial Spaces are burial plots, gravesites, crypts, mausoleums, urns, niches and other customary and traditional repositories for the deceased's bodily remains provided such spaces are owned by the

individual or are held for his or her use, including necessary and reasonable improvements or additions to or upon such burial spaces such as: vaults, headstones, markers, plaques, or burial containers and arrangements for opening and closing the gravesite for burial of the deceased.

Burial Trusts are irrevocable pre-need funeral agreements with a funeral director or other entity to meet the expenses associated with burial for Medical Assistance applicants/recipients. The agreement can include burial spaces as well as the services of the funeral director.

Caretaker Relative is a person who is related to the dependent child or any adult with whom the dependent child is living and who assumes responsibility for the dependent child's care.

Case Management Services are services provided by community mental health centers, clinics, community centered boards, and EPSDT case managers to assist in providing services to Medical Assistance clients in gaining access to needed medical, social, educational and other services.

Cash Surrender Value is the amount the insurer will pay to the owner upon cancellation of the policy before the death of the insured or before maturity of the policy.

Categorically Eligible means persons who are eligible for Medical Assistance due to their eligibility for one or more Federal categories of public assistance.

CBMS - Colorado Benefits Management System is the computer system that determines an applicant's eligibility for public assistance in the state of Colorado.

CDHS -Colorado Department of Human Services is the state department responsible for administering the social service and financial assistance programs for Colorado.

Children MAGI Medical Assistance group provides Medical Assistance coverage to tax dependents or otherwise eligible applicants through the end of the month that the individual turns 19 years old.

Child Support Services is a CDHS program that assures that all children receive financial and medical support from each parent. This is accomplished by locating each parent, establishing paternity and support obligations, and enforcing those obligations.

Citizen is a person who was born in the United States or who has been naturalized.

Client is a person who is eligible for the Medical Assistance Program. "Client" is used interchangeably with "recipient" when the person is eligible for the program.

CMS - Centers for Medicare and Medicaid Services is the Federal agency within the US Department of Health and Human Services that partners with the states to administer Medicaid and CHP+ via State Plans in effect for each State. Colorado is in Region VIII.

CHP+ - Child Health Plan Plus is low-cost health insurance for Colorado's uninsured children and pregnant women. CHP+ is public health insurance for children and pregnant women who earn too much to qualify for The Medical Assistance Program, but cannot afford private health insurance.

COLA - Cost of Living Adjustment is an annual increase in the dollar value of benefits made automatically by the United States Department of Health and Human Services or the state in OASDI, SSI and OAP cases to account for rises in the cost of living due to inflation.

Colorado State Plan is a written statement which describes the purpose, nature, and scope of the Colorado's Medical Assistance Program. The Plan is submitted to the CMS and assures that the program is administered consistently within specific requirements set forth in both the Social Security Act and the

Code of Federal Regulations (CFR) in order for a state to be eligible for Federal Financial Participation (FFP).

Common Law Marriage is legally recognized as a marriage in the State of Colorado under certain circumstances even though no legally recognized marriage ceremony is performed or civil marriage contract is executed. Individuals declaring or publicly holding themselves out as a married couple through verbal or written methods may be recognized as legally married under state law. C.R.S. § 14-2-104(3).

Community Centered Boards are private non-profit organizations designated in statute as the single entry point into the long-term service and support system for persons with developmental disabilities.

Community Spouse is the spouse of an institutionalized spouse.

Community Spouse Resource Allowance is the amount of resources that the Medical Assistance regulations permit the spouse staying at home to retain.

Complete Application means an application in which all questions have been answered, which is signed, and for which all required verifications have been submitted.

The Department is defined in this volume as the Colorado Department of Health Care Policy and Financing which is responsible for administering the Colorado Medical Assistance Program and Child Health Plan Plus programs as well as other State-funded health care programs.

Dependent Child is 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.

Dependent Relative for purposes of this rule is defined as one who is claimed as a dependent by an applicant for federal income tax purposes.

Difficulty of Care Payments is a payment to an individual as compensation for providing additional care to an individual who qualifies for foster care and lives in the home of the care provider. This additional care must be required due to a physical, mental, or emotional handicap suffered by the foster care individual.

Disability means the inability to do any substantial gainful activity (or, in the case of a child, having marked and severe functional limitations) by reason of a medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of 12 months or more.

Dual Eligible clients are Medicare beneficiaries who are also eligible for Medical Assistance.

Earned Income is defined for purposes of this volume as any compensation from participation in a business, including wages, salary, tips, commissions and bonuses.

Earned Income Disregards are the allowable deductions and exclusions subtracted from the gross earnings. Income disregards vary in amount and type, depending on the category of assistance.

Electronic Data Source is an interface established with a federal or state agency, commercial entity, or other data sources obtained through data sharing agreements to verify data used in determining eligibility. The active interfaces are identified in the Department's verification plan submitted to CMS.

Eligibility Site is defined in this volume as a location outside of the Department that has been deemed by the Department as eligible to accept applications and determine eligibility for applicants.

Employed means that an individual has earned income and is working part time, full time or is self-employed, and has proof of employment. Volunteer or in-kind work is not considered employment.

EPSDT- Early Periodic Screening, Diagnosis and Treatment is the child health component of the Medical Assistance Program. It is required in every state and is designed to improve the health of low-income children by financing appropriate, medically necessary services and providing outreach and case management services for all eligible individuals.

Equity Value is the fair market value of land or other asset less any encumbrances.

Ex Parte Review is an administrative review of eligibility during a redetermination period in lieu of performing a redetermination from the client. This administrative review is performed by verifying current information obtained from another current aid program.

Face Value of a Life Insurance Policy is the basic death benefit of the policy exclusive of dividend additions or additional amounts payable because of accidental death or other special provisions.

Fair Market Value is the average price a similar property will sell for on the open market to a private individual in the particular geographic area involved. Also, the price at which the property would change hands between a willing buyer and a willing seller, neither being under any pressure to buy or to sell and both having reasonable knowledge of relevant facts.

FBR - The Federal Benefit Rate is the monthly Supplemental Security Income payment amount for a single individual or a couple. The FBR is used by the Aged, Blind and Disabled Medical Assistance Programs as the eligibility income limits.

FFP - Federal Financial Participation as defined in this volume is the amount or percentage of funds provided by the Federal Government to administer the Colorado Medical Assistance Program.

FPL - Federal Poverty Level is a simplified version of the federal poverty thresholds used to determine financial eligibility for assistance programs. The thresholds are issued each year in the Federal Register by the Department of Health and Human Services (HHS).

Good Cause is the client's justification for needing additional time due to extenuating circumstances, usually used when extending deadlines for submittal of required documentation.

Good Cause for Child Support is the specific process and criteria that can be applied when a client is refusing to cooperate in the establishment of paternity or establishment and enforcement of a child support order due to extenuating circumstances.

HCBS are Home and Community Based Services are also referred to as "waiver programs". HCBS provides services beyond those covered by the Medical Assistance Program that enable individuals to remain in a community setting rather than being admitted to a Long-Term Care institution.

In-Kind Income is income a person receives in a form other than money. It may be received in exchange for work or service (earned income) or a non-cash gift or contribution (unearned income).

Inpatient is an individual who has been admitted to a medical institution on recommendation of a physician or dentist and who receives room, board and professional services for 24 hours or longer, or is expected to receive these services for 24 hours or longer.

Institution is an establishment that furnishes, in single or multiple facilities, food, shelter and some treatment or services to four or more persons unrelated to the proprietor.

Institutionalization is the commitment of a patient to a health care facility for treatment.

Institutionalized Individual is a person who is institutionalized in a medical facility, a Long-Term Care institution, or applying for or receiving Home and Community Based Services (HCBS) or the Program of All Inclusive Care for the Elderly (PACE).

Institutionalized Spouse is a Medicaid eligible client who begins a stay in a medical institution or nursing facility on or after September 30, 1989, or is first enrolled as a Medical Assistance client in the Program of All Inclusive Care for the Elderly (PACE) on or after October 10, 1997, or receives Home and Community Based Services (HCBS) on or after July 1, 1999; and is married to a spouse who is not in a medical institution or nursing facility. An institutionalized spouse does not include any such individual who is not likely to be in a medical institution or nursing facility or to receive HCBS or PACE for at least 30 consecutive days. Irrevocable means that the contract, trust, or other arrangement cannot be terminated, and that the funds cannot be used for any purpose other than outlined in the document.

Insurance Affordability Program (IAP) refers to Medicaid, Child Health Plan *Plus* (CHP+), and premium and cost-sharing assistance for purchasing private health insurance through state insurance marketplace.

Legal Immigrant is an individual who is not a citizen or national and has been permitted to remain in the United States by the United States Citizenship and Immigration Services (USCIS) either temporarily or as an actual or prospective permanent resident or whose extended physical presence in the United States is known to and allowed by USCIS.

Legal Immigrant Prenatal is a medical program that provides medical coverage for pregnant legal immigrants who have been legal immigrants for less than five years.

Limited Disability for the Medicaid Buy-In Program for Working Adults with Disabilities means that an individual has a disability that would meet the definition of disability under SSA without regard to Substantial Gainful Activity (SGA).

Long-Term Care is Medical Assistance services that provides nursing-home care, home-health care, personal or adult day care for individuals aged at least 65 years or with a chronic or disabling condition.

Long-Term Care Institution means class I nursing facilities, intermediate care facilities for the mentally retarded (ICF/MR) and swing bed facilities. Long-Term Care institutions can include hospitals.

Managed care system is a system for providing health care services which integrates both the delivery and the financing of health care services in an attempt to provide access to medical services while containing the cost and use of medical care.

Medical Assistance is defined as all medical programs administered by the Department of Health Care Policy and Financing. Medical Assistance/Medicaid is the joint state/federal health benefits program for individuals and families with low income and resources. It is an entitlement program that is jointly funded by the states and federal government and administered by the state. This program provides for payment of all or part of the cost of care for medical services.

Medical Assistance Required Household is defined for purposes of this volume as all parents or caretaker relatives, spouses, and dependent children residing in the same home.

Minimal Verification is defined in this volume as the minimum amount of information needed to process an application for benefits. No other verification can be requested from clients unless the information provided is questionable or inconsistent.

Minimum Essential Coverage is the type of coverage one must maintain to be in compliance with the Affordable Care Act in order to avoid paying a penalty for being uninsured. Minimum essential coverage may include but not limited to: Medicaid; CHP+; private health plans through Connect for Health Colorado; Medicare; job-based insurance, and certain other coverage.

MMMNA - Minimum Monthly Maintenance Needs Allowance is the calculation used to determine the amount of institutionalized spouse's income that the community spouse is allowed to retain to meet their monthly living needs.

MAGI - Modified Adjusted Gross Income refers to the methodology by which income and household composition are determined for the MAGI Medical Assistance groups under the Affordable Care Act. These MAGI groups include Parents and Caretaker Relatives, Pregnant Women, Children, and Adults. For a more complete description of the MAGI categories and pursuant rules, please refer to section 8.100.4.

MAGI-Equivalent is the resulting standard identified through a process that converts a state's net-income standard to equivalent MAGI standards.

MIA - Monthly Income Allowance is the amount of institutionalized spouse's income that the community spouse is allowed to retain to meet their monthly living needs.

MSP - Medicare Savings Program is a Medical Assistance Program to assist in the payment of Medicare premium, coinsurance and deductible amounts. There are four groups that are eligible for payment or part-payment of Medicare premiums, coinsurance and deductibles: Qualified Medicare Beneficiaries (QMBs), Specified Low-Income Medicare Beneficiaries (SLIMBs), Qualified Disabled and Working Individuals (QDWIs), and Qualifying Individuals – 1 (QI-1s).

Non-Filer is an individual who neither files a tax return nor is claimed as a tax dependent. For a more complete description of how household composition is determined for the MAGI Medical Assistance groups, please refer to the MAGI household composition section at 8.100.4.E.

Nursing Facility is a facility or distinct part of a facility which is maintained primarily for the care and treatment of inpatients under the direction of a physician. The patients in such a facility require supportive, therapeutic, or compensating services and the availability of a licensed nurse for observation or treatment on a twenty-four-hour basis.

OAP - Old Age Pension is a financial assistance program for low income adults age 60 or older.

OASDI - Old Age, Survivors and Disability Insurance is the official term Social Security uses for Social Security Act Title II benefits including retirement, survivors, and disability. This does not include SSI payments.

Outpatient is a patient who is not hospitalized overnight but who visits a hospital, clinic, or associated facility for diagnosis or treatment. Is a patient who does not require admittance to a facility to receive medical services.

PACE - Program of All-inclusive Care for the Elderly is a unique, capitated managed care benefit for the frail elderly provided by a not-for-profit or public entity. The PACE program features a comprehensive medical and social service delivery system using an interdisciplinary team approach in an adult day health center that is supplemented by in-home and referral services in accordance with participants' needs.

Parent and Caretaker Relative is a MAGI Medical Assistance group that provides Medical Assistance to adults who are parents or Caretaker Relatives of dependent children.

Patient is an individual who is receiving needed professional services that are directed by a licensed practitioner of the healing arts toward maintenance, improvement, or protection of health, or lessening of illness, disability, or pain.

PEAK – the Colorado Program Eligibility and Application Kit is a web-based portal used to apply for public assistance benefits in the State of Colorado, including Medical Assistance.

PNA - Personal Needs Allowance means moneys received by any person admitted to a nursing care facility or Long-Term Care Institution which are received by said person to purchase necessary clothing, incidentals, or other personal needs items which are not reimbursed by a Federal or state program.

Pregnant Women is a MAGI Medical Assistance group that provides Medical Assistance coverage to pregnant women whose MAGI-based income calculation is less than 185% FPL, including women who are 60 days post-partum.

Premium means the monthly amount an individual pays to participate in a Medicaid Buy-In Program.

Provider is any person, public or private institution, agency, or business concern enrolled under the state Medical Assistance program to provide medical care, services, or goods and holding a current valid license or certificate to provide such services or to dispense such goods.

Psychiatric Facility is a facility that is licensed as a residential care facility or hospital and that provides inpatient psychiatric services for individuals under the direction of a licensed physician.

Public Institution means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

Questionable is defined as inconsistent or contradictory tangible information, statements, documents, or file records.

Reasonable Compatibility refers to an allowable difference or discrepancy between the income an applicant self attests and the amount of income reported by an electronic data source. For a more complete description of how reasonable compatibility is used to determine an applicant's financial eligibility for Medical Assistance, please refer to the MAGI Income section at 8.100.4.C

Reasonable Explanation refers to the opportunity afforded an applicant to explain a discrepancy between self-attested income and income as reported by an electronic data source, when the difference is above the threshold percentage for reasonable compatibility.

Recipient is any person who has been determined eligible to receive benefits.

Resident is any individual who is living within the state and considers the state as their place of residence. Residents include any unemancipated child whose parent or other person exercising custody lives within the state.

RRB - Railroad Retirement Benefits is a benefit program under Federal law 45 U.S.C. § 231 et seq that became effective in 1935. It provides retirement benefits to retired railroad workers and families from a special fund, which is separate from the Social Security fund.

Secondary School is a school or educational program that provides instruction or training towards a high school diploma or an equivalent degree such as a High School Equivalency Diploma (HSED).

SGA – Substantial Gainful Activity is defined by the Social Security Administration. SGA is the term used to describe a level of work activity and earnings. Work is “substantial” if it involves performance of significant physical or mental activities or a combination of both, which are productive in nature. For work activity to be substantial, it does not need to be performed on a full-time basis. Work activity performed on a part-time basis may also be substantial gainful activity. “Gainful” work activity is work performed for pay or profit; or work of a nature generally performed for pay or profit; or work intended for profit, whether or not a profit is realized.

Single Entry Point Agency means the organization selected to provide case management functions for persons in need of Long-Term Care services within a Single Entry Point District.

Single Streamlined Application or "SSAp" is the general application for health assistance benefits through which applicants will be screened for Medical Assistance programs including Medicaid, CHP+, or premium and cost-sharing assistance for purchasing private health insurance through a state insurance marketplace.

SISC- Supplemental Income Status Codes are system codes used to distinguish the different types of state supplementary benefits (such as OAP) a recipient may receive. Supplemental Income Status Codes determine the FFP for benefits paid on behalf of groups covered under the Medical Assistance program.

SSA - Social Security Administration is an agency of the United States federal government that administers Social Security, a social insurance program consisting of retirement, disability, and survivors' benefits.

SSI - Supplemental Security Income is a Federal income supplement program funded by general tax revenues (not Social Security taxes) that provides income to aged, blind or disabled individuals with little or no income and resources.

SSI Eligible means an individual who is eligible to receive Supplemental Security Income under Title XVI of the Social Security Act, and may or may not be receiving the monetary payment.

TANF - Temporary Assistance to Needy Families is the Federal assistance program which provides supportive services and federal benefits to families with little or no income or resources. It is the Block Grant that was established under the Personal Responsibility and Work Opportunity Reconciliation Act in Title IV of the Social Security Act.

Tax Dependent is anyone expected to be claimed as a dependent by a Tax-Filer.

Tax-Filer is an individual, head of household or married couple who is required to and who files a personal income tax return.

Third Party is an individual, institution, corporation, or public or private agency which is or may be liable to pay all or any part of the medical cost of an injury, a disease, or the disability of an applicant for or recipient of Medical Assistance.

Title XIX is the portion of the federal Social Security Act which authorizes a joint federal/state Medicaid program. Title XIX contains federal regulations governing the Medicaid program.

TMA - Transitional Medical Assistance is a Medical Assistance category for families that lost Medical Assistance coverage due to increased earned income or loss of earned income disregards.

ULTC 100.2 is an assessment tool used to determine level of functional limitation and eligibility for Long-Term Care services in Colorado.

Unearned Income is the gross amount received in cash or kind that is not earned from employment or self-employment.

VA - Veterans Affairs is The Department of Veterans Affairs which provides patient care and Federal benefits to veterans and their dependents.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning Persons Requesting Long-Term Care through Home and Community Based Services (HCBS) or the Program of All-Inclusive Care for the Elderly (PACE), Section 8.100.7.B.1

Rule Number: MSB 17-02-23-B

Division / Contact / Phone: Eligibility / Eric Stricca / 4475

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 17-02-23-B, Revision to the Medical Assistance Rule Concerning Persons Requesting Long-Term Care through Home and Community Based Services (HCBS) or the Program of All-Inclusive Care for the Elderly (PACE), Section 8.100.7.B.1
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) 8.100.7.B.1, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
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). <Select One>

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.100.7.B.1.c.i with the proposed text beginning at 8.100.7.B.1.c.i through the end of 8.100.7.B.1.c.i. The rule is effective June 30, 2017.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning Persons Requesting Long-Term Care through Home and Community Based Services (HCBS) or the Program of All-Inclusive Care for the Elderly (PACE), Section 8.100.7.B.1

Rule Number: MSB 17-02-23-B

Division / Contact / Phone: Eligibility / Eric Stricca / 4475

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).

This rule change implements HB 16-1321 which directs the Department to allow individuals who are financially eligible under the Working Adults with Disabilities Buy-In category to receive Home and Community Based Services (HCBS) under the Brain Injury and Spinal Cord Injury waivers if the level of care is met for the respective waiver.

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:

42 USC § 1396n

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
25.5-6-1403 (2016)

Initial Review

[date]

Final Adoption

[date]

Proposed Effective Date

[date]

Emergency Adoption

[date]

DOCUMENT #

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Rule Concerning Persons Requesting Long-Term Care through Home and Community Based Services (HCBS) or the Program of All-Inclusive Care for the Elderly (PACE), Section 8.100.7.B.1

Rule Number: MSB 17-02-23-B

Division / Contact / Phone: Eligibility / Eric Stricca / 4475

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.

Colorado Medicaid currently has a buy-in program for working adults with disabilities. The existing buy-in program allows adults with a qualifying disability who earn incomes of less than 450 percent of the Federal Poverty Level to obtain Medicaid coverage by paying a premium (i.e., to buying into Medicaid) based on a sliding payment scale. This bill extends the Medicaid buy-in program to adults that are eligible to receive home- and community-based services under the BI waiver, and the SCI waiver. The BI and SCI waiver provide services to persons with brain and spinal cord injuries, also with the goal of allowing clients to remain in their homes. To participate, adults must meet certain financial and program criteria.

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

Approximately 38 clients will participate in the new Medicaid buy-in program in FY 2017-18 and 41 clients will participate in FY 2018-19. Out of these participating clients, 5 clients in FY 2017-18 and 6 clients in FY 2018-19 will be new clients, the remainder (33 in FY 2016-17 and 35 in FY 2017-18) will be existing waiver clients that transition from the regular waiver program to the buy-in program

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.

The bill increases net costs in HCPF by \$138,027 in FY 2016-17, \$135,314 in FY 2017-18, and \$174,834 in FY 2018-19. First-year costs are for information technology system modifications. Future-year costs represent the costs of new clients that gain Medicaid coverage through the new Medicaid buy-in program. In addition, by shifting existing clients from the regular waiver programs to the Medicaid buy-in, General Fund costs for this population are reduced and replaced by Hospital Provider Fee Cash Fund and client premiums which increases the cash fund revenue to HCPF by \$28,956 in FY 2017-18 and by \$31,242 in FY 2018-19.

DO NOT PUBLISH

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

Without implementing this rule, HCPF would be out of compliance with state law. Therefore inaction is not possible.

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

There are no less costly or intrusive methods.

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.

There are no alternative methods.

8.100.7.B. Persons Requesting Long-term Care through Home and Community Based Services (HCBS) or the Program of All Inclusive Care for the Elderly (PACE)

1. HCBS or PACE shall be provided to persons who have been assessed by the Single Entry Point/Case Management Agency to have met the functional level of care and will remain in the community by receiving HCBS or PACE; and
 - a. are SSI (including 1619b) or OAP Medicaid eligible; or
 - b. are eligible under the Institutionalized 300% Special Income category described at 8.100.7.A; or
 - c. are eligible under the Medicaid Buy-In Program for Working Adults with Disabilities described at 8.100.6.P. For this group, access to HCBS:
 - i) Is limited to the Elderly, Blind and Disabled (EBD), Community Mental Health Supports (CMHS), Brain Injury (BI) and Spinal Cord Injury (SCI) waivers; and
 - ii) Is contingent on the Department receiving all necessary federal approval for the waiver amendments that extend access to HCBS to the Working Adults with Disabilities population described at 8.100.6.P.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Long Term Care Single Entry Point System Rule Concerning Sections 8.390, 8.391, 8.392, 8.393, and 8.394

Rule Number: MSB 16-04-12-A

Division / Contact / Phone: LTSS / Julie Reed / 5425

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Health Care Policy and Financing / Medical Services
Name: Board
2. Title of Rule: MSB 16-04-12-A, Revision to the Medical Assistance Long Term Care Single Entry Point System Rule Concerning Sections 8.390, 8.391, 8.392, 8.393, and 8.394
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) 8.390, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
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 Yes hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.390 with the proposed text starting at 8.390 through the end of 8.393.6.B.1.i. This rule is effective June 30, 2017.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Long Term Care Single Entry Point System Rule
Concerning Sections 8.390, 8.391, 8.392, 8.393, and 8.394

Rule Number: MSB 16-04-12-A

Division / Contact / Phone: LTSS / Julie Reed / 5425

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 Long Term Care Single Entry Point System Rule regulates the work of Single Entry Point Agencies throughout the state of Colorado. The purpose of updating this rule is to ensure that it reflects the most current processes and that all language is necessary, clear and non-duplicative. The update of this rule coincides with the Department's regulatory efficiency review process.

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:

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
25.5-6-105

Initial Review
Proposed Effective Date

04/14/17
06/30/17

Final Adoption
Emergency Adoption

05/12/17

DOCUMENT #02

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Long Term Care Single Entry Point System Rule Concerning Sections 8.390, 8.391, 8.392, 8.393, and 8.394

Rule Number: MSB 16-04-12-A

Division / Contact / Phone: LTSS / Julie Reed / 5425

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 classes of persons who will be affected by the proposed rule include the Single Entry Point Agencies that administer Long Term Care programs as well as individuals receiving services as part of Long Term Care programs.

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

The proposed rule should clarify how Single Entry Point agencies administer Long Term Care programs and should better align with current practices.

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.

The implementation and enforcement of the proposed rule should not create any costs to the Department or have an anticipated effect on State revenues.

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

The probable benefit of the proposed rule is more efficient case management administered by Single Entry Point Agencies. There is not a probable cost to implementing this rule.

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

There are not less costly or intrusive methods for achieving the purpose of the proposed rule.

DO NOT PUBLISH

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.

There were not any alternative methods considered for achieving the purpose for the proposed rule because the purpose of the rule change is to ensure that it reflects the most current processes and that all language is necessary, clear and non-duplicative.

8.390 LONG TERM CARE SINGLE ENTRY POINT SYSTEM

The long term care Single Entry Point system consists of Single Entry Point agencies, representing geographic districts throughout the state, for the purpose of enabling persons in need of long term services and supports to access appropriate services and supports.

8.390.1 DEFINITIONS

A. Agency Applicant means a legal entity seeking designation as the provider of Single Entry Point agency functions within a Single Entry Point district.

B. Assessment means a comprehensive evaluation with the individual seeking services and appropriate collaterals (such as family members, advocates, friends and/or caregivers) conducted by the case manager, with supporting diagnostic information from the individual's medical provider to determine the individual's level of functioning, service needs, available resources, and potential funding resources. Case Managers shall use the ULTC 100.2 to complete assessments.

C. Case Management means the assessment of an individual receiving long-term services and supports' needs, the development and implementation of a support plan for such individual, referral and related activities, the coordination and monitoring of long-term service delivery, the evaluation of service effectiveness, and the periodic reassessment of such individual's needs.

D. Corrective Action Plan means a written plan, which includes the specific actions the agency shall take to correct non-compliance with regulations, and which stipulates the date by which each action shall be completed.

E. Critical Incident means an actual or alleged event that creates the risk of serious harm to the health or welfare of an individual receiving services; and it may endanger or negatively impact the mental and/or physical well-being of an individual. Critical Incidents include, but are not limited to: Injury/illness; abuse/neglect/exploitation; damage/theft of property; medication mismanagement; lost or missing person; criminal activity; unsafe housing/displacement; or death.

F. Department shall mean the Colorado Department of Health Care Policy and Financing.

G. Failure to Satisfy the Scope of Work means incorrect or improper activities or inactions by the Single Entry Point agency in terms of its contract with the Department

H. Financial Eligibility means an individual meets the eligibility criteria for a publicly funded program, based on the individual's financial circumstances, including income and resources.

I. Functional Eligibility means an individual meets functional criteria for a Long Term Services and Supports (LTSS) Program as determined by the Department.

J. Functional Needs Assessment means a comprehensive evaluation with the individual seeking services and appropriate collaterals (such as family members, friends and/or caregivers) and a written evaluation by the case manager utilizing the ULTC 100.2, with supporting diagnostic information from the individual's medical provider, to determine the individual's level of functioning, service needs, available resources, potential funding resources and medical necessity for admission or continued stay in certain Long Term Services and Supports (LTSS) Programs.

K. Home and Community Based Services (HCBS) Programs means the specific HCBS programs for which Single Entry Point agencies shall provide case management services, including Home and Community Based Services for the Elderly, Blind and Disabled (HCBS-EBD), Home and Community-Based Services for Persons with a Spinal Cord Injury (HCBS-SCI) (where applicable), Home and

Community-Based Services for Persons with a Brain Injury (HCBS-BI), Home and Community-Based Services Community Mental Health Supports (HCBS-CMHS), Home and Community-Based Services for Children with a Life Limiting Illness (HCBS-CLLI).

L. Information Management System (IMS) means an automated data management system approved by the Department to enter case management information for each individual seeking or receiving long term services as well as to compile and generate standardized or custom summary reports.

M. Intake/Screening/Referral means the initial contact with individuals by the Single Entry Point agency and shall include, but not be limited to, a preliminary screening in the following areas: an individual's need for long term services and supports; an individual's need for referral to other programs or services; an individual's eligibility for financial and program assistance; and the need for a comprehensive functional assessment of the individual seeking services.

N. Long Term Services and Supports (LTSS) means the services and supports used by individuals of all ages with functional limitations and chronic illnesses who need assistance to perform routine daily activities such as bathing, dressing, preparing meals, and administering medications.

O. LTSS Program means a publicly funded program including, but not limited to, Home and Community-Based Services for the Elderly, Blind and Disabled (HCBS-EBD), Home and Community-Based Services for Persons with a Spinal Cord Injury (HCBS-SCI) (where applicable), Home and Community-Based Services for Persons with a Brain Injury (HCBS-BI), Home and Community-Based Services Community Mental Health Supports (HCBS-CMHS), Home and Community-Based Services for Children with a Life Limiting Illness (HCBS-CLLI), Medicaid Nursing Facility Care, Program for All Inclusive Care for the Elderly (PACE) (where applicable), Hospital Back-up (HBU) and Adult Long Term Home Health (LTHH).

P. Pre-Admission Screening and Resident Review (PASRR) means the pre-screening of individuals seeking nursing facility admission to identify individuals with mental illness (MI) and/or intellectual disability (ID), to ensure that individuals are placed appropriately, whether in the community or in a NF and to ensure that individuals receive the services they require for their MI or ID.

Q. Private Pay Individual means an individual for whom reimbursement for case management services is received from sources other than a Department-administered program, including the individual's own financial resources.

R. Professional Medical Information Page (PMIP) means the medical information signed by a licensed medical professional used as a component of the Assessment (ULTC-100.2) to determine the client's need for institutional care.

S. Reassessment means a periodic comprehensive reevaluation with the individual receiving services, appropriate collaterals and case manager, with supporting diagnostic information from the individual's medical provider to re-determine the individual's level of functioning, service needs, available resources and potential funding resources.

T. Resource Development means the study, establishment and implementation of additional resources or services which will extend the capabilities of community LTSS systems to better serve individuals receiving long-term services and individuals likely to need long-term services in the future.

U. Single Entry Point (SEP) means the availability of a single access or entry point within a local area where an individual seeking or currently receiving LTSS can obtain LTSS information, screening, assessment of need and referral to appropriate LTSS programs and case management services.

V. Single Entry Point Agency means the organization selected to provide intake, screening, referral, eligibility determination, and case management functions for persons in need of LTSS within a Single Entry Point District.

W. Single Entry Point District means two or more counties, or a single county, that have been designated as a geographic region in which one agency serves as the Single Entry Point for persons in need of LTSS.

X. State Designated Agency means a Single Entry Point agency designated to perform specified functions that would otherwise be performed by the county department(s) of social services.

Y. Support Planning means the process of working with the individual receiving services and people chosen by the individual to identify goals, needed services, individual choices and preferences, and appropriate service providers based on the individual seeking or receiving services' assessment and knowledge of the individual and of community resources. Support planning informs the individual seeking or receiving services of his or her rights and responsibilities.

Z. Target Group Criteria means the specific population to be served through an HCBS waiver. Target Group criteria includes physical or behavioral disabilities, chronic conditions, age or diagnosis and can include other criteria such as demonstrating an exceptional need.

8.390.2 LEGAL AUTHORITY

Pursuant to C.R.S. 25.5.6.105, the State Department is authorized to provide for a statewide Single Entry Point system.

8.390.3 CHARACTERISTICS OF INDIVIDUALS RECEIVING SERVICES IN LTSS PROGRAMS

A. An individual served by the SEP Agency shall meet the following criteria:

1. The individual requires skilled, maintenance and/or supportive services long term;
2. The individual has functional impairment in activities of daily living (ADL) and/or a need for supervision, necessitating LTSS provided in a nursing facility, an alternative residential setting, the individual's home or other services and supports in the community;
3. The individual receives or is eligible to receive medical assistance (Medicaid) and/or financial assistance under one or more of the following programs: Old Age Pension, Aid to Blind, Aid to Needy Disabled, Supplemental Security Income, or Colorado Supplemental, or as a 300% eligible, as defined at 8.485.50.T, receiving LTSS in a nursing facility or through one of the HCBS Programs.

8.391 SINGLE ENTRY POINT DISTRICT DESIGNATION

8.391.1.A. District Designation Requirements

Single Entry Point (SEP) districts shall meet the following requirements:

1. Counties composing a multi-county district shall be contiguous.
2. A single county may be designated a district provided the county serves a monthly average of 200 or more individuals for LTSS programs.
3. Multi-county districts shall not be required to serve a minimum number of individuals receiving services.
4. Each district shall assure adequate staffing and infrastructure by the district's SEP agency, including at least one full-time case manager employed by the SEP agency, to

provide coverage for all case management functions and administrative support, in accordance with rules at Section 8.393.

8.391.1.B. Changes in Single Entry Point District Designation

1. In order to change SEP district designation, a county or district shall submit an application to the Department, six (6) months prior to commencement date of the proposed change. The application shall include the following information:
 - a. The geographic boundaries of the proposed SEP district;
 - b. Assurances that the proposed district meets all criteria set forth in Department rules for SEP district designation;
 - c. The designation of a contact person for the proposed district; and
 - d. A resolution supporting the application passed by the county commissioners of each county or parts of counties in the proposed district.
2. The application shall be approved provided the proposed district meets the SEP district designation requirements.

8.391.2 Single Entry Point Agency Selection

- A. Except as otherwise provided herein, upon a change in SEP district designation or upon expiration of the district's existing SEP agency contract, a SEP district may select a county agency, including a county department of social/human services, a county nursing service, an area agency on aging or a multicounty agency to serve as the SEP agency for the district. Once the SEP functions in a district are provided through a contract between the Department and an entity other than as listed above, the SEP agency for that district shall thereafter be selected by the Department pursuant to applicable state statutes and regulations.
- B. The agency selected by the SEP district shall serve as the SEP agency for the district unless the agency selected by the district has previously had its SEP agency contract terminated by the Department.
- C. The SEP district's selection shall be delivered to the Department no less than six (6) months prior to the effective date of the change in district designation or expiration of the contract with the district's existing SEP agency.
- D. If the SEP district has not delivered to the Department its selection within the timeframe specified in subsection (C) of this rule, the SEP agency for the district shall be selected by the Department pursuant to applicable state statutes and regulations.

8.391.3 Single Entry Point Contract

- A. A SEP agency shall be bound to the terms of the contract between the agency and the Department including quality assurance standards and compliance with the Department's rules for SEP agencies and for LTSS Programs.

8.391.4 Certification of Single Entry Point Agencies

1. A SEP agency shall be certified annually in accordance with quality assurance standards and requirements set forth in the Department's rules and in the contract between the agency and the Department.

- a. Certification as a SEP agency shall be based on an evaluation of the agency's performance in the following areas:
 - i. The quality of the services provided by the agency;
 - ii. The agency's compliance with program requirements, including compliance with case management standards adopted by the Department;
 - iii. The agency's performance of administrative functions, including reasonable costs per individual receiving services, timely reporting, managing programs in one consolidated unit, on-site visits to individuals, community coordination and outreach and individual monitoring;
 - iv. Whether targeted populations are being identified and served;
 - v. Financial accountability; and
 - vi. The maintenance of qualified personnel to perform the contracted duties.
- b. The Department or its designee shall conduct reviews of the SEP agency.
- c. At least sixty (60) days prior to expiration of the previous year's certification, the Department shall notify the SEP agency of the outcome of the review, which may be approval, provisional approval, or denial of certification.

8.391.4.A. Provisional Approval of Certification

- 1. In the event a SEP agency does not meet all of the quality assurance standards established by the Department, the agency may receive provisional approval of certification for a period not to exceed sixty (60) days, provided the deficiencies do not constitute a threat to the health and safety of individuals receiving services.
- 2. The agency will receive notification of the deficiencies, a request to submit a corrective action plan to be approved by the Department and upon receipt and review of the corrective action plan, at the Department's option, a second sixty-day (60) provisional certification may be approved.
- 3. The Department or its designee shall provide technical assistance to facilitate corrective action.

8.391.4.B. Denial of Certification

In the event certification as a SEP agency is denied, the procedure for SEP agency termination or non-renewal of contract shall apply.

8.392 FINANCING OF THE SINGLE ENTRY POINT SYSTEM

8.392.1.A Reimbursement Methodology

- 1. Reimbursement for SEP functions shall be determined by the number of counties included in a district and by the number of individuals served, subject to the availability of funds in the Department's annual appropriation for each SEP Agency.

- a. A SEP agency that serves a multi-county district shall annually receive a base amount for each county included in the district, plus an amount for each individual served, to be determined annually by the Department.
- b. A SEP agency that serves a district composed of only one county shall not receive the base amount, but shall receive an amount for each individual served each year.
- c. The amount for each individual shall be based on the number of individuals served in LTSS programs.

8.392.1.B Cost Allocation

- 1. The Department shall make monthly payments to each designated SEP agency using a methodology which shall be specified in the contract between the state and the agency.
- 2. Each fiscal year, the Department allocates funds for services provided by SEP agencies from the Department's appropriation. Payments to SEP agencies shall not exceed this allocation unless additional funds are appropriated by the General Assembly.
- 3. At the end of the contract year, actual individual and activity counts are reconciled against projected individual and activity counts. This process may result in either funds owed to the Department for payments made in excess of services delivered, or funds owed to SEP agencies for services delivered in excess of funds received. At the conclusion of the reconciliation process the Department issues reconciliation statements to collect for overpayments or adjusts for underpayments up to the aggregate amount allocated.
- 4. Allowable agency expenditures are those which the Department deems allowed or required, in accordance with the following federal rules: CFR Title 45, Part 74, Appendix C; Office of Management and Budget 2 CFR Part 200 Super Circular, January 2014; and U.S. Department of Health and Welfare, December 1976, Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government (OASC-10).
 - a. These federal regulations are subject to change, and any change in regulations shall be instructed by the Department.
- 5. SEP agencies may be audited by representatives of the Department, its designee and/or independent audit firms, in accordance with state and federal rules.
- 6. Payments are audited by the Department and may result in adjustments to reimbursement.
- 7. SEP agencies shall maintain documentation to support the actual costs of operation. Quarterly reports submitted to the Department shall document time expended by SEP Agency employees on specified programs, in accordance with a Department prescribed time analysis method.
- 8. For case management functions, the Department shall make monthly payments to each designated SEP agency using a methodology which shall be specified in the contract between the Department and the agency.

8.392.1.C Private Pay Individuals

SEP agencies may provide case management services to private pay individuals seeking or receiving services at the agency's discretion.

8.393 FUNCTIONS OF A SINGLE ENTRY POINT AGENCY

8.393.1.A Administration of a Single Entry Point

1. The SEP agency shall be required by federal or state statute, mission statement, by-laws, articles of incorporation, contracts, or rules and regulations which govern the agency, to comply with the following standards:
 - a. The SEP agency shall serve persons in need of LTSS programs defined in Section 8.390.3;
 - b. The SEP agency shall have the capacity to accept multiple funding source public dollars;
 - c. The SEP agency may contract with individuals, for-profit entities and not-for-profit entities to provide some or all SEP functions;
 - d. The SEP agency may receive funds from public or private foundations and corporations; and
 - e. The SEP agency shall be required to publicly disclose all sources and amounts of revenue.
2. For individuals with intellectual or developmental disabilities seeking or receiving services, the SEP will refer to the appropriate Community Center Board (CCB) for programs that serve this population. In the event that the individual is eligible for both a program administered by the SEP and by the CCB, the individual will have the right to choose in which program that he or she will participate.

8.393.1.B. Community Advisory Committee

1. The SEP agency shall, within thirty (30) days of designation, establish a community advisory committee for the purpose of providing public input and guidance for SEP agency operation.
 - a. The membership of the Community Advisory Committee shall include, but not be limited to, regional representation from the district's county commissioners, area agencies on aging, medical professionals, LTSS providers, LTSS ombudsman, human service agencies, county government officials and individuals receiving LTSS.
 - b. The Community Advisory Committee shall provide public input and guidance to the SEP agency in the review of service delivery policies and procedures, marketing strategies, resource development, overall SEP agency operations, service quality, individual satisfaction and other related professional problems or issues.

8.393.1.C. Personnel System

1. The SEP agency shall have a system for recruiting, hiring, evaluating and terminating employees.

- a. SEP agency employment policies and practices shall comply with all federal and state affirmative action and civil rights requirements.
- b. The SEP agency shall maintain current written job descriptions for all positions.

8.393.1.D. Accounting System

1. The SEP agency shall follow generally accepted accounting practices and comply with all rules and regulations for accounting practices set forth by the State.
 - a. In addition, the SEP agency shall assure the following:
 - i. Funds are used solely for authorized purposes;
 - ii. All financial documents are filed in a systematic manner to facilitate audits;
 - iii. All prior years' expenditure documents are maintained for use in the budgeting process and for audits; and
 - iv. Records and source documents are made available to the Department, its representative, or an independent auditor for inspection, audit, or reproduction during normal business hours.
 - b. The SEP agency shall be audited annually and shall submit the final report of the audit to the Department within six (6) months after the end of the state's fiscal year. The SEP agency shall assure timely and appropriate resolution of audit findings and recommendations.
 - c. SEPs are subrecipients of federal funding and therefore are subject to federal subrecipient requirements. See the Office of Management and Budget Super Circular, 2 C.F.R. 200.330-32 (2013).
 - i. Subrecipient (the SEP agency) means a non-Federal entity that receives a Subaward from a Recipient (the Department) to carry out part of a Federal program, but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.

8.393.1.E. Liability Insurance Coverage

The SEP agency shall maintain adequate liability insurance (including automobile insurance, professional liability insurance and general liability insurance) to meet the Department's minimum requirements for contract agencies.

8.393.1.F. Information Management

1. The SEP agency shall, in a format specified by the Department, be responsible for the collection and reporting of summary and individual-specific data including but not limited to information and referral services provided by the agency, program eligibility determination, financial eligibility determination, support planning, service authorization, critical incident reporting, monitoring of health and welfare, monitoring of services, resource development and fiscal accountability.

- a. The SEP agency shall have computer hardware and software, compatible with the Department's computer systems, and with such capacity and capabilities as prescribed by the Department.
- b. The SEP agency shall have adequate staff support to maintain a computerized information system in accordance with the Department's requirements.
- c. The SEP agency shall have adequate phone and IMSs to manage the administrative requirements necessary to fulfill the responsibilities of the SEP.

8.393.1.G. Recordkeeping

- 1. The SEP agency shall maintain individual records in accordance with program requirements.
 - a. The case manager shall use the Department-prescribed IMS for purposes of documentation of all case activities, monitoring of service delivery, and service effectiveness. If applicable, the individual's designated representative (such as guardian, conservator, or person given power of attorney) shall be identified in the case record, with a copy of appropriate documentation.
- 2. If the individual is unable to sign a form requiring his/her signature due to a medical condition, any mark that the individual is capable of making will be accepted in lieu of a signature. If the individual is not capable of making a mark, the signature of a family member or other person designated to represent the individual will be accepted.

8.393.1.H. Confidentiality of Information

The SEP agency shall protect the confidentiality of all records of individuals seeking and receiving services in accordance with State statute (CRS 26-1-114 as amended). Release of information forms obtained from the individual must be signed, dated, and kept in the clients record. Release of information forms shall be renewed at least annually, or sooner if there is a change of provider. Fiscal data, budgets, financial statements and reports which do not identify individuals by name or Medicaid ID number are open records.

8.393.1.I. Individual Rights

- 1. The SEP agency shall assure the protection of the rights individual receiving services' as defined by the Department under applicable programs.
 - a. The SEP agency shall assure that the following rights are preserved for all individuals of the SEP agency, whether the individual is a recipient of a state administered program or a private pay individual:
 - i. The individual and/or the individual's personal representative is fully informed of the individual's rights and responsibilities;
 - ii. The individual and/or the individual's personal representative participates in the development and approval, and is provided a copy of the individual's Support Plan;
 - iii. The individual and/or the individual's personal representative selects service providers from among available qualified and willing providers;

- iv. The individual and/or the individual's personal representative has access to a uniform complaint system provided for all individuals of the SEP agency; and
 - v. The individual who applies for or receives publicly funded benefits and/or the individual's personal representative has access to a uniform appeal process, which meets the requirements of Section 8.057, when benefits or services are denied or reduced and the issue is appealable.
- 2. At least annually, the SEP agency shall survey a random sample of individuals receiving services to determine their level of satisfaction with services provided by the agency.
 - a. The random sample of individuals shall constitute ten (10) individuals or ten percent (10%) of the SEP agency's average monthly caseload, whichever is higher.
 - b. If the SEP agency's average monthly caseload is less than ten (10) individuals, all individuals shall be included in the survey.
 - c. The individual satisfaction survey shall conform to guidelines provided by the Department.
 - d. The results of the individual satisfaction survey shall be made available to the Department and shall be utilized for the SEP agency's quality assurance and resource development efforts.
 - e. The SEP agency shall assure that consumer information regarding LTSS is available for all individuals at the local level.

8.393.1.J. Access

- 1. There shall be no physical barriers which prohibit individual participation, in accordance with the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq.
 - a. The SEP agency shall not require individuals receiving services to come to the agency's office in order to receive SEP services.
 - b. The SEP agency shall comply with anti-discriminatory provisions, as defined by federal and Department rules.
 - c. The functions to be performed by a SEP agency shall be based on a case management model of service delivery.

8.393.1.K. Staffing Patterns

- 1. The Single Entry Point agency shall provide staff for the following functions: receptionist/ clerical, administrative/ supervisory, case management, and medical consulting services.
 - a. The receptionist/ clerical function shall include, but not be limited to, answering incoming telephone calls, providing information and referral, assisting SEP agency staff with clerical duties
 - b. The administrative/ supervisory function of the SEP agency shall include, but not be limited to, supervision of staff, training and development of agency staff, fiscal management, operational management, quality assurance, case record reviews

on at least a sample basis, resource development, marketing, liaison with the Department, and, as needed, providing case management services in lieu of the case manager.

- c. The case management function shall include, but not be limited to, all of the case management functions previously defined in Section 8.393.1.M. for SEP case management services, as well as resource development, and attendance at staff development and training sessions.
- d. Medical consultant services functions shall include, but not be limited to, an employed or contracted physician and/or registered nurse who shall provide consultation to SEP agency staff regarding medical and diagnostic concerns and Adult Long Term Home Health prior authorizations.

8.393.1.L. Qualifications of Staff

- 1. The SEP agency's supervisor(s) and case manager(s) shall meet minimum standards for education and/or experience and shall be able to demonstrate competency in pertinent case management knowledge and skills.
 - a. Case managers shall have at least a bachelor's degree in one of the human behavioral science fields (such as human services, nursing, social work, psychology, etc.).
 - b. An individual who does not meet the minimum educational requirement may qualify as a Single Entry Point agency case manager under the following conditions:
 - i. Experience as a caseworker or case manager with LTSS population, in a private or public social services agency may substitute for the required education on a year for year basis.
 - ii. When using a combination of experience and education to qualify, the education must have a strong emphasis in a human behavioral science field.
 - iii. The SEP Agency shall request a waiver/memo from the Department in the event that the case manager does not meet minimum educational requirements. A copy of this waiver/ memo stating Department approval will be kept in the case manager's personnel file that justifies the hiring of a case manager who does not meet the minimum educational requirements.
 - c. The case manager must demonstrate competency in all of the following areas:
 - i. Application of a person centered approach to planning and practice;
 - ii. Knowledge of and experience working with populations served by the SEP Agency;
 - iii. Interviewing and assessment skills;
 - iv. Knowledge of the policies and procedures regarding public assistance programs;

- v. Ability to develop support plans and service agreements;
 - vi. Knowledge of LTSS and other community resources; and
 - vii. Negotiation, intervention and interpersonal communication skills.
- d. The Single Entry Point agency supervisor(s) shall meet all qualifications for case managers and have a minimum of two years of experience in the field of LTSS.

8.393.1.M. Functions of the Case Manager.

1. The Single Entry Point agency's case manager(s) shall be responsible for: intake/screening/referral, assessment/reassessment, development of support plans, on-going case management, monitoring of the individuals health and welfare, documentation of contacts and case management activities in the Department-prescribed IMS, resource development, and case closure.
 - a. The case manager shall contact the individual at least once within each quarterly period, or more frequently if warranted by the individual's condition /or as determined by the rules of the LTSS Program in which the individual is enrolled.
 - b. The case manager shall have a face-to-face contact with the individual at least every six (6) months, or more frequently if warranted by the individual's condition or the rules of the LTSS Program in which the individual is enrolled, and shall update the ULTC 100.2 and Support Plan in the IMS to reflect any changes in condition or services.
 - c. The case manager shall complete a new ULTC-100.2 during a face-to-face reassessment annually, or more frequently if warranted by the individual's condition or if required by the rules of the LTSS Program in which the individual is enrolled.
 - d. The case manager shall monitor the delivery of services and supports identified within the Support Plan and the Prior Authorization Request (PAR). This includes monitoring:
 - i. The quality of services and supports provided;
 - ii. The health and safety of the individual; and
 - iii. The utilization of services with respect to the Support Plan and the Prior Authorization Request (PAR).
 - e. The following criteria may be used by the case manager to determine the individual's level of need for case management services:
 - i. Availability of family, volunteer, or other support;
 - ii. Overall level of functioning;
 - iii. Mental status or cognitive functioning;
 - iv. Duration of disabilities;
 - v. Whether the individual is in a crisis or acute situation;

- vi. The individual's perception of need and dependency on services;
- vii. The individual's move to a new housing alternative; and
- viii. Whether the individual was discharged from a hospital or Nursing Facility.

8.393.1.N. Functions of the Single Entry Point Agency Supervisor

- 1. SEP agencies shall provide adequate supervisory staff who shall be responsible for:
 - a. Supervisory case conferences with case managers, on a regular basis;
 - b. Approval of indefinite lengths of stay, pursuant to 8.402.15;
 - c. Regular, systematic review and remediation of case records and other case management documentation, on at least a sample basis;
 - d. Communication with the Department when technical assistance is required by case managers, and the supervisor is unable to provide answers after reviewing the regulations;
 - e. Allocation and monitoring of staff to assure that all standards and time frames are met; and
 - f. Assumption of case management duties when necessary.

8.393.1.O. Training of Single Entry Point Agency Staff

- 1. SEP agency staff, including supervisors, shall attend training sessions as directed and/or provided by the Department for SEP agencies.
 - a. Prior to agency start-up, the SEP agency staff shall receive training provided by the Department or its designee, which will include, but not be limited to, the following content areas:
 - i. Background information on the development and implementation of the SEP system;
 - ii. Mission, goals, and objectives of the SEP system;
 - iii. Regulatory requirements and changes or modifications in federal and state programs;
 - iv. Contracting guidelines, quality assurance mechanisms, and certification requirements; and
 - v. Federal and state requirements for the SEP agency.
 - b. During the first year of agency operation, in addition to an agency's own training, the Department or its designee will provide in-service and skill development training for SEP agency staff. Thereafter, the SEP agency will be responsible for in-service and staff development training.

8.393.1.P. Provision of Direct Services

1. The SEP agency may be granted a waiver by the Department to provide direct services provided the agency complies with the following:
 - a. The SEP agency shall document at least one of the following in a formal letter of application for the waiver:
 - i. The service is not otherwise available within the SEP district or within a sub-region of the district; and/or
 - ii. The service can be provided more cost effectively by the SEP agency, as documented in a detailed cost comparison of its proposed service with all other service providers in the district or sub-region of the district.
 - b. The SEP agency that is granted a waiver to provide direct services due to its ability to provide the service cost effectively shall provide an annual report, at such time and on a form as prescribed by the Department, which includes a cost comparison of the service with other service providers in the area in order to document continuing cost effectiveness.
 - c. The SEP agency shall assure the Department that efforts have been made, and will continue to be made, to develop the needed service within the SEP district or within the sub-region of the district, as a service external to the SEP agency. The SEP agency shall submit an annual progress report, at such time as prescribed by the Department, on the development of the needed service within the district.
 - d. The direct service provider functions and the SEP agency functions shall be administratively separate.
 - e. In the event other service providers are available within the district or sub-region of the district, the SEP agency case manager shall document in the individual's case record that the individual has been offered a choice of providers.

8.393.2 SERVICE FUNCTIONS OF A SINGLE ENTRY POINT AGENCY

The SEP agency shall provide intake and screening for LTSS Programs, information and referral assistance to other services and supports, eligibility determination, case management and, if applicable, Utilization Management services in compliance with standards established by the Department. The SEP agency shall provide sufficient staff to meet all performance standards. In the event a SEP agency sub-contracts with an individual or entity to provide some or all service functions of the SEP agency, the sub-contractor shall serve the full range of LTSS programs. Subcontractors must abide by the terms of the SEP agency's contract with the Department, and are obligated to follow all applicable federal and state rules and regulations. The SEP agency is responsible for subcontractor performance.

8.393.2.A. Protective Services

1. In the event, at any time throughout the case management process, the case manager suspects an individual to be a victim of abuse, neglect or exploitation, the case manager shall immediately refer the individual to the protective services section of the county department of social services of the individual's county of residence and/or the local law enforcement agency.

8.393.2.B. Intake/Screening/Referral

1. The intake/screening/referral function of a SEP agency shall include, but not be limited to, the following activities:

- a. The completion of the intake/screening/referral function using the Department's IMS;
 - i. SEPs may ask referring agencies to complete and submit an intake and screening form to initiate the process;
 - c. The provision of information and referral to other agencies as needed;
 - d. A screening to determine whether or not a functional eligibility assessment is needed;
 - e. The identification of potential payment source(s), including the availability of private funding resources; and
 - f. The implementation of a SEP agency procedure for prioritizing urgent inquiries.
2. When LTSS are to be reimbursed through one or more of the publicly-funded LTSS programs administered by the SEP system, the SEP staff shall:
- a. Verify the individual's demographic information collected during the intake;
 - b. Coordinate the completion of financial eligibility determination:
 - i. Verify the individual's current financial eligibility status; or
 - ii. Refer the individual to the county department of social services of the individual's county of residence for application; or
 - iii. Provide the individual with financial eligibility application form(s) for submission, with required attachments, to the county department of social services for the county in which the individual resides; and
 - iv. Conduct and document follow-up activities to complete the functional eligibility determination and coordinate the completion of the financial eligibility determination.
 - c. The determination of the individual's financial eligibility shall be completed by the county department of social services for the county in which the individual resides, pursuant to Section 8.100.7 A-U.
 - d. Individuals shall be notified at the time of their application for publicly funded long term services and supports that they have the right to appeal actions of the SEP agency, the Department of Health Care Policy and Financing, or contractors acting on behalf of the Department. The notification shall include the right to request a fair hearing before an Administrative Law Judge.
 - e. The county department shall notify the SEP agency of the Medicaid application date for the individual seeking services upon receipt of the Medicaid application.
 - f. The county shall not notify the SEP agency for individuals being discharged from a hospital or nursing facility or Adult Long Term Home Health.

8.393.2.C. Initial Assessment

1. For additional guidance on the ULTC-100.2, as well as the actual tool itself, please see Section 8.401.1. GUIDELINES FOR LONG TERM CARE SERVICES
 - a. The SEP agency shall complete the ULTC 100.2 assessment within the following time frames:
 - i. For an individual who is not being discharged from a hospital or a nursing facility, the individual assessment shall be completed within ten (10) working days after receiving confirmation that the Medicaid application has been received by the county department of social services.
 - ii. For a resident who is changing pay source (Medicare/private pay to Medicaid) in the nursing facility, the SEP agency shall complete the assessment within five (5) working days after notification by the nursing facility.
 - iii. For a resident who is being admitted to the nursing facility from the hospital, the SEP agency shall complete the assessment, including a PASRR Level 1 Screen within two (2) working days after notification.
 - 1) For PASRR Level 1 Screen regulations, refer to 8.401.18, PRE-ADMISSION SCREENING AND ANNUAL RESIDENT REVIEW (PASRR) AND SPECIALIZED SERVICES FOR INDIVIDUALS WITH MENTAL ILLNESS OR INDIVIDUALS WITH AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY
 - b. For an individual who is being transferred from a nursing facility to an HCBS program or between nursing facilities, the SEP agency shall complete the assessment within five (5) working days after notification by the nursing facility.
 - c. For an individual who that is being transferred from a hospital to an HCBS program, the SEP agency shall complete the assessment within two (2) working days after notification from the hospital.
2. Under no circumstances shall the start date for functional eligibility based on the ULTC 100.2 be backdated by the SEP. See section 8.486.30, ASSESSMENT, Under no circumstances shall late PAR revisions be approved by the State or its agent. See Section 8.485.90, STATE PRIOR AUTHORIZATION OF SERVICES.
3. The SEP agency shall complete the ULTC 100.2 for LTSS Programs, in accordance with Section 8.401.1.
 - a. If enrolled as a provider of case management services for Children's Home and Community Based Services (CHCBS), SEP agencies may complete the ULTC 100.2 for CHCBS.
4. The SEP Agency shall assess the individual's functional status face-to-face at a time and location convenient to the individual.
5. The SEP agency shall conduct the following activities for a comprehensive assessment of an individual seeking services:
 - a. Obtain diagnostic information through the Professional Medical Information Page (PMIP) form, from the individual's medical provider for individuals in nursing

facilities, HCBS Programs for Community Mental Health Supports (HCBS-CMHS), Persons with a Brain Injury (HCBS-BI), Elderly, Blind and Disabled (HCBS-EBD), Persons with a Spinal Cord Injury (HCBS-SCI) and Children with a Life Limiting Illness (HCBS-CLLI).

- i. If enrolled as a provider of case management services for Children's Home and Community Based Services (CHCBS), SEP agencies may obtain diagnosis(es) information from the individual's medical provider.
 - b. Determine the individual's functional capacity during an evaluation, with observation of the individual and family, if appropriate, in his or her residential setting and determine the functional capacity score in each of the areas identified in Section 8.401.1.
 - c. Determine the length of stay for nursing facility individuals using the Nursing Facility Length of Stay Assignment Form in accordance with Section 8.402.15.
 - d. Determine the need for long term services and supports on the ULTC 100.2 during the evaluation.
 - e. For HCBS Programs and admissions to nursing facilities from the community, the original ULTC-100.2 copy shall be sent to the provider agencies, and a copy shall be placed in the individual's case record. At the six-month reassessment, if there are changes in the individual's condition which significantly change the payment or services amount, a copy of the ULTC-100.2 must be sent to the provider agency and a copy is to be maintained.
 - f. When the SEP Agency conducts an assessment of the individual's functional capacity on the ULTC-100.2, the assessment is not an adverse action which is directly appealable. The individual's right to appeal arises only when an individual is denied enrollment into a LTSS Program by the SEP based on the ULTC-100.2 thresholds for functional eligibility. The appeal process is governed by the provisions of Section 8.057
- 6. The case manager shall complete the following activities for discharges from nursing facilities:
 - a. The nursing facility shall contact the SEP agency in the district where the nursing facility is located to inform the SEP agency of the discharge if placement into community services is being considered.
 - b. The nursing facility and the SEP case manager shall coordinate the discharge date.
 - c. When placement into HCBS Programs are being considered, the SEP shall determine the remaining length of stay.
 - i. If the end date for the nursing facility is indefinite, the SEP agency shall assign an end date not greater than one (1) year from the date of most recent assessment.
 - ii. If the ULTC 100.2 is less than six (6) months, the SEP agency shall generate a new certification page that reflects the end date that was assigned to the nursing facility.

- iii. The SEP agency shall complete a new ULTC 100.2 if the current completion date is older than six (6) months. The assessment results shall be used to determine level of care and the new length of stay.
 - iv. The SEP Agency shall send a copy of the ULTC-100.2 certification page to the eligibility enrollment specialist at the county department of social services.
 - v. The SEP agency shall submit the HCBS prior authorization request to the Department or its fiscal agent.
- 7. For individuals receiving services in HCBS Programs who are already determined to be at the nursing facility level of care and seeking admission into a nursing facility, the SEP shall:
 - a. Coordinate the admission date with the facility;
 - b. Complete the PASRR Level 1 Screen, and if there is an indication of a mental illness or developmental disability, submit to the Department or its agent to determine if a PASRR Level 2 evaluation is required;
 - c. Maintain the Level 1 Screen in the individual's case file regardless of the outcome of the Level 1 Screen; and
 - d. If appropriate, assign the remaining HCBS length of stay towards the nursing facility admission if the completion date of the ULTC 100.2 is not older than six (6) months.

8.393.2.D. Reassessment

- 1. The case manager shall commence a regularly scheduled reassessment at least one (1) but no more than three (3) months before the required completion date. The case manager shall complete a reassessment of an individual receiving services within twelve (12) months of the initial individual assessment or the previous reassessment. A reassessment shall be completed sooner if the individual's condition changes or if required by program criteria.
- 2. The case manager shall update the information provided at the previous assessment or reassessment, utilizing the ULTC 100.2.
- 3. Reassessment shall include, but not be limited to, the following activities:
 - a. Obtain diagnostic information through the Professional Medical Information Page (PMIP) form, from the individual's medical provider at least annually, or sooner if the individual's condition changes or is required by program criteria;
 - b. Assess the individual's functional status face-to-face at a time and location convenient to the individual;
 - c. Review support plan, service agreements and provider contracts or agreements;
 - d. Evaluate effectiveness, appropriateness and quality of services and supports;
 - e. Verify continuing Medicaid eligibility, other financial and program eligibility;

- f. Annually, or more often if indicated, complete new support plan and service agreements;
 - g. Inform the individual's medical provider of any changes in the individual's needs;
 - h. Maintain appropriate documentation, including type and frequency of LTSS the individual is receiving for certification of continued program eligibility, if required by the program;
 - i. Refer the individual to community resources as needed and develop resources for the individual if the resource is not available within the individual's community; and
 - i. Submit appropriate documentation for authorization of services, in accordance with program requirements.
- 4. The SEP shall be responsible for completing reassessments of nursing facility individuals. A reassessment shall be completed if the nursing facility determines there has been a significant change in the resident's physical/medical status, if the individual requests a reassessment or if the case manager assigns a definite end date. The nursing facility shall be responsible to send the SEP agency a referral for a new assessment as needed.
 - 5. The ULTC-100.2 shall be reviewed during each six (6) month contact and updated due to any change in the individual's condition or status. If there is no change in the individual's status, the case manager shall document in the Department-prescribed IMS that the ULTC-100.2 has been reviewed but not updated.
 - 6. In order to assure quality of services and supports and the health and welfare of the individual, the case manager shall ask for permission from the individual to observe the individual's residence as part of the reassessment process, but this shall not be compulsory of the individual.

8.393.2.E. Support Plan

- 1. The nursing facility shall be responsible for developing a support plan for individuals residing in nursing facilities.
- 2. The SEP agency shall develop the Support Plan (SP) within fifteen (15) working days after determination of program eligibility.
- 3. The SEP shall:
 - a. Address the functional needs identified through the individual assessment;
 - b. Offer informed choices to the individual regarding the services and supports they receive and from whom, as well as the documentation of services needed, including type of service, specific functions to be performed, duration and frequency of service, type of provider and services needed but that may not be available;
 - c. Include strategies for solving conflict or disagreement within the process, including clear conflict-of-interest guidelines for all planning participants;

- d. Reflect cultural considerations of the individual and be conducted by providing information in plain language and in a manner that is accessible to individuals with disabilities and persons who are limited English proficient;
 - e. Formalize the support plan agreement, including appropriate signatures, in accordance with program requirements;
 - f. Contain prior authorization for services, in accordance with program directives, including cost containment requirements;
 - g. Contain prior authorization of Adult Long Term Home Health Services, pursuant to Section 8.520-8.527;
 - h. Include a method for the individual to request updates to the plan as needed;
 - i. Include an explanation of complaint procedures to the individual;
 - j. Include an explanation of critical incident procedures to the individual; and
 - k. Explain the appeals process to the individual.
4. The case manager shall provide necessary information and support to ensure that the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions and ensure that the development of the Support Plan:
- a. Occurs at a time and location convenient to the individual receiving services;
 - b. Is led by the individual, family members and/or individual's representative with the case manager;
 - c. Includes people chosen by the individual;
 - d. Addresses the goals, needs and preferences identified by the individual throughout the planning process;
 - e. Includes the arrangement for services by contacting service providers, coordinating service delivery, negotiating with the provider and the individual regarding service provision and formalizing provider agreements in accordance with program rules; and
 - f. Includes referral to community resources as needed and development of resources for individual individuals if a resource is not available within the individual's community.
5. Prudent purchase of services:
- a. The case manager shall arrange services and supports using the most cost effective methods available in considering of the individual's needs and preferences.
 - b. When family, friends, volunteers or others are available, willing and able to support the individual at no cost, these supports shall be utilized before the purchase of services, providing these services adequately meet the individual's needs.

- c. When public dollars must be used to purchase services, the case manager shall encourage the individual to select the lowest cost provider of service when quality of service is comparable.
 - d. The case manager shall assure there is no duplication in services provided by SEP programs and any other public or privately funded services.
- 6. In order to assure quality of services and supports and health and welfare of the individual, the case manager shall observe the individual's residence prior to completing and submitting the individual's support plan.

8.393.2.F. Cost Containment

- 1. If the case manager expects that the services required to support the individual receiving services' needs will exceed the Department-determined Cost Containment Review Amount, the Department or its agent will review the support plan to determine if the individual's request for services is appropriate and justifiable based on the individual's condition and quality of life and sign the Prior Authorization Request.
 - a. The individual may request of the case manager that existing services remain intact during this review process.
 - b. In the event that the request for services is denied by the Department or its agent, the case manager shall provide the individual with:
 - i. The individual's appeal rights pursuant to Section 8.057; and
 - ii. Alternative options to meet the individual's needs that may include, but are not limited to, nursing facility placement.

8.393.2.G. On-Going Case Management

- 1. The functions of the on-going case manager shall be:
 - a. Assessment/Reassessment: The case manager shall continually identify individuals' strengths, needs, and preferences for services and supports as they change or as indicated by the occurrence of critical incidents;
 - b. Support Plan Development: The case manager shall work with individuals to design and update Support Plans that address individuals' goals and assessed needs and preferences;
 - c. Referral: The case manager shall provide information to help individuals choose qualified providers and make arrangements to assure providers follow the support plan, including any subsequent revisions based on the changing needs of individuals;
 - d. Monitoring: The case manager shall ensure that individuals get the authorized services in accordance with their Support Plan and monitor the quality of the services and supports provided to individuals enrolled in LTSS Programs; and
 - e. Remediation: The case manager shall identify, resolve, and to the extent possible, establish strategies to prevent Critical Incidents and problems with the delivery of services and supports.

2. The case manager shall assure quality of services and supports and the health and welfare of the individual by monitoring service providers to ensure, the appropriateness, timeliness and amount of services provided and to promote individual safety, satisfaction and quality of life. The case manager shall take, and the safety of the client, and by taking corrective actions as needed.
3. The SEP Agency must also observe the individual's residence with the individual present to establish the residence is a safe environment at least annually.
 - a. If the case manager does not observe the individual's residence at the annual face-to-face reassessment, the case manager shall align the annual visit to the individual's residence with a six (6) month face-to-face contact.
 - b. If the case manager makes an observation in the individual's residence that is inconsistent with the ULTC-100.2 and/or Support Plan, the case manager shall update the assessment and/or Support Plan to reflect the observation.
4. On-going case management shall include, but not be limited to, the following tasks:
 - a. Review of the individual's support plan and service agreements;
 - b. Contact with the individual concerning individuals' safety, quality of life and satisfaction with services provided;
 - c. Contact with service providers to coordinate, arrange or adjust services, to address quality issues or concerns and to resolve any complaints raised by individuals or others;
 - d. Conflict resolution and/or crisis intervention, as needed;
 - e. Informal assessment of changes in individual functioning, service effectiveness, service appropriateness and service cost-effectiveness;
 - f. Notification of appropriate enforcement agencies, as needed; and
 - g. Referral to community resources as needed.
5. The case manager shall immediately report, to the appropriate agency, any information which indicates an overpayment, incorrect payment or mis-utilization of any public assistance benefit, and shall cooperate with the appropriate agency in any subsequent recovery process, in accordance with Department of Human Services Section 3.810 and Department of Health Care Policy and Financing Section 8.076.
6. The case manager shall contact the individual at least quarterly, or more frequently as determined by the individual's needs or as required by the program.
7. The case manager shall review the ULTC 100.2 and the Support Plan with the individual every six (6) months. The review shall be conducted by telephone or at the individual's place of residence, place of service or other appropriate setting as determined by the individual's needs or preferences.
8. The case manager shall complete a new ULTC 100.2 when there is a significant change in the individual's condition or when the individual changes LTSS programs.

9. The case manager shall contact the service providers, as well as, the individual to monitor service delivery as determined by the individual's needs or as required by the specific service requirements.
10. Case Manager shall report critical incident within 24 hours of notification within the State Approved IMS. This report must include:
 - a. Individual's name;
 - b. Individual's identification number;
 - c. HCBS Program;
 - d. Incident type;
 - e. Date and time of incident;
 - f. Location of incident, including name of facility, if applicable;
 - g. Individuals involved; and
 - h. Description of Resolution.

8.393.2.H. Case Recording/Documentation

1. The SEP agency shall complete and maintain all required records included in the State approved IMS, and shall maintain individual case records at the agency level for any additional documents associated with the individual applying for or enrolled in a LTSS Program.
2. The case record and/or IMS shall include:
 - a. Identifying information, including the individual's state identification (Medicaid) number and social security number (SSN);
 - b. All State-required forms; and
 - c. Documentation of all case management activity required by these regulations.
3. Case management documentation shall meet all the following standards:
 - a. Documentation must be objective and understandable for review by case managers, supervisors, program monitors and auditors;
 - b. Entries must be written at the time of the activity or no later than five (5) business days from the time of the activity;
 - c. Entries must be dated according to the date of the activity, including the year;
 - d. Entries must be entered into Department's IMS;
 - e. The person making each entry must be identified;
 - f. Entries must be concise, but must include all pertinent information;

- g. All information regarding an individual must be kept together, in a logical organized sequence, for easy access and review by case managers, supervisors, program monitors and auditors;
 - h. The source of all information shall be recorded, and the record shall clarify whether information is observable and objective fact or is a judgment or conclusion on the part of anyone;
 - i. All persons and agencies referenced in the documentation must be identified by name and by relationship to the individual;
 - j. All forms prescribed by the Department shall be completely and accurately filled out by the case manager; and
 - k. Whenever the case manager is unable to comply with any of the regulations specifying the time frames within which case management activities are to be completed, due to circumstances outside the SEP agency's control, the circumstances shall be documented in the case record. These circumstances shall be taken into consideration upon monitoring of SEP agency performance.
4. Summary recording to update a case record shall be entered into the IMS at least every six (6) months or whenever a case is transferred from one SEP agency to another, or when a case is closed.

8.393.2.I. Resource Development Committee

1. The SEP agency shall assume a leadership role in facilitating the development of local resources to meet the LTSS needs of individuals receiving services who reside within the SEP district served by the SEP agency.

- 2. Within 90 days of the effective date of the initial contract, the SEP agency's community advisory committee shall appoint a resource development committee.
- 3. The membership of the resource development committee shall include, but not be limited to, representation from the following local entities: Area Agency on Aging (AAA), county departments of social services, county health departments, home health agencies, nursing facilities, hospitals, physicians, community mental health centers, community centered boards, vocational rehabilitation agencies, and individuals receiving long-term services.
- 4. In coordination with the resource development efforts of the Area Agency on Aging (AAA) that serves the district, the resource development committee shall develop a local resource development plan during the first year of operation.
 - a. The resource development plan shall include:
 - i. An analysis of the LTSS resources available within the SEP district;
 - ii. Gaps in LTSS resources within the SEP district;
 - iii. Strategies for developing needed resources; and
 - iv. A plan for implementing these strategies, including the identification of potential funding sources, potential in-kind support and a time frame for accomplishing stated objectives.

- b. The data generated by the SEP agency's intake/screening/referral, individual assessment, documentation of unmet individual needs, resource development for individuals and data available through the Department shall be used to identify persons most at risk of nursing facility care and to document the need for resources locally.
- 5. At least annually, the resource development committee shall provide progress reports on the implementation of the resource development plan to the community advisory committee and to the Department.

8.393.3 DENIALS/DISCONTINUATIONS/ADVERSE ACTIONS

8.393.3.A. Denial Reasons and Notification Actions

- 1. Individuals seeking or receiving services shall be denied or discontinued from services under publicly funded programs administered by the SEP system if they are determined ineligible due to any of the reasons below. Individuals shall be notified of any of the adverse actions and appeal rights as follows:
 - a. Financial Eligibility
 - i. The eligibility enrollment specialist from the county department of social services shall notify the individual of denial for reasons of financial eligibility, and shall inform the individual of appeal rights in accordance with Section 8.057. The case manager shall not attend the appeal hearing for a denial or discontinuation based on financial eligibility, unless subpoenaed, or unless requested by the Department.
 - 1) If the individual is found to be financially ineligible for LTSS programs, the SEP shall notify the individuals of the adverse action and inform the individual of their appeal rights in accordance with Section 8.057.
 - b. Functional Eligibility and Target Group
 - i. The SEP agency shall notify the individual of the denial and appeal rights by sending the Notice of Services Status (LTC-803) and shall attend the appeal hearing to defend the denial or discontinuation, when:
 - 1) The individual does not meet the functional eligibility threshold for LTSS Programs or nursing facility admissions; or
 - 2) The individual does not meet the target group criteria as specified by the HCBS Program.
 - c. Receipt of Services
 - i. The SEP agency shall notify the individual of the denial and appeals rights by sending the Notice of Services Status (LTC-803) and shall attend the appeal hearing to defend the denial or discontinuation, when:
 - 1) The individual has not received services for thirty (30) days;
 - 2) The individual has two (2) times in a thirty (30) day consecutive period, refused to schedule an appointment for assessment, six

(6) month visit or after an inter-district transfer, or, has failed to keep three (3) scheduled assessment appointments within a thirty (30) consecutive day period; or

- 3) The individual or individual's representative refuses to sign the Intake form, Support Plan form, Release of Information form, or other forms as required to receive services or if the SEP agency does not receive the completed Professional Medical Information Page (PMIP) form.

d. Institutional Status

- i. The SEP agency shall notify the individual of denial or discontinuation by sending the Notice of Services Status (LTC-803) when the case manager determines that the individual does not meet the following program eligibility requirements.
 - 1) The individual is not eligible to receive services while a resident of a nursing facility, hospital, or other institution; or
 - 2) The individual who is already a recipient of program services enters a hospital for treatment, and hospitalization continues for thirty (30) days or more.

e. Cost-Effectiveness/Service Limitations

- i. During the Support Planning process in conjunction with the initial assessment or reassessment, the individual seeking or receiving services shall not be eligible for the HCBS program if the case manager determines the individual's needs are more extensive than the HCBS program services are able to support, that the individual's health and safety cannot be assured in a community setting and/or if the cost containment review process is met as outlined in Section 8.393.2.F.
 - 1) If the case manager determines that the individual is ineligible for an HCBS Program, the case manager shall:
 - a) Obtain any other documentation necessary to support the determination; and
 - b) Inform individual of their appeal rights pursuant to Section 8.057.
 2. The Notice Services Status (LTC-803) shall be completed in the IMS for all applicable programs at the time of initial eligibility, when there is a significant change in the individual's payment or services, an adverse action, or at the time of discontinuation.
 3. In the event the individual appeals a denial or discontinuation action, with the exception of reasons related to financial eligibility, the case manager shall attend the appeal hearing to defend the denial or discontinuation action.

8.393.3.B. Case Management Actions Following a Denial or Discontinuation

1. In the case of denial or discontinuation, the case manager shall provide appropriate referrals to other community resources, as needed, within one (1) working day of discontinuation.
2. The case manager shall notify all providers on the case plan within one (1) working day of discontinuation.
3. The case manager shall follow procedures to close the individual's case in the IMS within one (1) working day of discontinuation for all HCBS Programs.
4. If a case is discontinued before an approved HCBS Prior Authorization Request (PAR) has expired, the case manager shall submit to the Department or its fiscal agent, within five (5) working days of discontinuation, a copy of the current PAR form on which the end date is adjusted (and highlighted in some manner on the form); and the reason for discontinuation shall be written on the form.

8.393.3.C. Notification

1. The SEP agency shall notify the county eligibility enrollment specialist of the appropriate county department of social services:
 - a. At the same time that it notifies the individual seeking or receiving services of the adverse action;
 - b. When the individual has filed a written appeal with the SEP agency; and
 - c. When the individual has withdrawn the appeal or if a final agency decision has been entered.
2. The SEP agency shall provide information to individuals seeking and receiving services regarding their appeal rights when individuals apply for publicly funded LTSS or whenever the individual requests such information, whether or not adverse action has been taken by the SEP agency.

8.393.4. COMMUNICATION

- A. In addition to any communication requirements specified elsewhere in these rules, the case manager shall be responsible for the following communications:
 1. The case manager shall inform the eligibility enrollment specialist of any and all changes effecting the individual receiving services' participation in SEP agency-administered programs, including changes in income, within one (1) working day after the case manager learns of the change. The case manager shall provide the eligibility enrollment specialist with copies of the certification page of the approved ULTC-100.2 form.
 2. If the individual has an open adult protective services (APS) case at the county department of social services, the case manager shall keep the individual's APS worker informed of the individual's status and shall participate in mutual staffing of the individual's case.
 3. The case manager shall inform the individual's physician of any significant changes in the individual's condition or needs.
 4. The case manager shall report to the Colorado Department of Public Health and Environment (CDPHE) any congregate facility which is not licensed.

8.393.5 FUNCTIONAL ELIGIBILITY DETERMINATION

A. The SEP Agency shall be responsible for the following:

1. Ensuring that the ULTC 100.2 is completed in the IMS in accordance with Section 8.401.1 and justifies that the individual seeking or receiving services should be approved or disapproved for admission or continued stay to an applicable LTSS program.
2. Once the assessment is complete in the IMS, the case manager shall generate a certification page in the IMS within three (3) business days for hospital discharge to a Nursing Facility, within six (6) days for Nursing Facility discharge and within eleven (11) business days of receipt of referral.
3. If the assessment indicates approval, SEP agency shall notify the appropriate parties in accordance with Section 8.393.3.A.2 and 8.383.4.4.
4. If the assessment indicates denial, the SEP agency shall notify the appropriate parties in accordance with 8.393.3.A.2 and 8.383.4.
5. If the individual or individual's designated representative appeals, the SEP shall process the request, according to Section 8.057.

8.393.6. INTERCOUNTY AND INTER-DISTRICT TRANSFER PROCEDURES

8.393.6.A. Intercounty Transfers

1. SEP agencies shall complete the following procedures to transfer individuals receiving case management services to another county within the same SEP district:
 - a. Notify the county department of social services eligibility enrollment specialist of the individual's plans to relocate to another county and the date of transfer, with financial transfer details at Section 8.100.3.C.
 - b. If the individual's current service providers do not provide services in the area where the individual is relocating, make arrangements in consultation with the individual for new service providers.
 - c. In order to assure quality of services and supports and health and welfare of the individual, the case manager must observe and evaluate the condition of the individual's residence.
 - d. If the individual is moving from one county to another county to enter an Alternative Care Facility (ACF), forward copies of the following individual records to the Alternative Care Facility (ACF), prior to the individual's admission to the facility:
 - i. ULTC 100.2, certified by the SEP;
 - ii. The individual's updated draft Prior Authorization Request (PAR) and/or Post Eligibility Treatment of Income (PETI) form; and
 - iii. Verification of Medicaid eligibility status.

8.393.6.B. Inter-district Transfers

1. SEP agencies shall complete the following procedure in the event an individual receiving services transfers from one SEP district to another SEP district:

- a. The transferring SEP agency shall contact the receiving SEP agency by telephone and give notification that the individual is planning to transfer, negotiate a transfer date and provide all necessary information.
- b. The transferring SEP agency shall notify the county department of social services eligibility enrollment specialist of the individual's plan to transfer and the transfer date, and eligibility enrollment specialist shall follow rules described in Section 8.100.3.C. The receiving SEP agency shall coordinate the transfer with the eligibility enrollment specialist of the new county.
- c. The transferring SEP agency shall make available in the IMS the individual's case records to the receiving SEP agency prior to the relocation.
- d. If the individual is moving from one SEP district to another SEP district to enter an Alternative Care Facility (ACF), the transferring SEP agency shall forward copies of individual records to the Alternative Care Facility (ACF), prior to the individual's admission to the facility, in accordance with section 8.393.6.A.
- e. To ensure continuity of services and supports, the transferring SEP agency and the receiving SEP agency shall coordinate the arrangement of services prior to the individual's relocation to the receiving SEP agency's district within ten (10) working days after notification of the individual's relocation,
- f. The receiving SEP agency shall complete a face-to-face meeting with the individual in the individual's residence and a case summary update within ten (10) working days after the individual's relocation, in accordance with assessment procedures for SEP agency individuals.
- g. The receiving SEP agency shall review the support plan and the ULTC 100.2 and change or coordinate services and providers as necessary.
- h. If indicated by changes in the support plan, the receiving SEP agency shall revise the support plan and prior authorization forms as required by the publicly funded program.
- i. Within thirty (30) calendar days of the individual's relocation, the receiving SEP agency shall forward to the Department, or its fiscal agent, revised forms as required by the publicly funded program.

DO NOT PUBLISH

Title of Rule: 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.

Rule Number: MSB 17-01-17-B

Division / Contact / Phone: The Division for Intellectual and Developmental Disabilities (DIDD) / Adam Tucker / 303-866-5472

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 17-01-17-B, 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.
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) 8.500.90, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
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). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.500.90 with the proposed text starting at 8.500.90 Definitions through the end of 8.500.90 Definitions. Replace the current text at 8.500.94 with the proposed text starting at 8.500.94.A through the end of 8.500.94.B.3. Replace the current text at 8.500.102 with the proposed text starting at 8.500.102.G through the end of 8.500.102.G. This rule is effective June 30, 2017.

DO NOT PUBLISH

Title of Rule: 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.

Rule Number: MSB 17-01-17-B

Division / Contact / Phone: The Division for Intellectual and Developmental Disabilities (DIDD) / Adam Tucker / 303-866-5472

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).

To add Consumer Directed Attendant Support Service (CDASS) delivery option to the HCBS-SLS waiver. To add this services delivery option to allow individuals more access to managing their personal services, Health Maintenance has also been added and will only be available to those individuals utilizing CDASS.

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:

42 U.S.C 1396n(c); 42 C.F.R. Section 441.300, et seq. (2014)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2013);
25.5 - 6 -401, et seq., C.R.S. (2014); 25.5 - 6- 1102, C.R.S. (2014)

Initial Review **04/14/17**

Proposed Effective Date **06/30/17**

Final Adoption

05/12/17

Emergency Adoption

DOCUMENT #03

DO NOT PUBLISH

Title of Rule: 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.

Rule Number: MSB 17-01-17-B

Division / Contact / Phone: The Division for Intellectual and Developmental Disabilities (DIDD) / Adam Tucker / 303-866-5472

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 implementation of this rule will effect individuals waiting for or receiving services through the Home and Community Based Services Supported Living Services (HCBS-SLS) waiver who choose to utilize the Consumer Directed Attendant Support Services (CDASS) delivery option, and receive Homemaker Services, Health Maintenance Activities and Personal Care Services through the HCBS-SLS waiver.

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

A recommendation in the Community Living Advisory Group report is to expand participant direction service delivery options in the waivers administered by the Office of Community Living. This rule will be the first step in the implementation of this recommendation by expanding a participant directed delivery option to the HCBS-SLS waiver. This rule will also improve the quality and adaptability of the HCBS-SLS waver by allowing individual participants to direct and structure their services to their individual needs, thus allowing individuals to live in the community they choose. By implementing CDASS into the HCBS-SLS waiver and giving employer and budget authority to individuals utilizing services to select their own staff and setting staff wages, an expansion of overall provider capacity will be realized.

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.

The Department is anticipating that the cost of adding CDASS as a services delivery option to the HCBS-SLS waiver will result in an increase in overall costs. This increase would come from two sources. First, clients who select CDASS will shift their utilization from state plan Home Health Services to Health Maintenance Activities under the HCBS-SLS waiver. Second, based on the Department's experience with CDASS in the HCBS-Elderly Blind and Disabled waiver, the average utilization of Personal Care and Homemaker Services will increase for HCBS-SLS clients that enroll in CDASS, and this utilization would be higher than the average utilization of those authorized services for clients that do not enroll in CDASS. While the reasons for this increase needs to be studied further, it is likely due to individuals having greater flexibility in who provides services which allows their identified need for services to be more fully met.

DO NOT PUBLISH

The Department has also identified an ongoing cost of implementing CDASS will be related to administrating CDASS through a Financial Management Services (FMS) contractor. The FMS contractor makes financial transactions on behalf of the participant. The FMS handles the employment tax, workers' compensation, unemployment insurance, and other requirements associated with employing the attendant. This contractor is currently paid a capitated monthly rate based on enrolled CDASS clients as an administration fee for these services. The cost of monthly administration fees and client/AR training will be through the training and operations vendor incurring additional costs to the Department and would not replace or offset the cost of a similar service.

The Department assumes changes for modifying the existing Prior Authorization Request (PAR) in the Medicaid Management Information System related to implementing CDASS in HCBS-SLS waiver would cost \$100,000 total funds. This estimate is preliminary and the Department is working with the contractor for a more detailed cost and time estimate.

The Department's budget request projects that implementing the CDASS service delivery option into HCBS-SLS will result in an increase of \$1,282,006 in the fiscal year ending 2016 and \$2,441,573 in the fiscal year ending 2017.

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

House Bill 05-1243 authorized the Department to expand participant direction options to all HCBS waivers participants. This is especially beneficial to clients in rural areas that may have access issues due to geographical barriers and provider capacity. Participant directed programs will also be beneficial by offering the flexibility to individuals, giving them the ability to set their own schedules for attendant services, so that their services remain individualized to better accommodate. The proposed rule will expand CDASS, a participant directed service delivery option, to the HCBS-SLS waiver. This expansion will not only give individuals receiving services in the HCBS-SLS waiver access to CDASS delivery option but will also allow the Department to study its implementation and help identify gaps in services as it works to expand these options in other waivers that support individuals diagnosed with an I/DD.

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

The Department has not identified less costly methods of expanding participant direction. The Department will work to find possible areas where more cost saving can be found and implemented, by studying data from this expansion of CDASS into the HCBS-SLS waiver.

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.

DO NOT PUBLISH

The Department does not know of an alternative method at this time to expand participant directed service delivery options. This option has not been attempted in I/DD specific waiver before and the Department will use this expansion to learn and identify gaps as it works to expand participant direction into other HCBS waivers.

8.500.90 SUPPORTED LIVING SERVICES WAIVER (SLS)

The section hereby incorporates the terms and provisions of the federally approved Home and Community Based Supported Living Services (HCBS-SLS) Waiver, CO.0293. To the extent that the terms of the federally approved waiver are inconsistent with the provisions of this section, the waiver shall control.

HCBS-SLS services and supports which are available to assist persons with developmental disabilities to live in the person's own home, apartment, family home, or rental unit that qualifies as an HCBS-SLS setting. HCBS-SLS services are not intended to provide twenty four (24) hours of paid support or meet all identified client needs and are subject to the availability of appropriate services and supports within existing resources.

8.500.90 DEFINITIONS

ACTIVITIES OF DAILY LIVING (ADL) means basic self care activities including bathing, bowel and bladder control, dressing, eating, independent ambulation,, and needing supervision to support behavior, medical needs and memory/cognition.

ADVERSE ACTION means a denial, reduction, termination or suspension from the HCBS-SLS waiver or a specific HCBS-SLS waiver service(s).

APPLICANT means an individual who is seeking a Long Term Care eligibility determination and who has not affirmatively declined to apply for Medicaid or participate in a assessment.

CLIENT means an individual who has met Long Term Care (LTC) eligibility requirements, is enrolled in and chooses to receive LTC services, and subsequently receives LTC services.

CLIENT REPRESENTATIVE means a person who is designated by the client to act on the client's behalf. A client representative may be: (a) a legal representative including, but not limited to a court-appointed guardian, a parent of a minor child, or a spouse; or, (b) an individual, family member or friend selected by the client to speak for and/or act on the client's behalf.

COMMUNITY CENTERED BOARD (CCB) means a private corporation, for profit or not for profit, which when designated pursuant to Section 27-10.5105, C.R.S., provides case management services to clients with developmental disabilities, is authorized to determine eligibility of such clients within a specified geographical area, serves as the single point of entry for clients to receive services and supports under Section 27-10.5-105, C.R.S. *et seq*, and provides authorized services and supports to such persons either directly or by purchasing such services and supports from service agencies.

CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES (CDASS) means the service delivery option SET FORTH AT SECTION 8.510. ET. SEQ COST CONTAINMENT means limiting the cost of providing care in the community to less than or equal to the cost of providing care in an institutional setting based on the average aggregate amount. The cost of providing care in the community shall include the cost of providing Home and Community Based Services, and Medicaid State Plan Benefits including Long Term Home Health services, and targeted case management.

COST EFFECTIVENESS means the most economical and reliable means to meet an identified need of the client.

DEPARTMENT means the Colorado Department of Health Care Policy and Financing, the single State Medicaid agency.

DEVELOPMENTAL DISABILITY means a disability that is manifested before the person reaches twenty-two (22) years of age, which constitutes a substantial disability to the affected individual, and is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation. Unless otherwise specifically stated, the federal definition of "Developmental Disability" found in 42 U.S.C., Section 6000, *et seq.*, shall not apply.

Impairment of general intellectual functioning" means that the person has been determined to have an intellectual quotient equivalent which is two or more standard deviations below the mean (Seventy (70) or less assuming a scale with a mean of one hundred (100) and a standard deviation of fifteen (15)), as measured by an instrument which is standardized, appropriate to the nature of the person's disability, and administered by a qualified professional. The standard error of measurement of the instrument should be considered when determining the intellectual quotient equivalent. When an individual's general intellectual functioning cannot be measured by a standardized instrument, then the assessment of a qualified professional shall be used.

Adaptive behavior similar to that of a person with mental retardation means that the person has overall adaptive behavior which is two or more standard deviations below the mean in two or more skill areas (communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work), as measured by an instrument which is standardized, appropriate to the person's living environment, and administered and clinically determined by a qualified professional. These adaptive behavior limitations are a direct result of, or are significantly influenced by, the person's substantial intellectual deficits and may not be attributable to only a physical or sensory impairment or mental illness.

Substantial intellectual deficits means an intellectual quotient that is between seventy one (71) and seventy five (75) assuming a scale with a mean of one hundred 100 and a standard deviation of fifteen (15), as measured by an instrument which is standardized, appropriate to the nature of the person's disability, and administered by a qualified professional. The standard error of measurement of the instrument should be considered when determining the intellectual quotient equivalent.

DIVISION FOR DEVELOPMENTAL DISABILITIES (DDD) means the Operating Agency for Home and Community Based Services-Supported Living Services (HCBS-SLS) to persons with developmental disabilities within the Colorado Department of Human Services.

EARLY AND PERIODIC SCREENING AND DIAGNOSIS AND TREATMENT (EPSDT) means the child health component of the Medicaid State Plan for Medicaid eligible children up to age 21.

FAMILY means a relationship as it pertains to the client and includes the following:

A mother, father, brother, sister or,

Extended blood relatives such as grandparent, aunt or uncle

Cousins or,

An adoptive parent; or,

One or more individuals to whom legal custody of a client with a developmental disability has been given by a court; or,

A spouse; or

The client's children.

FUNCTIONAL ELIGIBILITY means that the applicant meets the criteria for Long Term Care services as determined by the Department's prescribed instrument.

FUNCTIONAL NEEDS ASSESSMENT means a comprehensive face-to-face evaluation using the uniform long term care instrument and medical verification on the professional medical information page to determine if the applicant or client meets the institutional level of care (LOC).

GUARDIAN means an individual at least twenty-one (21) years of age, resident or non-resident, who has qualified as a guardian of a minor or incapacitated client pursuant to appointment by a court. Guardianship may include a limited, emergency, and temporary substitute guardian but not a guardian ad litem.

HOME AND COMMUNITY BASED SERVICES (HCBS) WAIVERS means services and supports authorized through a 1915(c) waiver of the social security act and provided in community settings to a Client who requires a level of institutional care that would otherwise be provided in a hospital, nursing facility or intermediate care facility for the mentally retarded (ICF-MR).

INSTITUTION means a hospital, nursing facility, or intermediate care facility for the mentally retarded (ICF-MR) for which the Department makes Medicaid payment under the State plan.

INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED (ICF-MR) means a public or private facility that provides health and habilitation services to a client with developmental disabilities or related conditions.

LEGALLY RESPONSIBLE PERSON means the parent of a minor child, or the client's spouse.

LEVEL OF CARE (LOC) means the specified minimum amount of assistance that a client must require in order to receive services in an institutional setting under the state plan. LONG TERM CARE (LTC) SERVICES means services provided in nursing facilities or intermediate care facilities for the mentally retarded (ICF-MR), or home and community based services (HCBS), long term home health services, swing bed and hospital back up program (HBU).

MEDICAID ELIGIBLE means an applicant or client meets the criteria for Medicaid benefits based on the applicant's financial determination and disability determination.

MEDICAID STATE PLAN means the federally approved document that specifies the eligibility groups that a state serves through its Medicaid program, the benefits that the State covers, and how the State addresses additional Federal Medicaid statutory requirements concerning the operation of its Medicaid program.

MEDICATION ADMINISTRATION means assisting a client in the ingestion, application or inhalation of medication including prescription and non-prescription drugs according to the directions of the attending physician or other licensed health practitioner and making a written record thereof.

NATURAL SUPPORTS means informal relationships that provide assistance and occur in a client's everyday life including, but not limited to, community supports and relationships with family members, friends, co-workers, neighbors and acquaintances.

OPERATING AGENCY means the Department of HEALTH CARE POLICY AND FINANCING, IN THE DIVISION FOR INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, which manages the operations of the Home and Community Based Services-for persons with Developmental Disabilities (HCBS-DD),

HCBS-Supported Living Services (HCBS-SLS) and HCBS-Children's Extensive Supports (HCBS-CES) waivers under the oversight of the Department of Health Care Policy and Financing.

ORGANIZED HEALTH CARE DELIVERY SYSTEM (OHCD) means a public or privately managed service organization that provides, at minimum, targeted case management and contracts with other qualified providers to furnish services authorized in the Home and Community Based Services for the Developmentally Disabled (HCBS-DD), Home and Community Based Services Supported Living Services (HCBS-SLS) and Home and Community Based Services Children's Extensive Support (HCBS-CES) waivers.

POST ELIGIBILITY TREATMENT OF INCOME (PETI) means the determination of the financial liability of an HCBS waiver client as defined in 42 C.F.R 435.217.

PRIOR AUTHORIZATION means approval for an item or service that is obtained in advance either from the Department, the Operating Agency, a State fiscal agent or the case management agency.

PROFESSIONAL MEDICAL INFORMATION PAGE (PMIP) means the medical information form signed by a licensed medical professional used to verify the client needs institutional level of care.

PROGRAM APPROVED SERVICE AGENCY means a developmental disabilities service agency or typical community service agency as defined in 2 CCR 503-1, Section 16.200 *et seq.*, that has received program approval to provide HCBS-SLS services.

PUBLIC CONVEYANCE means public passenger transportation services that are available for use by the general public as opposed to modes for private use including vehicles for hire.

Reimbursement rates means the maximum allowable Medicaid reimbursement to a provider for each unit of service.

RELATIVE means a person related to the client by virtue of blood, marriage, adoption or common law marriage.

RETROSPECTIVE REVIEW means the Department or the Operating Agency's review after services and supports are provided to ensure the client received services according to the service plan and standards of economy, efficiency and quality of service

SERVICE DELIVERY OPTION MEANS THE METHOD BY WHICH DIRECT SERVICES ARE PROVIDED FOR A PARTICIPANT. THOSE OPTIONS INCLUDE: A) BY AN AGENCY .B) PARTICIPANT DIRECTED.

SERVICE PLAN means the written document that specifies identified and needed services to include Medicaid eligible and non-Medicaid eligible services, regardless of funding source, to assist a client to remain safely in the community and developed in accordance with the Department and the Operating Agency's rules set forth in 10 CCR 2505-10, Section 8.400.

SERVICE PLAN AUTHORIZATION LIMIT (SPAL) means an annual upper payment limit of total funds available to purchase services to meet the client's ongoing needs. Each SPAL is determined by the Department and Operating Agency based on the annual appropriation for the HCBS-SLS waiver, the number of clients in each level, and projected utilization.

SUPPORT is any task performed for the client where learning is secondary or incidental to the task itself or an adaptation is provided.

SUPPORTS INTENSITY SCALE (SIS) means the standardized assessment tool that gathers information from a semi- structured interview of respondents who know the client well. It is designed to identify and measure the practical support requirements of adults with developmental disabilities.

“SUPPORT LEVEL” means a numeric value determined using an algorithm that places clients into groups with other clients who have similar overall support needs.

TARGETED CASE MANAGEMENT (TCM) means a Medicaid State plan benefit for a target population which includes facilitating enrollment, locating, coordinating and monitoring needed HCBS waiver services and coordinating with other non-waiver resources such as medical, social, educational and other resources to ensure non-duplication of waiver services and the monitoring of effective and efficient provision of waiver services across multiple funding sources.

THIRD PARTY RESOURCES means services and supports that a client may receive from a variety of programs and funding sources beyond natural supports or Medicaid that may include, but are not limited to community resources, services provided through private insurance, non-profit services and other government programs.

WAIVER SERVICE means optional services defined in the current federally approved waiver documents and do not include Medicaid State plan benefits.

8.500.94 HCBS-SLS WAIVER SERVICES

8.500.94.A The following services are available through the HCBS-SLS Waiver within the specific limitations as set forth in the federally approved HCBS-SLS Waiver.

1. Assistive technology includes services, supports or devices that assist a client to increase, maintain or improve functional capabilities. This may include assisting the client in the selection, acquisition, or use of an assistive technology device and includes:
 - a. The evaluation of the assistive technology needs of a client, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the client in the customary environment of the client,
 - b. Services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices,
 - c. Training or technical assistance for the client, or where appropriate, the family members, guardians, caregivers, advocates, or authorized representatives of the client,
 - d. Warranties, repairs or maintenance on assistive technology devices purchased through the HCBS-SLS Waiver, and
 - e. Adaptations to computers, or computer software related to the client's disability. This specifically excludes cell phones, pagers, and internet access unless prior authorized in accordance with the Operating Agency procedure.
 - f. Assistive technology devices and services are only available when the cost is higher than typical expenses, and are limited to the most cost effective and efficient means to meet the need and are not available through the Medicaid state plan or third party resource.
 - g. Assistive technology recommendations shall be based on an assessment provided by a qualified provider within the provider's scope of practice.
 - h. When the expected cost is to exceed \$2,500 per device three estimates shall be obtained and maintained in the case record.
 - i. Training and technical assistance shall be time limited, goal specific and outcome focused.
 - j. The following items and services are specifically excluded under HCBS-SLS waiver and not eligible for reimbursement:
 - i) Purchase, training or maintenance of service animals,
 - ii) Computers,
 - iii) Items or devices that are generally considered to be entertainment in nature including but not limited to CDs, DVDs, iTunes®, any type of game,

- iv) Training or adaptation directly related to a school or home educational goal or curriculum.
 - k. The total cost of home accessibility adaptations, vehicle modifications, and assistive technology shall not exceed \$10,000 over the five year life of the waiver unless an exception is applied for and approved. Costs that exceed this limitation may be approved by the Operating Agency for devices to ensure the health and safety of the client or that enable the client to function with greater independence in the home, or if it decreases the need for paid assistance in another waiver service on a long-term basis. Requests for an exception shall be prior authorized in accordance with the Operating Agency's procedures within thirty (30) days of the request.
2. Behavioral services are services related to the client's developmental disability which assist a client to acquire or maintain appropriate interactions with others.
- a. Behavioral services shall address specific challenging behaviors of the client and identify specific criteria for remediation of the behaviors.
 - b. A client with a co-occurring diagnosis of a developmental disability and mental health diagnosis covered in the Medicaid state plan shall have identified needs met by each of the applicable systems without duplication but with coordination by the behavioral services professional to obtain the best outcome for the client.
 - c. Services covered under Medicaid EPSDT or a covered mental health diagnosis in the Medicaid State Plan, covered by a third party source or available from a natural support are excluded and shall not be reimbursed.
 - d. Behavioral Services:
 - i) Behavioral consultation services include consultations and recommendations for behavioral interventions and development of behavioral support plans that are related to the client's developmental disability and are necessary for the client to acquire or maintain appropriate adaptive behaviors, interactions with others and behavioral self-management.
 - ii) Intervention modalities shall relate to an identified challenging behavioral need of the client. Specific goals and procedures for the behavioral service shall be established.
 - iii). Behavioral consultation services are limited to eighty (80) units per service plan year. One (1) unit is equal to fifteen (15) minutes of service.
 - iv) Behavioral plan assessment services include observations, interviews of direct care staff, functional behavioral analysis and assessment, evaluations and completion of a written assessment document.
 - v) Behavioral plan assessment services are limited to forty (40) units and one (1) assessment per service plan year. One (1) unit is equal to fifteen (15) minutes of service.
 - vi) Individual or group counseling services include psychotherapeutic or psychoeducational intervention that:

- 1) Is related to the developmental disability in order for the client to acquire or maintain appropriate adaptive behaviors, interactions with others and behavioral self-management, and
 - 2) Positively impacts the client's behavior or functioning and may include cognitive behavior therapy, systematic desensitization, anger management, biofeedback and relaxation therapy.
 - 3) Counseling services are limited to two hundred and eight (208) units per service plan year. One (1) unit is equal to fifteen (15) minutes of service. Services for the sole purpose of training basic life skills, such as activities of daily living, social skills and adaptive responding are excluded and not reimbursed under behavioral services.
 - vii) Behavioral line services include direct one on one (1:1) implementation of the behavioral support plan and are:
 - 1) Under the supervision and oversight of a behavioral consultant,
 - 2) To include acute, short term intervention at the time of enrollment from an institutional setting, or
 - 3) To address an identified challenging behavior of a client at risk of institutional placement, and that places the client's health and safety or the safety of others at risk
 - 4) Behavioral line services are limited to nine hundred and sixty (960) units per service plan year. One (1) unit is equal to fifteen (15) minutes of service. All behavioral line services shall be prior authorized in accordance with Operating Agency procedure
3. Day habilitation services and supports include assistance with the acquisition, retention or improvement of self-help, socialization and adaptive skills that take place in a non-residential setting, separate from the client's private residence or other residential living arrangement, except when services are necessary in the residence due to medical or safety needs.
 - a. Day habilitation activities and environments shall foster the acquisition of skills, appropriate behavior, greater independence, and personal choice.
 - b. Day habilitation services and supports encompass three (3) types of habilitative environments; specialized habilitation services, supported community connections, and prevocational services.
 - c. Specialized habilitation (SH) services are provided to enable the client to attain the maximum functional level or to be supported in such a manner that allows the client to gain an increased level of self-sufficiency. Specialized habilitation services:
 - i) Are provided in a non-integrated setting where a majority of the clients have a disability,
 - ii) Include assistance with self-feeding, toileting, self-care, sensory stimulation and integration, self-sufficiency and maintenance skills, and

- iii) May reinforce skills or lessons taught in school, therapy or other settings and are coordinated with any physical, occupational or speech therapies listed in the service plan.
- d. Supported community connections services are provided to support the abilities and skills necessary to enable the client to access typical activities and functions of community life, such as those chosen by the general population, including community education or training, retirement and volunteer activities. Supported community connections services:
 - i) Provide a wide variety of opportunities to facilitate and build relationships and natural supports in the community while utilizing the community as a learning environment to provide services and supports as identified in a client's service plan,
 - ii) Are conducted in a variety of settings in which the client interacts with persons without disabilities other than those individuals who are providing services to the client. These types of services may include socialization, adaptive skills and personnel to accompany and support the client in community settings,
 - iii) Provide resources necessary for participation in activities and supplies related to skill acquisition, retention or improvement and are provided by the service agency as part of the established reimbursement rate, and
 - iv) May be provided in a group setting or may be provided to a single client in a learning environment to provide instruction when identified in the service plan.
 - v) Activities provided exclusively for recreational purposes are not a benefit and shall not be reimbursed.
- e. Prevocational services are provided to prepare a client for paid community employment. Services include teaching concepts including attendance, task completion, problem solving and safety and are associated with performing compensated work.
 - i) Prevocational services are directed to habilitative rather than explicit employment objectives and are provided in a variety of locations separate from the participant's private residence or other residential living arrangement.
 - ii) Goals for prevocational services are to increase general employment skills and are not primarily directed at teaching job specific skills.
 - iii) Clients shall be compensated for work in accordance with applicable federal laws and regulations and at less than 50 percent of the minimum wage. Providers that pay less than minimum wage shall ensure compliance with the Department of Labor regulations.
 - iv) Prevocational services are provided to support the client to obtain paid community employment within five years. Prevocational services may continue longer than five years when documentation in the annual service plan demonstrates this need based on an annual assessment.

- v) A comprehensive assessment and review for each person receiving prevocational services shall occur at least once every five years to determine whether or not the person has developed the skills necessary for paid community employment.
 - vi) Documentation shall be maintained in the file of each client receiving this service that the service is not available under a program funded under section 110 of the rehabilitation act of 1973 or the Individuals with Educational Disabilities Act (20 U.S.C. Section 1401 *et seq*).
 - f. Day habilitation services are limited to seven thousand one hundred and twelve (7,112) units per service plan year. One (1) unit is equal to fifteen (15) minutes of service.
 - g. The number of units available for day habilitation services in combination with prevocational services and supported employment shall not exceed seven thousand one hundred and twelve (7,112) units.
- 4. Dental services are available to individuals age twenty one (21) and over and are for diagnostic and preventative care to abate tooth decay, restore dental health, are medically appropriate and include preventative, basic and major dental services.
 - a. Preventative services include:
 - i) Dental insurance premiums and co-payments
 - ii) Periodic examination and diagnosis,
 - iii) Radiographs when indicated,
 - iv) Non-intravenous sedation,
 - v) Basic and deep cleanings,
 - vi) Mouth guards,
 - vii) Topical fluoride treatment,
 - viii) Retention or recovery of space between teeth when indicated, and
 - b. Basic services include:
 - i) Fillings,
 - ii) Root canals,
 - iii) Denture realigning or repairs,
 - iv) Repairs/re-cementing crowns and bridges,
 - v) Non-emergency extractions including simple, surgical, full and partial,
 - vi) Treatment of injuries, or
 - vii) Restoration or recovery of decayed or fractured teeth,

- c. Major services include:
 - i) Implants when necessary to support a dental bridge for the replacement of multiple missing teeth or is necessary to increase the stability of, crowns, bridges, and dentures. The cost of implants is only reimbursable with prior approval in accordance with Operating Agency procedures.
 - ii) Crowns
 - iii) Bridges
 - iv) Dentures
 - d. Dental services are provided only when the services are not available through the Medicaid state plan due to not meeting the need for medical necessity as defined in Health Care Policy and Financing rules at 10 CCR 2505-10, 8011.11 or available through a third party. General limitations to dental services including frequency will follow the Operating Agency's guidelines using industry standards and are limited to the most cost effective and efficient means to alleviate or rectify the dental issue associated with the client
 - e. Implants shall not be a benefit for clients who use tobacco daily due to substantiated increased rate of implant failures for chronic tobacco users.
 - f. Subsequent implants are not a covered service when prior implants fail.
 - g. Full mouth implants or crowns are not covered.
 - h. Dental services do not include cosmetic dentistry, procedures predominated by specialized prosthodontic, maxillo-facial surgery, craniofacial surgery or orthodontia, which includes, but is not limited to:
 - i) Elimination of fractures of the jaw or face,
 - ii) Elimination or treatment of major handicapping malocclusion, or
 - iii) Congenital disfiguring oral deformities.
 - i. Cosmetic dentistry is defined as aesthetic treatment designed to improve the appearance of the teeth or smile, including teeth whitening, veneers, contouring and implants or crowns solely for the purpose of enhancing appearance.
 - j. Preventative and basic services are limited to two thousand (\$2,000) per service plan year. Major services are limited to ten thousand (\$10,000) for the five (5) year renewal period of the waiver.
5. Home Accessibility Adaptations are physical adaptations to the primary residence of the client, that are necessary to ensure the health, and safety of the client or that enable the client to function with greater independence in the home. All adaptations shall be the most cost effective means to meet the identified need. Such adaptations include:
- a. The installation of ramps,
 - b. Widening or modification of doorways,

- c. Modification of bathroom facilities to allow accessibility and assist with needs in activities of daily living,
- d. The installation of specialized electric and plumbing systems that are necessary to accommodate the medical equipment supplies that are necessary for the welfare of the client, and
- e. Safety enhancing supports such as basic fences, door and window alarms.
- f. The following items are specifically excluded from home accessibility adaptations and shall not be reimbursed:
 - i) Adaptations or improvements to the home that are considered to be on-going homeowner maintenance and are not related to the client's disability,
 - ii) Carpeting,
 - iii) Roof repair,
 - iv). Central air conditioning,
 - v) Air duct cleaning,
 - vi) Whole house humidifiers,
 - vii) Whole house air purifiers,
 - viii) Installation or repair of driveways and sidewalks,
 - ix) Monthly or ongoing home security monitoring fees,
 - x) Home furnishings of any type, and
 - xi) Luxury upgrades.
- g. When the HCBS-SLS waiver has provided modifications to the client's home and the client moves to another home, those modifications shall not be duplicated in the new residence unless prior authorized in accordance with Operating Agency procedures.

Adaptation to rental units, when the adaptation is not portable and cannot move with the client shall not be covered unless prior authorized in accordance with Operating Agency procedures.
- h. Adaptations that add to the total square footage of the home are excluded from this benefit except when necessary to complete an adaptation to:
 - i. improve entrance or egress to a residence; or,
 - ii. configure a bathroom to accommodate a wheelchair.
- i. Any request to add square footage to the home shall be prior authorized in accordance with Operating Agency procedures.

- j. All devices and adaptations shall be provided in accordance with applicable state or local building codes or applicable standards of manufacturing, design and installation. Medicaid state plan, EPSDT or third party resources shall be utilized prior to authorization of waiver services.
 - k. The total cost of home accessibility adaptations, vehicle modifications, and assistive technology shall not exceed \$10,000 over the five-year life of the waiver without an exception granted by the Operating Agency. Costs that exceed this limitation may be approved by the Operating Agency for devices to ensure the health, and safety of the client or that enable the client to function with greater independence in the home, or if it decreases the need for paid assistance in another waiver service on a long-term basis. Requests to exceed the limit shall be prior authorized in accordance with Operating Agency procedure.
6. Homemaker services are provided in the client's home and are allowed when the client's disability creates a higher volume of household tasks or requires that household tasks are performed with greater frequency. There are two types of homemaker services:
- a. Basic homemaker services include cleaning, completing laundry, completing basic household care or maintenance within the client's primary residence only in the areas where the client frequents.
 - i) Assistance may take the form of hands-on assistance including actually performing a task for the client or cueing to prompt the client to perform a task.
 - ii) Lawn care, snow removal, air duct cleaning, and animal care are specifically excluded under the HCBS-SLS waiver and shall not be reimbursed.
 - b. Enhanced homemaker services includes basic homemaker services with the addition of either procedures for habilitation or procedures to perform extraordinary cleaning
 - i) Habilitation services shall include direct training and instruction to the client in performing basic household tasks including cleaning, laundry, and household care which may include some hands-on assistance by actually performing a task for the client or enhanced prompting and cueing.
 - ii) The provider shall be physically present to provide step-by-step verbal or physical instructions throughout the entire task:
 - 1) When such support is incidental to the habilitative services being provided, and
 - 2) To increase the independence of the client,
 - iii) Incidental basic homemaker service may be provided in combination with enhanced homemaker services; however, the primary intent must be to provide habilitative services to increase independence of the client.
 - iv) Extraordinary cleaning are those tasks that are beyond routine sweeping, mopping, laundry or cleaning and require additional cleaning or sanitizing due to the client's disability.

7. Mentorship services are provided to clients to promote self-advocacy through methods such as instructing, providing experiences, modeling and advising and include:
 - a. Assistance in interviewing potential providers,
 - b. Assistance in understanding complicated health and safety issues,
 - c. Assistance with participation on private and public boards, advisory groups and commissions, and
 - d. Training in child and infant care for clients who are parenting children.
 - e. Mentorship services shall not duplicate case management or other HCBS-SLS waiver services.
 - f. Mentorship services are limited to one hundred and ninety two (192) units (forty eight (48) hours) per service plan year. One (1) unit is equal to fifteen (15) minutes.
 - g. Units to provide training to clients for child and infant care shall be prior authorized beyond the one hundred and ninety two (192) units per service plan year in accordance with Operating Agency procedures.
8. Non-medical transportation services enable clients to gain access to day habilitation, prevocational and supported employment services. A bus pass or other public conveyance may be used only when it is more cost effective than or equivalent to the applicable mileage band.
 - a. Whenever possible, family, neighbors, friends, or community agencies that can provide this service without charge must be utilized and documented in the service plan.
 - b. Non-medical transportation to and from day program shall be reimbursed based on the applicable mileage band. Non-medical transportation services to and from day program are limited to five hundred and eight (508) units per service plan year. A unit is a per-trip charge assessed each way to and from day habilitation and supported employment services.
 - c. Transportation provided to destinations other than to day program or supported employment is limited to four (4) trips per week reimbursed at mileage band one
 - d. Non-Medical Transportation does not replace medical transportation required under 42 C.F.R. the applicable mileage band. Non-medical transportation Medicaid State Plan, defined at 42 C.F.R. §440.170(A).
9. Personal Emergency Response System (PERS) is an electronic device that enables clients to secure help in an emergency. The client may also wear a portable "help" button to allow for mobility. The system is connected to the client's phone and programmed to a signal a response center once a "help" button is activated. The response center is staffed by trained professionals.
 - a. The client and the client's case manager shall develop a protocol for identifying who should to be contacted if the system is activated.

10. Personal Care is assistance to enable a client to accomplish tasks that the client would complete without assistance if the client did not have a disability. This assistance may take the form of hands-on assistance by actually performing a task for the client or cueing to prompt the client to perform a task. Personal care services include:

- a. PERSONAL CARE SERVICES INCLUDE:
 - i) Assistance with basic self-care including hygiene, bathing, eating, dressing, grooming, bowel, bladder and menstrual care.
 - ii) Assistance with money management,
 - iii) Assistance with menu planning and grocery shopping, and
 - iv) Assistance with health related services including first aide, medication administration, assistance scheduling or reminders to attend routine or as needed medical, dental and therapy appointments, support that may include accompanying clients to routine or as needed medical, dental, or therapy appointments to ensure understanding of instructions, doctor's orders, follow up, diagnoses or testing required, or skilled care that takes place out of the home.
- b. Personal care services may be provided on an episodic, emergency or on a continuing basis. When personal care service is required, it shall be covered to the extent the Medicaid state plan or third party resource does not cover the service.
- c. If the annual functional needs assessment identifies a possible need for skilled care: then the client shall obtain a home health assessment.

I. THE CLIENT SHALL OBTAIN A HOME HEALTH ASSESSMENT, OR

II. THE CLIENT SHALL BE INFORMED OF THE OPTION TO DIRECT HIS/HER HEALTH MAINTENANCE ACTIVITIES PURSUANT TO SECTION 8.510.12, ET SEQ.

11. Professional services are provided by licensed, certified, registered or accredited professionals and the intervention is related to an identified medical or behavioral need. Professional services include:
- a. Hippotherapy includes a therapeutic treatment strategy that uses the movement of the horse to assist in the development or enhancement of skills including gross motor, sensory integration, attention, cognitive, social, behavior and communication.
 - b. Movement therapy includes the use of music or dance as a therapeutic tool for the habilitation, rehabilitation and maintenance of behavioral, developmental, physical, social, communication, or gross motor skills and assists in pain management and cognition.

- c. Massage includes the physical manipulation of muscles to ease muscle contractures or spasms, increase extension and muscle relaxation and decrease muscle tension and includes watsu.
- d. Professional services can be reimbursed only when:
 - i) The provider is licensed, certified, registered or accredited by an appropriate national accreditation association in the profession,
 - ii) The intervention is related to an identified medical or behavioral need, and
 - iii) The Medicaid State plan therapist or physician identifies the need for the service, establishes the goal for the treatment and monitors the progress of that goal at least quarterly.
- e. A pass to community recreation centers shall only be used to access professional services and when purchased in the most cost effective manner including day passes or monthly passes.
- f. The following services are excluded under the HCBS Waiver from reimbursement;
 - i) Acupuncture,
 - ii) Chiropractic care,
 - iii) Fitness trainer
 - iv) Equine therapy,
 - v) Art therapy,
 - vi) Warm water therapy,
 - vii) Experimental treatments or therapies, and.
 - viii) Yoga.

12. Respite service is provided to clients on a short-term basis, because of the absence or need for relief of the primary caregivers of the client.

- a. Respite may be provided:
 - i) In the client's home and private place of residence,
 - ii) The private residence of a respite care provider, or
 - iii) In the community.
- b. Respite shall be provided according to individual or group rates as defined below:
 - i) Individual: the client receives respite in a one-on-one situation. There are no other clients in the setting also receiving respite services. Individual respite occurs for ten (10) hours or less in a twenty four (24)-hour period.

- ii) Individual Day: the client receives respite in a one-on-one situation for cumulatively more than 10 hours in a 24-hour period. A full day is 10 hours or greater within a 24- hour period.
 - iii) Overnight Group: the client receives respite in a setting which is defined as a facility that offers 24 hour supervision through supervised overnight group accommodations. The total cost of overnight group within a 24-hour period shall not exceed the respite daily rate.
 - iv) Group: the client receives care along with other individuals, who may or may not have a disability. The total cost of group within a 24-hour period shall not exceed the respite daily rate.
 - c. The following limitations to respite services shall apply:
 - i) Federal financial participation shall not be claimed for the cost of room and board except when provided, as part of respite care furnished in a facility approved pursuant to 2 CCR 503-1, Section 16.221. by the state that is not a private residence.
 - ii) Overnight group respite may not substitute for other services provided by the provider such as personal care, behavioral services or services not covered by the HCBS-SLS Waiver.
 - iii) Respite shall be reimbursed according to a unit rate or daily rate whichever is less. The daily overnight group respite rate shall not exceed the respite daily rate.
13. Specialized Medical Equipment and Supplies include: devices, controls, or appliances that are required due to the client's disability and that enable the client to increase the client's ability to perform activities of daily living or to safely remain in the home and community. Specialized medical equipment and supplies include:
- a. Kitchen equipment required for the preparation of special diets if this results in a cost savings over prepared foods;
 - b. Specially designed clothing for a client if the cost is over and above the costs generally incurred for a client's clothing;
 - c. Maintenance and upkeep of specialized medical equipment purchased through the HCBS-SLS waiver.
 - d. The following items are specifically excluded under the HCBS-SLS waiver and not eligible for reimbursement:
 - i) Items that are not of direct medical or remedial benefit to the client are specifically excluded under the HCBS-SLS waiver and not eligible for reimbursement. These include but are not limited to; vitamins, food supplements, any food items, prescription or over the counter medications, topical ointments, exercise equipment, hot tubs, water walkers, resistance water therapy pools, experimental items or wipes for any purpose other incontinence.
14. Supported Employment services includes intensive, ongoing supports that enable a client, for whom competitive employment at or above the minimum wage is unlikely

absent the provision of supports, and who because of the client's disabilities needs supports to perform in a regular work setting.

- a. Supported employment may include assessment and identification of vocational interests and capabilities in preparation for job development, and assisting the client to locate a job or job development on behalf of the client.
- b. Supported employment may be delivered in a variety of settings in which clients interact with individuals without disabilities, other than those individuals who are providing services to the client, to the same extent that individuals without disabilities employed in comparable positions would interact.
- c. Supported employment is work outside of a facility-based site, that is owned or operated by an agency whose primary focus is service provision to persons with developmental disabilities,
- d. Supported employment is provided in community jobs, enclaves or mobile crews.
- e. Group employment including mobile crews or enclaves shall not exceed eight clients.
- f. Supported employment includes activities needed to sustain paid work by clients including supervision and training.
- g. When supported employment services are provided at a work site where individuals without disabilities are employed, service is available only for the adaptations, supervision and training required by a client as a result of the client's disabilities.
- h. Documentation of the client's application for services through the Colorado Department of Human Services Division for Vocational Rehabilitation shall be maintained in the file of each client receiving this service. Supported employment is not available under a program funded under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. § 1401et seq).
- i. Supported employment does not include reimbursement for the supervisory activities rendered as a normal part of the business setting.
- j. Supported employment shall not take the place of nor shall it duplicate services received through the Division for Vocational Rehabilitation.
- k. The limitation for supported employment services is seven thousand one hundred and twelve (7,112) units per service plan year. One (1) unit equals fifteen (15) minutes of service.
- l. The following are not a benefit of supported employment and shall not be reimbursed:
 - i) Incentive payments, subsidies or unrelated vocational training expenses, such as incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment,
 - ii) Payments that are distributed to users of supported employment, and

- iii) Payments for training that are not directly related to a client's supported employment.
- 15. Vehicle modifications are adaptations or alterations to an automobile or van that is the client's primary means of transportation; to accommodate the special needs of the client; are necessary to enable the client to integrate more fully into the community; and to ensure the health and safety of the client.
 - a. Upkeep and maintenance of the modifications are allowable services.
 - b. Items and services specifically excluded from reimbursement under the HCBS Waiver include:
 - i) Adaptations or improvements to the vehicle that are not of direct medical or remedial benefit to the client,
 - ii) Purchase or lease of a vehicle, and
 - iii) Typical and regularly scheduled upkeep and maintenance of a vehicle.
 - c. The total cost of home accessibility adaptations, vehicle modifications, and assistive technology shall not exceed \$10,000 over the five (5) year life of the HCBS Waiver except that on a case by case basis the Operating Agency may approve a higher amount. Such requests shall ensure the health and safety of the client, enable the client to function with greater independence in the home, or decrease the need for paid assistance in another HCBS-SLS Waiver service on a long-term basis. Approval for a higher amount will include a thorough review of the current request as well as past expenditures to ensure cost-efficiency, prudent purchases and no duplication.
- 16. Vision services include eye exams or diagnosis, glasses, contacts or other medically necessary methods used to improve specific dysfunctions of the vision system when delivered by a licensed optometrist or physician for a client who is at least 21 years of age
 - a. Lasik and other similar types of procedures are only allowable when:
 - b. The procedure is necessary due to the client's documented specific behavioral complexities that result in other more traditional remedies being impractical or not cost effective, and
 - c. Prior authorized in accordance with Operating Agency procedures.
- 17. HEALTH MAINTENANCE ACTIVITIES ARE AVAILABLE ONLY AS A PARTICIPANT DIRECTED SUPPORTED LIVING SERVICE IN ACCORDANCE WITH 8.500.94.B. HEALTH MAINTENANCE ACTIVITIES MEANS ROUTINE AND REPETITIVE HEALTH RELATED TASKS FURNISHED TO AN ELIGIBLE CLIENT IN THE COMMUNITY OR IN THE CLIENT'S HOME, WHICH ARE NECESSARY FOR HEALTH AND NORMAL BODILY FUNCTIONING THAT A PERSON WITH A DISABILITY IS UNABLE TO PHYSICALLY CARRY OUT. SERVICES MAY INCLUDE:
 - a. Skin care provided when the skin is broken or a chronic skin condition is active and could potentially cause infection. Skin care may include: wound care,

dressing changes, application of prescription medicine, and foot care for people with diabetes when prescribed by a licensed medical professional

- b. Nail care in the presence of medical conditions that may involve peripheral circulatory problems or loss of sensation
- c. Mouth care performed when:
 - i) there is injury or disease of the face, mouth, head or neck
 - ii) in the presence of communicable disease
 - iii) the client is unconscious, OR
 - iv) oral suctioning is required
- d. Dressing, including the application of anti-embolic or other prescription pressure stockings and orthopedic devices such as splints, braces, or artificial limbs if considerable manipulation is necessary
- e. Feeding
 - i) when suctioning is needed on a stand-by or other basis
 - ii) When there is high risk of choking that could result in the need for emergency measures such as CPR or the Heimlich maneuver as demonstrated by a swallow study
 - iii) Syringe feeding, OR
 - iv) Feeding using apparatus
- f. Exercise prescribed by a licensed medical professional including passive range of motion
- g. Transferring a client when he/she is unable to assist or the use of a lift such as a Hoyer is needed
- h. Bowel care provided to a client including digital stimulation, enemas, care of ostomies, and insertion of a suppository if the client is unable to assist
- i. Bladder care when it involves disruption of the closed system for a Foley or suprapubic catheter, such as changing from a leg bag to a night bag and care of external catheters
- j. Medical management required by a medical professional to monitor blood pressures, pulses, respiratory assessment, blood sugars, oxygen saturations, pain management, intravenous, or intramuscular injections
- k. Respiratory care:
 - i. Postural drainage

- ii) Cupping
- iii) Adjusting oxygen flow within established parameters
- iv) Suctioning of mouth and nose
- v) Nebulizers
- vi) Ventilator and tracheostomy care
- vii) Prescribed respiratory equipment

8.500.94.B PARTICIPANT-DIRECTED SUPPORTED LIVING SERVICES

Participant direction of HCBS-SLS waiver services is authorized pursuant to the provisions of the federally approved Home and Community Based Supported Living Services (HCBS-SLS) Waiver, CO.0293 and C.R.S. 25.5-6-1101, et seq. (2014).

1. Participants may choose to direct their own services through the Consumer Directed Attendant Support Services delivery OPTION SET FORTH at Section 8.510, et seq.
2. Services that may be participant-directed UNDER THIS OPTION are as follows:
 - i) Personal Care as defined at Section 10 CCR 2505-10 §8.500.94.A.10
 - ii) Homemaker as defined at Section 10 CCR 2505-10 §8.500.94.A.6
 - iii) Health Maintenance Activities as defined at Section 10 CCR 2505-10 §8.500.94.A.17
3. The case manager shall conduct the case management functions SET FORTH at section 8.510.14 et. seq.

8.500.102 SERVICE PLAN AUTHORIZATION LIMITS (SPAL)

8.500.102.A The service plan authorization limit (SPAL) sets an upper payment limit of total funds available to purchase services to meet a client's ongoing service needs within one (1) service plan year.

8.500.102.B The following services are not subject to the service plan authorization limit: non-medical transportation, dental services, vision services, assistive technology, home accessibility adaptations and vehicle modifications.

8.500.102.C The total of all HCBS-SLS services in one service plan shall not exceed the overall authorization limitation as set forth in the federally approved HCBS-SLS waiver.

8.500.102.D Each SPAL is assigned a specific dollar amount determined through an analysis of historical utilization of authorized waiver services, total reimbursement for services, and the spending authority for the HCBS-SLS waiver. Adjustments to the SPAL amount may be determined by the Department and Operating Agency as necessary to manage waiver costs.

8.500.102.E Each SPAL is associated with six support levels determined by an algorithm which analyzes a client's level of service need as determined by the SIS assessment and additional factors including exceptional medical and behavioral support needs and identification as a community safety risk.

8.500.102.F The SPAL determination shall be implemented in a uniform manner statewide and the SPAL amount is not subject to appeal.

8.500.102 G HEALTH MAINTENANCE ACTIVITIES AVAILABLE UNDER CONSUMER DIRECTED ATTENDANT SUPPORT SERVICES (CDASS) IS NOT SUBJECT TO THE SERVICE PLAN AUTHORIZATION LIMIT

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Tracking number: 2017-00133

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 05/12/2017

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY

The above-referenced rules were submitted to this office on 05/16/2017 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.

May 24, 2017 08:51:21

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Food Assistance Program (Volume 4B)

CCR number

10 CCR 2506-1

Rule title

10 CCR 2506-1 RULE MANUAL VOLUME 4B, FOOD ASSISTANCE 1 - eff 07/01/2017

Effective date

07/01/2017

10 CCR 2506-1

4.042 HOUSEHOLD INCOME ELIGIBILITY

A. Determining Income

1. Income eligibility shall be determined prospectively based on the eligibility worker's anticipation of income at the time of application and when changes are made known to the local office. See Section 4.603.1 for rules concerning anticipating income. Income shall be determined as it is anticipated to be received unless the income is averaged over the certification period in accordance with Section 4.402.2.
2. When determining if a household is eligible under gross and/or net income limits, households shall have income converted to a monthly amount by using a conversion as specified below. When a full month's income is anticipated any cents in the gross weekly or biweekly earnings shall be used in converting income to a monthly amount.

Monthly income amounts shall be rounded to the nearest dollar amounts. Each monthly income figure that ends in 1 through 49 cents is rounded down, and each monthly income figure that ends in 50 through 99 cents is rounded to the next dollar.

Pay Frequency	Conversion
Weekly	Multiply Weekly Average by 4.3.
Bi-Weekly (Every Two Weeks)	Multiply Bi-Weekly Average by 2.15.
Semi-Monthly (Twice a Month)	Multiply Semi-Monthly Average by 2.
Every Other Month	Multiply Average by 0.5.
Quarterly	Multiply Average by 0.333333.
Twice a Year	Multiply Average by 0.166666.
Annual	Multiply Average by .083.

4.070 Complaint Requirements

The local office shall, as part of its overall outreach responsibility, publicize the state's complaint system. In addition, the local office shall advise any household wishing to file a complaint of the complaint procedure and offer assistance in filing a complaint, if appropriate.

The State Department shall ensure that information is made available to potential participants, applicants, participants, or other interested persons concerning the complaint system, and the procedure for filing a complaint at the state or county level. Such information shall be made available to potential participants, applicants, and other interested parties through written materials and posters which shall be prominently displayed in all certification and issuance offices.

For complaints of discrimination, refer to 4.070.2 through 4.070.22.

The local office shall make every effort to resolve all complaints, excluding complaints of discrimination, brought to their attention at the local level. However, all complainants shall be informed they have the right to contact the State Department if they are not satisfied with the action taken at the local level.

4.070.2 Non-Discrimination Complaint Requirements

Food Assistance benefits shall be extended to all eligible households without regard to age, race, color, sex, disability, religious creed, national origin or political beliefs. Local offices shall ensure that the nondiscrimination poster provided by FNS is prominently displayed. Posters may be obtained through the State Department.

The local office shall explain the complaint procedures, as outlined in 4.070.21 “Discrimination Complaint Procedure,” to each person expressing an interest in filing a discrimination complaint and shall advise the individual of the right to file a complaint under this procedure. Such information shall be made available within ten (10) calendar days from the date of request.

4.070.22 Disposition of Discrimination Complaints

When the local office receives a complaint of alleged discrimination and obtains the information specified in 4.070.21 “Discrimination Complaint Procedure,” it shall transmit a copy of the complaint to the FNS national office and/or the State Department within five (5) working days. The State Department shall file the complaint with the FNS national office on behalf of the complainant if the local office does not file the complaint with the FNS national office.

4.903.31 Frequency of Reviews

The State Office shall conduct an ME review of all Food Assistance Program operations:

- A. At least once annually on each large project area containing more than twenty-five thousand and one (25,001) participating households;
- B. At least once every two (2) years on each medium project area containing five thousand (5,000) to twenty-five thousand (25,000) participating households; and,
- C. At least once every three (3) years on each small project area containing four thousand nine hundred and ninety-nine (4,999) or fewer participating households.

The State Office may conduct Management Evaluation reviews on an alternative schedule with the written approval of the USDA, FNS. The State Office may also perform reviews of specific county offices or program elements. The USDA, FNS or the State Office, may identify the need of a special review, or the county department may request a special review.

Reviews will generally include all aspects of program administration in the large counties. The reviews may be more limited in scope in the medium and small counties. The USDA, FNS, generally identifies target program areas that it requires for review each fiscal year.

The State Office will complete the Management Evaluation report for all counties that are reviewed. The Colorado Department of Human Services, Food Assistance Program, will be responsible for monitoring the county responses to any finding.

The county shall be responsible for submitting any factual corrections to the management evaluation review within twenty (20) state working days, and shall submit a final plan to correct all other cited deficiencies within twenty (20) state working days of receiving the review. The response shall include specific actions, persons responsible for implementation, and date for completion. When the review identifies ongoing problems in critical areas, the county response shall also include a method for monitoring implementation of the plan and reporting progress to the State Office on at least a quarterly basis.

4.802.1 Time Period for Requesting an Appeal

- A. A household shall be allowed to request a local-level dispute resolution conference or state-level fair hearing on the following:
 - 1. Any action by the local office that occurred in the previous ninety (90) calendar days.

2. A loss of benefits that occurred in the previous ninety (90) calendar days. Such Food Assistance action shall include a denial of a request for restoration of benefits lost more than ninety (90) calendar days but less than a year prior to the request.
3. At any time during a certification period a household may request a fair hearing to dispute its current level of benefits.

F. Non-recurring Lump Sum Payments

Money received in the form of non-recurring lump sum payments, includes, but is not limited to, income tax refunds, rebates, or credits; retroactive lump-sum Social Security, SSI, public assistance, railroad retirement benefits or other payments; or retroactive lump-sum insurance settlements; or any money an inmate receives upon release from prison, including earnings from work performed while incarcerated and accumulated over the length of the incarceration.

State and county diversion payments under Colorado Works shall be excluded as a non-recurring lump sum payment if the payment does not cover more than ninety (90) days of expenses and is not expected to occur again in a twelve (12) month period.

Non-recurring lump sum payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other federal laws. Any funds remaining in subsequent months shall be considered a resource.

Beginning December 17, 2010, Federal income tax refunds must be disregarded as a resource for twelve (12) months from the date of receipt by the client. These refunds are also excluded as income in the month received.

4.304.4 Persons Disqualified or Ineligible to Participate in the Food Assistance Program

- A. Disqualified individuals shall not be allowed to participate in the Program as separate households. "Disqualified individuals" are individuals disqualified for:
 1. Intentional Program violation/fraud;
 2. Failure to either provide or obtain a Social Security Number;
 3. Being an ineligible non-citizen as defined in Section 4.305.12;
 4. Failure to comply with work requirements; or,
 5. Being an able-bodied adult without dependents (ABAWD) who has been disqualified after receiving three (3) months of Food Assistance benefits within a period of thirty-six (36) months.
- B. Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony shall not be considered eligible household members. If an individual is suspected of being a fleeing felon, either by their own admission or based on a report from law enforcement, the fleeing status must be verified in order to determine if the client is eligible for Food Assistance benefits.

The following four part test must be used to determine if the individual would be considered a fleeing felon for Food Assistance purposes:

1. There is an outstanding felony warrant for the individual by a Federal, State, or local law enforcement agency and the underlying cause for the warrant is for committing, or attempting to commit, a crime that is a felony under the law of the place from which the individual is fleeing or is a high misdemeanor under the law of New Jersey; and
 2. The individual is aware of, or should reasonably have been able to expect that, the felony warrant has already or would have been issued; and
 3. The individual has taken some action to avoid being arrested or jailed; and
 4. The Federal, State, or local law enforcement agency is actively seeking the individual as provided in 4.304.4(C)(1).
- C. Individuals who are determined to be a parole or probation violator shall not be considered to be an eligible household member. To be considered a probation or parole violator, an impartial party, as designated by the agency, must determine that the individual violated a condition of his or her probation or parole imposed under Federal or State law, and that Federal, State, or local law enforcement authorities are actively seeking the individual to enforce the conditions of the probation or parole as outlined below.
1. For the purposes of this provision, actively seeking is defined as follows:
 - a. A Federal, State, or local law enforcement agency informs the local Food Assistance office that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within twenty (20) days of submitting a request for information about the individual to the local office;
 - b. A Federal, State, or local law enforcement agency presents a felony arrest warrant as provided in 4.304.4(B)(1); or
 - c. A Federal, State, or local law enforcement agency states that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within thirty (30) days of the date of a request from a local Food Assistance office about a specific outstanding felony warrant or probation or parole violation.

4.050 CONFIDENTIALITY

- A. If there is a written request by a responsible member of the household, or it's ITS currently authorized representative, or a person acting on behalf of the household to review materials contained in the case record, the material and information contained in the case record shall be made available for inspection during normal business hours.
- B. The local office shall withhold confidential information, such as the names of persons who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal investigations or prosecutions.
- C. Use or disclosure of information obtained from a Food Assistance applicant or household or from any State or Federal agency included in the Income and Eligibility Verification System (IEVS), including the Internal Revenue Service (IRS), Social Security Administration (SSA) and Colorado Department of Labor and Employment (DOLE) exclusively for the Food Assistance Program, shall be restricted to the following persons:
 1. Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, other Federal assistance programs, federally- assisted State programs providing assistance on a means-tested basis to low income individuals,

or general assistance programs which are subject to the joint processing requirements in 4.202.1.

2. Employees of the Comptroller General's office of the United States for audit examination authorized by any other provision of law;
3. Local, State or Federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the identity of the individual requesting the information and his/her authority to do so, the violation being investigated, and the identity of the person about whom the information is requested;

Local, State, or Federal law enforcement officers acting in their official capacity, upon written request by such law enforcement officers that includes the name of the household member being sought, for the purpose of obtaining the address, social security number, and, if available, photograph of the household member, if the member is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or a high misdemeanor in New Jersey), or is violating a condition of probation or parole imposed under a Federal or State law. The agency shall provide information regarding a household member, upon written request of a law enforcement officer acting in his or her official capacity that includes the name of the person being sought, if the other household member has information necessary for the apprehension or investigation of the other household member who is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole imposed under Federal or State law.

The agency must accept any document that reasonably establishes the identity of the household member being sought by law enforcement authorities. If a law enforcement officer provides documentation indicating that a household member is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole, the agency shall follow the procedures in 4.304.4 to determine whether the member's eligibility in the Food Assistance program should be terminated. A determination and request for information that does not comply with the terms and procedures in 4.304.4 is not sufficient to terminate the member's participation. The agency shall disclose only such information as is necessary to comply with a specific written request of a law enforcement agency authorized by this paragraph.

4. Persons Connected with the Parent Locator Service

Information made available to the Parent Locator Service must be restricted to the recipient or applicant's most recent address and place of employment;

5. Persons directly connected with the administration of the Child Support Program under part D, title IV of the Social Security Act, in order to assist in the administration of their program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under titles II and XVI of the Social Security Act;
6. Persons directly connected with the verification of immigration status of non-citizen Food Assistance applicants through the Systematic Alien Verification for Entitlements (SAVE) system, to the extent the information is necessary to identify the individual for verification purposes;
7. School authorities for the purpose of determining which children are from families who participate in the Program. This information is used to determine eligibility for meals under the National School Lunch or Breakfast Program; and,

8. Persons directly connected with the administration or enforcement of programs included in the Income and Eligibility Verification System (IEVS). Information obtained through the IEVS will be stored and processed so that no unauthorized personnel may acquire or retrieve the information for unauthorized purposes. All persons with access to information obtained pursuant to the IEVS requirements will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

4.504.6 Information Considered Verified Upon Receipt

- A. Verified upon receipt is a term given to a state-prescribed list of specific information that comes directly from the primary source of the information and is free from question.
- B. Information that is considered verified upon receipt shall be acted upon for both simplified reporting households and non-simplified reporting households. Information considered verified upon receipt shall be acted on at the time of application, recertification, periodic report, and during a household's certification period if the information causes a change in the Food Assistance benefit amount. A household shall not be convicted of fraud for not reporting a change in information it is not required to report in accordance with Section 4.603.
- C. Information considered verified upon receipt shall be considered verified unless the office has reason to believe that the information may be inaccurate. Advance notice of adverse action shall be given when acting on information that is considered verified upon receipt, except as noted in Section 4.608.1.
- D. Administrative Error Claims may be established as a result of information considered verified upon receipt.
- E. The local office shall consider only the following information as verified upon receipt:
 1. Social Security and SSI benefit amounts obtained from SSA.

SSI and benefit amounts obtained from the SSA are considered reported and verified on the day the information is first known to the agency, either through the IEVS, SDX, BENDEX or another automated interface of information, whichever is sooner.
 2. Death information received from the Burial Assistance program.

Death information received from the Burial Assistance program is considered reported and verified on the day the information is first known to the agency.
 3. Unemployment insurance benefits that are reported through the IEVS and obtained through the Department of Labor and Employment (DOLE).

The unemployment insurance benefit (UIB) information shall be considered reported and verified on the date of the IEVS notification. Advance notice of adverse action shall be given when acting on the change in information.
 4. Public Assistance (PA) benefit amounts (Colorado Works, Aid to the Needy Disabled (AND), Old Age Pension (OAP), Aid to the Blind (AB), and Colorado Supplement to SSI) obtained from the State Department.

Such information shall be considered reported and verified on the day the public assistance benefit amount is authorized.

5. Information that is reported and verified to a public assistance program which results in a change to the PA benefit amount and that meets the Food Assistance regulations for verification as specified in Section 4.500.

Such information shall be considered reported and verified on the day the public assistance program processes the change and authorizes the new PA benefit amount.

6. Child support income and expense amounts obtained through the Automated Child Support Enforcement System (ACSES).

Such information is considered reported and verified on the day the information is reported through an automated interface with ACSES.

7. Non-compliance information obtained from Employment First (EF) agencies for failure to participate in a mandated work program.

8. Colorado intentional Program violations (IPV).

9. Information obtained from the Systematic Alien Verification for Entitlements (SAVE) system regarding non-citizen status.

10. Changes in household composition that are reported and verified and result in one or more members being removed from one Food Assistance household and added to a new or existing Food Assistance household. See Section 4.304.2 for situations that involve two households requesting assistance for the same child. Adults may be removed from the household based on self-declaration, per Section 4.604, D.

Duplicate benefits shall not be issued for a particular individual when removing that individual from one Food Assistance household and adding him/her to a new Food Assistance household.

11. Changes in household composition that are reported and verified by child welfare agencies and result in a child being removed from one Food Assistance household and added to a new or existing Food Assistance household.

12. The disqualification of a household member determined to be a fleeing felon or probation or parole violator in accordance with Section 4.304.4.

4.504.61 Information Not Considered Verified Upon Receipt

- A. Some information received from sources other than the household are not considered verified. Such information shall be subject to independent verification prior to taking adverse action to reduce, suspend, terminate, or deny a household's Food Assistance benefits during the certification period. Such information, once independently verified, shall be acted upon in accordance with Section 4.604.

- B. The following sources of information shall not be considered as verified upon receipt:

1. Death information received from a source other than the Burial Assistance program.

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Tracking number: 2017-00123

Opinion of the Attorney General rendered in connection with the rules adopted by the

Food Assistance Program (Volume 4B)

on 05/05/2017

10 CCR 2506-1

RULE MANUAL VOLUME 4B, FOOD ASSISTANCE

The above-referenced rules were submitted to this office on 05/09/2017 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.

May 24, 2017 08:40:03

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-2

Rule title

12 CCR 2509-2 REFERRAL AND ASSESSMENT 1 - eff 07/01/2017

Effective date

07/01/2017

7.106.14 State Review of an Incident of Egregious Abuse or Neglect, Near Fatality or Fatality of a Child [Eff. 1/1/15]

When a county department determines that an incident of egregious abuse and/or neglect, near fatality, or fatality of a child is founded for child abuse and/or neglect, and where a county department had previous involvement within 3 years prior to the date of the incident, the county department shall submit reports outlined in 7.106.13 C for review by the State Department in accordance with Section 7.106 of this rule, and cooperate with the State Department's review. The State Department shall conduct a multidisciplinary review of such cases, where a county department had previous involvement in the three years prior to the incident of egregious abuse and/or neglect, near fatality, or fatality. A county representative(s) from each county having previous involvement in the three years prior to the incident shall participate in the multidisciplinary review in person, by telephone, or through other emerging technology. The State Department Child Fatality Review shall occur within forty-five (45) business days of the State Department receiving all required and relevant reports and information critical to an effective fatality review. These reviews shall include:

- A. The circumstances around the incident of egregious abuse or neglect against a child, near fatality, or child fatality;
- B. The services provided to the child, the child's family, and the perpetrator by the county department for any county with which the family has had previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect;
- C. The county department's compliance with statutes, regulations, and relevant policies and procedures that are directly related to the incident of egregious abuse or neglect against a child, near fatality, or fatality;
- D. Identification of strengths and best practices of service delivery to the child and the child's family;
- E. Consideration of factors that may have contributed to conditions leading to the incident of egregious abuse or neglect against a child, near fatality, or fatality, including, but not limited to, lack of or unsafe housing, family and social supports, educational life, physical health, emotional and psychological health, and other safety, crisis, and cultural or ethnic issues;
- F. The supports and services provided to siblings, family members, and agency staff after the incident of egregious abuse or neglect against a child, near fatality, or fatality; and,
- G. The quality and sufficiency of coordination between state and local agencies.

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Tracking number: 2017-00104

Opinion of the Attorney General rendered in connection with the rules adopted by the

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

on 05/05/2017

12 CCR 2509-2

REFERRAL AND ASSESSMENT

The above-referenced rules were submitted to this office on 05/09/2017 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.

May 24, 2017 08:35:49

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
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Permanent Rules Adopted

Department

Department of Human Services

Agency

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-4

Rule title

12 CCR 2509-4 CHILD WELFARE SERVICES 1 - eff 07/01/2017

Effective date

07/01/2017

(12 CCR 2509-4)

7.304.53 Court-Related Procedures [Rev. eff. 7/1/17]

- A. County department staff shall work with the courts in order to best serve families, children, and adults. This includes, but is not limited to:
 - 1. Providing competent and appropriate testimony. When the case involves the Indian Child Welfare Act, testimony shall be provided by a qualified expert witness (see Indian Child Welfare Act, "Definitions", Section 7.309.1, L).
 - 2. Identifying witnesses and evidence to be presented.
 - 3. Being in compliance with the Indian Child Welfare Act.
 - 4. Working with the legal representative of the county department and all other attorneys involved to serve the best interest of the child(ren) and family.
 - 5. Ensuring that the court is provided names and addresses of parents, foster parents, pre-adoptive parents, and kin who are providing out of home care for a child in order that the court can inform and allow these individuals an opportunity to be heard at all hearings and reviews involving the child.

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7.309 INDIAN CHILD WELFARE ACT (ICWA) OF 1978

The Indian Child Welfare Act (ICWA) of 1978 is federal legislation that establishes standards for the placement of Indian children in foster care or adoptive homes. Regulations effective on December 12, 2016 were created for the substantive legal requirements of ICWA and updated federal guidelines were also adopted at that time to clarify best practices in implementing ICWA and its regulations. All rights and privileges afforded to parents and children in any other section of this manual are applicable to rights and privileges for Indian parent(s), Indian custodian(s), and children under jurisdiction of county departments. Indian Tribes are not subject to rules related to ICWA as they have Tribal sovereignty.

7.309.1 DEFINITIONS

- A. Active Efforts - Affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with his or her family. Active efforts shall involve assisting the parent(s) or Indian custodian(s) through the steps of a case plan and accessing or developing the resources necessary to satisfy the case plan to the maximum extent possible. Active efforts should be provided in a manner consistent with the prevailing social and cultural conditions of the Indian child's Tribe and should be conducted in partnership with the Indian child and the Indian child's parent(s), extended family members, Indian custodian and Tribe. Active efforts may include:
 - 1. Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal;
 - 2. Identifying appropriate cultural services and helping the parent(s) to overcome barriers, including actively assisting the parent(s) in obtaining such services;

3. Identifying, notifying, and inviting representatives of the Indian child's Tribe to participate in providing support and services to the Indian child's family and in family meetings, permanency planning and resolution of placement issues;
 4. Conducting a diligent search or intensive family finding for the Indian child's extended family members, and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's parent(s);
 5. Offering and employing all available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the child's Tribe;
 6. Taking steps to keep siblings together whenever possible;
 7. Supporting regular visits with parent(s) or Indian custodian(s) in the most natural setting possible as well as trial home visits of the Indian child during any period of removal, consistent with the need to ensure the health, safety, and welfare of the child;
 8. Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parent(s) or, when appropriate, the child's family in utilizing and accessing those resources;
 9. Monitoring progress and participation in services;
 10. Considering alternative ways to address the needs of the Indian child's parent(s) and, where appropriate, the family, if the optimum services do not exist or are not available; and,
 11. Providing post-reunification services and monitoring.
- B. Child Custody Proceedings - Any action other than an emergency proceeding that may culminate into one of the following outcomes: foster care placement, termination of parental rights, pre-adoptive placement, or adoptive placement.
 - C. Continued Custody – Physical or legal custody that the parent(s) or Indian custodian(s) has or had at any point in the past and may be applicable by Tribal law or custom.
 - D. Domicile – For a parent(s) or Indian custodian(s), the place at which a person has been physically present and that the person regards as home; a person's fixed principal and permanent home, to which that person intends to return and remain indefinitely even though the person may be currently residing elsewhere.
 - E. Emergency Placement - Child(ren) must be in imminent danger of moderate to severe physical damage or harm with clear and convincing evidence available to be presented before the court . Emergency placement may not last longer than thirty (30) days.
 - F. Emergency Proceeding- Includes any court action that involves an emergency removal or emergency placement of an Indian child.
 - G. Existing Indian Exception – repealed.
 - H. Indian Custodian(s) - Any Indian who has legal custody of an Indian child under Tribal law, custom, or by state law, including those situations when the parent(s) has transferred temporary physical care, custody, and control to another individual.
 - I. Indian Foster Home – A foster home in which one or more of the foster parent(s) is a member/citizen of a federally recognized Indian Tribe, or who is an Alaska native and a member of a regional corporation.

- J. Involuntary Proceeding – A child custody proceeding in which the parent does not consent of his or her free will to the foster care, pre-adoptive, or adoptive placement or termination of parental rights. This includes parental consent under threat of removal by a court or county department.
- K. Indian Tribe - Any Indian Tribe, band, nation, or other organized group federally recognized as eligible for the services provided to Indians including Alaskan native villages.
- L. Qualified Expert Witness - An individual who is qualified to testify regarding whether the child's continued custody by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical harm to the child and is qualified to testify as to prevailing social and cultural standards of the Indian child's Tribe. A person may be designated by the Indian child's Tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's Tribe. The court or any party may request the assistance of the Indian child's Tribe or the Bureau of Indian Affairs (BIA) in locating persons qualified to serve as expert witnesses. The case worker regularly assigned to the Indian child may not serve as a qualified expert witness in child-custody proceedings concerning the child.
- M. Tribal Court - A court with jurisdiction over child custody proceedings and which is either a court of Indian offenses, a court established and operated under the code or custom of an Indian Tribe, or any other administrative body of a Tribe which is vested with authority over child custody proceedings.
- N. Tribal Sovereignty – Refers to Tribe's rights to govern themselves, define their own membership, manage Tribal property, and regulate Tribal business and domestic relations; it further recognizes the existence of a government-to-government relationship between such Tribes and the federal government.
- O. Status Offense - An offense that would not be considered criminal if committed by an adult, and are prohibited only because of a person's status as a minor, such as truancy. If an Indian child is being removed because he or she committed a status offense, then ICWA applies.

7.309.2 DETERMINATION OF ELIGIBILITY - INDIAN CHILD WELFARE ACT

Indian children served under the ICWA shall meet the following criteria for eligibility:

- A. The Indian child must be:
 - 1. unmarried;
 - 2. under eighteen (18) years of age; and either,
 - 3. a member or citizen of an Indian Tribe; or,
 - 4. eligible for membership or citizenship in an Indian Tribe and the biological child of a member/citizen of an Indian Tribe.
- B. If the child-custody proceeding extends beyond an Indian child's eighteenth (18th) birthday, ICWA continues to apply.

7.309.3 NOTIFICATION PROCEDURES - INDIAN CHILD WELFARE ACT

7.309.31 Notification Requirements - Indian Child Welfare Act

A. The county department shall notify the parent(s), Indian custodian(s) and any potential Tribe or Tribal court of jurisdiction that an Indian child is in need of placement or if a petition for- termination of the parent-child legal relationship has been filed with the court, when the parties have reason to know that an Indian child is involved, except in an emergency placement. The county department shall ask each participant in the case if they know or have reason to know that a child is an Indian child in any of the following:

1. Any involuntary placement of a Indian child; or
2. Any voluntary placement of any Indian child for foster care or petition for relinquishment as provided in the Tribal-State agreement under ICWA.

B. Notice is necessary to ensure that parent(s), Indian custodian(s), and Tribes have the opportunity to participate in the proceeding.

Notice shall be sent by registered or certified mail with return receipt requested, of the pending child-custody proceeding and their right to intervene. The following information shall be provided as part of this notice:

1. Identifying information for the child, including name, birthdate and birthplace;
2. Parent(s)' names, including any known maiden or former names or aliases, birthplaces and birthdates and Tribal enrollment numbers or as much information as known;
3. If known, the names, birthdates, birthplaces and Tribal enrollment information of other direct lineal ancestors of the child, such as grandparent(s);
4. The name of each Indian Tribe in which the child is a member/citizen or may be eligible for membership/citizenship if a biological parent is a member/citizen;
5. A copy of the petition initiating the child-custody proceeding and a description of the potential legal consequences of the proceeding and if a hearing has been scheduled, information on the date, time and location of the hearing;
6. The name of the petitioner and the names and addresses of the petitioner's attorney;
7. Rights of any parent or Indian custodian(s) of the child to intervene in the proceedings;
8. The Indian Tribe's right to intervene at any time in a state-court proceeding for the foster care placement of or termination of parental rights to an Indian child;
9. The rights that if the child's parent(s) or Indian custodian(s) is unable to afford counsel based on determination of indigency by the court, the parent(s) or Indian custodian(s) has the right to court-appointed counsel;
10. The right to be granted, upon request, up to twenty (20) additional days to prepare for the child-custody proceedings;
11. The right of the parent(s) or Indian custodian(s) and the Indian child's Tribe to petition the court for transfer of the foster care placement or termination of the parental rights proceeding to the Tribal court;

12. The mailing addresses and telephone numbers of the court and information related to all parties; and
13. The potential legal consequences of the child custody proceedings on the future parental and custodial right.

C. Copies of these notices shall be sent to each of the following:

1. The Tribe where the child may be a member/citizen, or eligible for membership/citizenship; and
2. The child's parent(s) and if applicable the child's Indian custodian(s).

D. If the identity or location of the child's parent(s), the child's Indian custodian(s), or the Tribes in which the Indian child is a member/citizen or eligible for membership/citizenship cannot be ascertained, but there is reason to know the child is an Indian child, notices of the child custody proceeding shall be sent to the Bureau of Indian Affairs (BIA) regional director to establish Tribal identity.

E. Notice for the Colorado regional director shall be sent to the following address:

Albuquerque Regional Director
Bureau of Indian Affairs
615 First Street, P. O. Box 26567
Albuquerque, New Mexico 87125

F. The BIA will not make a determination of Tribal membership/citizenship but may, in some instances, be able to identify Tribes to contact.

G. Notice may also be sent via personal service or electronically, but such alternative methods do not replace the requirement for notice to be sent by registered or certified mail with return receipt requested.

H. The county department shall exercise due diligence to:

1. Identify the Tribe;
2. Work with the Tribe to verify whether the child is a citizen/member or their biological parent is a citizen/member and the child is eligible for citizenship/membership; and,
3. Treat the child as an Indian child, unless and until the court determines that the child is not an Indian child.

7.309.32 Initial Notification - Involuntary Placements - Indian Child Welfare Act

- A. The county department shall give notice in involuntary placements by telephone or via email within 48 hours, followed by a registered or certified mail with return receipt requested, to the parent(s), Indian Custodian(s), if applicable, and the child's Tribe.
- B. The county department shall observe the following timelines (except for emergency placements) before a judicial request for placement can be made. The county department shall wait at least 10 working days after receiving the return receipt of notice before proceeding with a judicial request when the notice has been sent to:

1. The parent(s) or Indian Custodian(s). If the parent(s) or Indian Custodian(s) requests time to prepare for the proceeding, the county department shall petition the court to set the hearing no earlier than 30 calendar days after receipt of notice.
2. The Tribe. If the Tribe requests time to prepare for the proceeding, the county department shall petition the court to set the hearing no earlier than 30 calendar days after receipt of notice.

7.309.33 Initial Notification - Voluntary Placements - Indian Child Welfare Act

- A. The county department shall give notice to the Tribe, when a placement is voluntary or a relinquishment is contemplated, in the same manner as noted immediately above, or according to the Tribal-State Agreement if the child is a member/citizen of the Ute Mountain Ute or enrolled or eligible for enrollment in the Southern Ute Indian Tribe.
- B. The county department shall file a Petition for the Review of Need of Placement by the 90th day of out of-home care as outlined in Court Related Procedures, Section 7.304.53.
- C. The county department shall follow step B. outlined in Section "Initial Notification-Involuntary Placements" when the child is placed due to a voluntary relinquishment.

7.309.34 EMERGENCY PROCEEDINGS – INDIAN CHILD WELFARE ACT

- A. Emergency proceedings can only be used if it is necessary to prevent imminent danger of physical harm to the child. The county department shall petition the court to terminate the emergency proceeding immediately when the removal or placement is no longer necessary to prevent imminent danger of harm to the child. An emergency proceeding can be terminated by one or more of the following actions:
 1. Returning the child to the parent(s) or Indian custodian(s);
 2. Transfer of the child to the jurisdiction of the appropriate Indian Tribe; or,
 3. Initiation of a child-custody proceeding subject to the provisions of ICWA.
- B. Active efforts shall be applied in emergency placements when possible.
- C. Emergency placements regarding an Indian child shall not be continued for more than 30 days unless the court makes one of the following determinations:
 1. Returning the child to the parent(s) or Indian custodian(s) would subject the child to imminent physical harm;
 2. The court has been unable to transfer the proceeding to the jurisdiction of the appropriate Indian Tribe; or,
 3. It has not been possible to initiate a child custody proceeding.

7.309.4 TRANSFER OF JURISDICTION FROM STATE COURT TO TRIBAL COURT

- A. Upon the Tribe's petition for transfer of jurisdiction, the county department shall carry out the transfer to the Tribe within five (5) working days, unless either parent or the Indian Custodian(s) objects to a transfer; where the Tribal court declines the transfer; or the court determines there is good cause not to transfer jurisdiction. A county department shall not request a good cause determination based on the following:
 - 1. The child custody proceeding is in the advanced stages, if the parent(s), Indian custodian(s), or Indian child's Tribe did not receive notice of the proceeding until an advance stage;
 - 2. Prior proceedings involving the child for which no petition to transfer was filed;
 - 3. Predictions of whether the transfer could result in a change in the placement of the child;
 - 4. The Indian child's perceived cultural connections with the Tribe or reservation;
 - 5. Consideration of any perceived inadequacy of judicial systems;
 - 6. Consideration of the perceived socioeconomic conditions within a Tribe or reservation; or,
 - 7. Consideration of bonding or attachment that resulted from time spent in a non-preferred placement that was made in violation of ICWA.
- B. The county department shall prepare child(ren) for legal transfer to the Tribal court of jurisdiction as appropriate to their age. Such preparation shall include:
 - 1. Information about reasons for the transfer and its timing.
 - 2. Involvement of the child in the plans for transfer (see Pre-Placement Activities, Section 7.304.61).
- C. The county department shall coordinate plans for the transfer of the child(ren) with the Tribal agency responsible for accepting custody of the child(ren) prior to the transfer.
- D. The county department shall expeditiously provide a complete copy of its file(s) concerning the Indian child(ren) to the Indian child's Tribe.

7.309.5 FOSTER CARE AND PRE-ADOPTIVE PLACEMENTS - INDIAN CHILD WELFARE ACT

The county department shall make every effort to make placements:

- A. In the most appropriate, least restrictive setting, that most approximates a family and best meets the needs of the child, taking into consideration:
 - 1. Sibling attachment;
 - 2. The Indian child's special needs (if any); and,
- B. Within a reasonable distance to the child's home, extended family, or siblings.
- C. The parent or Indian custodian may withdraw consent to voluntary foster care placement at any time and have the Indian child returned to them as soon as practical.

7.309.6 ORDER OF PREFERENCE - INDIAN CHILD WELFARE ACT (FOSTER CARE AND PREADOPTIVE PLACEMENT)

The county department shall place eligible Indian children for foster care or pre-adoptive placement according to the following order of preference. It shall do so, unless the child's Tribe has established another order, or unless it has good cause to the contrary, as documented in the child's record.

A. For Out-of-Home Care/Pre-Adoptive Placement:

The county department shall engage the Tribe at the earliest possible opportunity to not hinder the Tribes' ability and options regarding placement preference in foster care or pre-adoptive placements. Under ICWA the county department shall use the following order of preference unless the Indian child's Tribe has identified a different placement preference than the following

1. Member of child's extended family;
2. Foster home licensed/certified, approved or specified by the Indian child's Tribe;
3. Indian foster home licensed/certified, approved or specified by an authorized non-Indian authority; or
4. Institution for children approved by an Indian Tribe or operated by an Indian organization which has programs suitable to meet the needs of Indian children.

B. The county department shall not depart from placement preference based on the socioeconomic status of any placement relative to another placement or based on the ordinary bonding or attachment that results from time spent in a non-preferred placement that was made in violation of ICWA.

C. The following are the only actions considered good cause to deviate from placement preferences:

1. Request from the parent(s);
2. Request from the child;
3. Sibling attachment; or,
4. Extraordinary physical, mental or emotional needs of the child; or,
5. The unavailability of a suitable preferred placement.

D. The county department shall follow a different order of preference if one is established by the Tribe, so long as the placement is the most appropriate and least restrictive setting to meet the child's needs. Where appropriate, the preference of the Indian child or parent(s) shall be considered. If a consenting parent has a desire for anonymity, the county department shall give weight to such desire in applying the preferences.

7.309.7 PLACEMENTS INVOLVING STATUS OFFENSES- INDIAN CHILD WELFARE ACT

A. ICWA includes requirements that apply whenever an Indian child is the subject of a proceeding involving status offenses if any part of that proceeding results in the need for out-of-home placement for the child, including a foster care, pre-adoptive, or adoptive placement or termination of parental rights.

- B. The county department shall ensure that the consent signed by the parent(s)/Indian Custodian(s) shall contain all of the following:

1. Name and birth date of child.
2. Name of child's Tribe.
3. Child's enrollment number or other indication of membership/citizenship in the Tribe.
4. Name, address and Tribal enrollment number of consenting parent(s)/custodian(s).
5. Name and address of prospective parent(s), if known, for substitute care placements.
6. Name and address of person or agency through whom placement arranged, if any, or adoptive placements.

7.309.8 Involuntary Termination of Parent-Child Relationship - Indian Child Welfare Act

When terminating the parent-child legal relationship of a child under ICWA, the county department shall provide the court of jurisdiction with evidence beyond a reasonable doubt, including testimony of qualified expert witness. (See section 7.309. 1).

7.309.81 Relinquishment of Child for Adoption

- A. A voluntary relinquishment of an Indian child may be done in a state court when the parent(s) chooses to file a relinquishment petition under Colorado statutes.
- B. The county department shall not petition the court for relinquishment before 10 days after the child's birth.
- C. The county department shall follow the procedure outlined for court ordered placement in the "Initial Notification - Involuntary Placements" section. If the child is from either Ute Mountain Ute or Southern Ute Indian Tribe, the county department shall comply with the Tribal-State Agreement.
- D. The county department shall not accept voluntary consent for foster or adoptive care unless all of these conditions are met:
1. The consent is voluntary and obtained free of fraud or duress;
 2. The consent is in writing and recorded before a judge; and,
 3. The consent is accompanied by the judge's certificate ensuring that terms and consequences of the consent were fully explained in:
 - a. Detail and fully understood by the parent(s) or Indian custodian(s).
 - b. English or interpreted into a language understood by the parent(s) or Indian custodian(s).
- E. Withdrawal of consent may apply to relinquishment of parental rights. In these situations the parent(s) or Indian custodian(s) may withdraw consent for any reason at any time prior to the entry of the final decree of relinquishment and have the child returned.

7.309.82 ORDER OF PREFERENCE - INDIAN CHILD WELFARE ACT, ADOPTION

- A. The county department shall make placements of eligible Indian children for adoption according to the following order of preference, unless there is good cause to the contrary as determined by the court, or where the Indian child's Tribe has not established a different order of preference. Preference shall be given in descending order, as listed below:
 - 1. A member of the child's extended family;
 - 2. Other members of the Indian child's Tribe; or
 - 3. Other Indian families.
- B. The county department shall also consider, when appropriate, the placement preference of the Indian child or Indian child's parent(s).

7.309.83 DOCUMENTATION– INDIAN CHILD WELFARE ACT

- A. The county department shall document all active efforts, notice provided, and departures from placement preferences in the state automated case management system.
- B. The county department shall maintain records evidencing the efforts to comply with placement preference. These records shall be made available at any time upon the request of the BIA or the Indian child's Tribe. Efforts to comply shall include documentation by the county department to search diligently for placement which falls within the preference of the act.
- C. The county department bears the burden of proving by clear and convincing evidence that there is good cause to depart from placement preference, and the court's determination of good cause shall be made on the record and in writing and maintained by the county department.
- D. The county department shall maintain records of every voluntary or involuntary foster-care, pre-adoptive and adoptive placement of an Indian child and make the records available within fourteen (14) days upon request of the secretary of the BIA or the Indian child's Tribe. The record shall contain, at a minimum, the petition or complaint, all substantive orders entered in the child-custody proceeding, the complete record of the placement determination, and if the placement departs from the placement preferences, detailed documentation of the efforts to comply with the placement preference.

7.309.84 Disrupted or Changed Placement - Foster Care or Adoption - Indian Child Welfare Act Notice to Parent(s) and the Tribe

- A. When a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parent(s) has voluntarily consented to the termination of his or her parental rights to the child, the county department shall notify the child's parent(s), Indian Custodian(s), and Tribe of jurisdiction within 10 working days. These parties may petition for return of custody and the court shall grant such petition unless there is a showing that such return of custody is not in the best interests of the child. (See Order of Preference, Section 7.309.83.) This notice shall inform the recipient of her or his right to petition for return of custody of the child. The Tribe shall also be notified of changes or disruptions in adoptive placements.
- B. Notice shall be sent by registered or certified mail with return receipt requested to the parent(s), Indian custodian(s) and the Tribe whenever a final decree of adoption has been vacated.

7.309.85 ADOPTION DECREE

- A. The county department shall provide notice of any voluntary or involuntary adoption of an Indian child to the BIA within 30 days of the final decree, to the following address:

Bureau of Indian Affairs, Chief
Division of Human Services
1849 C Street NW., Mail Stop 4513 MIB
Washington DC 20240

- B. The following information shall be included, in an envelope marked "confidential":

1. Birth name and birthdate of the Indian child, and Tribal affiliation and name of the Indian child after adoption;
2. Names and addresses of the biological parent(s);
3. Names and addresses of the adoptive parent(s);
4. Names and contact information for any agency having files or information relating to the adoption;
5. Any affidavit signed by the biological parent or parents asking that their identity remain confidential; and
6. Any information relating to Tribal membership/citizenship or eligibility for Tribal membership/citizenship of the adopted child.

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Office of the Attorney General

Tracking number: 2017-00108

Opinion of the Attorney General rendered in connection with the rules adopted by the

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

on 05/05/2017

12 CCR 2509-4

CHILD WELFARE SERVICES

The above-referenced rules were submitted to this office on 05/23/2017 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.

May 24, 2017 08:39:31

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-7

Rule title

12 CCR 2509-7 COUNTY RESPONSIBILITIES, STAFF TRAINING AND
QUALIFICATIONS, CLIENT RIGHTS, CONFIDENTIALITY 1 - eff 07/01/2017

Effective date

07/01/2017

7.603 CHILD WELFARE STAFF QUALIFICATIONS AND TRAINING [Eff. 11/15]

7.603.1 Child Welfare Qualification and Certification Requirements

The county department and/or the Hotline County Connection Center shall ensure that all staff who perform the following duties meet the required minimum qualifications and fulfill all certification and re-certification requirements prior to assuming, or continuing to perform, the duties described in this section on an independent basis as prescribed by the state department (Section 26.5.109, C.R.S.):

A. Hotline Worker Certification

1. Job duties that require hotline worker certification

- a. Engages callers in the phone interview process;
- b. Responds to inquiries; and/or,
- c. Executes all components of the information gathering process as outlined in the Code of Colorado Regulations.

2. Minimum Educational Requirements

- a. A high school diploma or general equivalency diploma (GED)

3. Initial Certification Requirements

- a. To be certified as a hotline worker and perform the duties as outlined in 7.603.1, A, 1, a-c, the staff person shall:
 1. Complete the pre-service hotline training for workers;
 2. Complete all required Transfer of Learning exercises with the assistance of a supervisor, or supervisor's designee; and,
 3. Demonstrate competence through pre-and post-tests, trainer observation, and verification by the county department as outlined in the request for certification.

4. Re-certification Requirements

- a. To be re-certified as a hotline worker, the staff person must participate in ten (10) hours of in-service training each state fiscal year. Qualifying in-service training exercises include:
 1. Quality assurance exercises by the supervisor;
 2. Observation and/or participation in RED Teams; and/or,
 3. Training focused in the area of the hotline worker's primary job responsibilities.

B. Hotline Staff Supervisor Certification

1. Job duties that require hotline staff supervisor certification

- a. Oversees the work of hotline workers, ensuring that all calls received by the county, or hotline county connection center, have information gathered and documented in the state automated case management system, and may participate in the RED team process;
- b. Determines jurisdiction of referrals and child welfare inquiries, coordinates their transfer to the appropriate county departments, ensures delivery of referrals to law enforcement and/or judicial partners as needed;
- c. Monitors the workload of hotline workers and data associated with the operations of the county departments, or county connection centers, hotline staff, determines resource needs to achieve the goals of the hotline staff, and makes recommendations to higher level management;
- d. Meets with hotline workers individually and in groups to counsel staff regarding rules, policies, procedures, data trends, and laws; reviews specific calls, actions taken and problems encountered;
- e. Establishes individual training needs of hotline workers and ensures that an effective training plan is in place; and,
- f. Establishes individual performance plans, reviews the performance of hotline workers on a periodic basis, including review and evaluation of hotline workers' call recordings, and completes an annual performance evaluation.

2. Minimum Educational Requirements

- a. A high school diploma or GED; and,
- b. Three (3) years of professional child welfare experience in a public or private human services agency.

3. Initial Certification Requirements

- a. To be certified as a hotline staff supervisor and perform the duties as outlined in 7.603.1, B, 1, a-f, the staff person shall:
 - 1. Complete the pre-service hotline training for supervisors;
 - 2. Complete all required Transfer of Learning exercises with the assistance of a supervisor, or supervisor's designee; and,
 - 3. Demonstrate competence through pre- and post-tests, trainer observation, and verification by the county department as outlined in the request for certification.

4. Re-certification Requirements

- a. To be re-certified as a hotline staff supervisor, the staff person must participate in ten (10) hours of in-service training each year. Qualifying in-service training exercises include:
 - 1. Quality assurance exercises by the supervisor;

2. Observation and/or participation in RED teams; and/or,
3. Training focused in the area of the hotline staff supervisor's primary job responsibilities.

C. Social Caseworker Trainee Certification

The social caseworker trainee is a professional training level position with intensive supervision and/or coaching by the county department in which assignments are limited to five (5) assessments and/or cases at any given time, are planned and devised to develop and teach professional social casework techniques, basic foundations, and concepts appropriate to the assigned areas.

1. Job duties that require Social Caseworker Trainee certification
 - a. Provides prevention, assessment, and/or ongoing casework services for Program Areas 4, 5, and/or 6;
 - b. Provides intensive family services as an alternative to out-of-home placement;
 - c. Recruits and/or supervises certified foster family care homes, certified and non-certified kinship family care homes, and adoptive family homes;
 - d. Conducts home studies, grants certifications, and monitors the quality of care provided in foster family care homes, certified and non-certified kinship care homes, and adoptive family homes;
 - e. Provides individual and/or family counseling on an ongoing or crisis basis to children and/or youth and their parents, families and/or caregivers;
 - f. Provides training to local community partners regarding the referral, assessment, and service provision process.
2. Minimum Educational Requirements
 - a. A bachelor's degree from an accredited institution with a major in a human behavior science field, or a degree with 30 semester hours, or 45 quarter hours, of course work in development of human behavior, child development, family intervention techniques, diagnostic measures or therapeutic techniques such as social work, psychology, sociology, guidance and counseling, and/or child development.
3. Initial Certification Requirements
 - a. To be certified as a social caseworker trainee and perform the duties as outlined in 7.603.1, C, 1, a-f, the staff person shall:
 1. Complete the pre-service training for new social caseworkers; and,
 2. Demonstrate an emerging level of competence through pre- and post-tests, trainer observation, and verification by the county department as outlined in the request for trainee certification.
4. Re-certification Requirements

- a. The social caseworker trainee certification is valid for up to one (1) year from initial certification date. Prior to the end of the certification year, the county department must request social caseworker certification to allow the staff person to continue to perform the duties described in 7.603.1, C, 1, a-f, or 7.603.1, D, 1, a-f.

D. Social Caseworker Certification

1. Job duties that require social caseworker certification

- a. Provides prevention, assessment, and/or ongoing casework services for Program Areas 4, 5, and/or 6;
- b. Provides intensive family services as an alternative to out-of-home placement;
- c. Recruits and/or supervises certified foster family care homes, certified and non-certified kinship family care homes, and adoptive family homes;
- d. Conducts home studies, grants certifications, and monitors the quality of care provided in foster family care homes, certified and non-certified kinship care homes, and adoptive family homes;
- e. Provides individual and/or family counseling on an ongoing or crisis basis to children and/or youth and their parents, families and/or caregivers;
- f. Provides training to local community partners regarding the referral, assessment, and service provision process.

2. Minimum Educational Requirements

- a. A bachelor's degree from an accredited institution with a major in a human behavior science field, or a degree with 30 semester hours, or 45 quarter hours, of course work in development of human behavior, child development, family intervention techniques, diagnostic measures or therapeutic techniques such as social work, psychology, sociology, guidance and counseling, and/or child development; and,
- b. One (1) year of professional caseworker, case management, or human services experience in a public or private human services agency; OR,
- c. A bachelor's of social work degree and successful completion of an approved field placement in a county department of human services; or,
- d. A master's degree in social work or a human behavioral science field.

3. Initial Certification Requirements

- a. To be certified as a social caseworker and perform the duties as outlined in 7.603.1, D, 1, a-f, the staff person shall:
 - 1. Complete the pre-service training for new social caseworkers;
 - 2. Complete all required transfer of learning exercises with the assistance of a supervisor, or supervisor's designee; and,
 - 3. Demonstrate competence through pre- and post-tests, trainer observation, and verification by the county department as outlined in the request for certification.

- b. Upon initial certification as a social caseworker, the staff person receives dual certification as a hotline worker.
- c. If a newly hired social caseworker has been certified as a social caseworker in the state of Colorado within the previous four (4) years, pre-service training for new social caseworkers is not required.

4. Re-certification Requirements

- a. To be re-certified as a social caseworker, the staff person must participate in forty (40) hours of in-service training each state fiscal year, with a minimum of sixteen (16) of those hours focused in the area of the social caseworker's primary job responsibilities. Qualifying in-service training includes, but is not limited to:

- 1. Safety;
- 2. Risk;
- 3. Permanency;
- 4. Well-being;
- 5. Assessment;
- 6. Interviewing;
- 7. Family engagement;
- 8. Legal issues;
- 9. Indian Child Welfare Act;
- 10. Foster care, kinship care and adoption;
- 11. Effects of child abuse/neglect on development;
- 12. Principles of strengths-based, family-focused, child-centered and culturally responsive case planning and case management;
- 13. Sexual abuse issues;
- 14. Behavioral health issues;
- 15. Domestic violence issues;
- 16. Cultural disparity; and/or
- 17. Other innovative, emerging, promising, and/or best practices.

E. Social Casework Supervisor certification

- 1. Job duties that require social casework supervisor certification
 - a. Provides direct supervision to social casework staff and para-professionals;

- b. Oversees the work of the unit, may make screening decisions regarding referrals, and assigns caseloads to workers based on the knowledge and skills of the social caseworkers in that unit;
 - c. Monitors the workload of the unit, determines resource needs to achieve the goal of the unit, and makes recommendations to higher level management;
 - d. Meets with social caseworkers individually and in groups, and counsels regarding rules, policies, procedures, data and laws; reviews specific cases, actions taken, and problems encountered; and creates an environment that allows for professional growth;
 - e. Establishes individual training needs of social caseworkers, and ensures that an effective training plan is in place;
 - f. Establishes individual performance plans, reviews the performance of social caseworkers on a periodic basis, and completes an annual performance evaluation.
2. Minimum Educational Requirements
- a. A bachelor's degree with a major in a human behavioral sciences field from an accredited institution or, a degree with 30 semester hours, or 45 quarter hours, of course work in development of human behavior, child development, family intervention techniques, diagnostic measures or therapeutic techniques such as social work, psychology, sociology, guidance and counseling, and/or child development; and,
 - b. Three (3) years of professional caseworker, case management, or human services experience in a public or private human services agency; or,
 - c. A master's degree or higher in a social work or human behavioral sciences field (as described in 7.603.1, E, 2, a); and,
 - d. Two (2) years professional casework, case management, or human services experience in a public or private human services agency.
3. Initial Certification Requirements
- a. To be certified as a social casework supervisor, and perform the duties outlined in 7.603.1, D, 1, a-f, the staff person shall:
 - 1. Complete the pre-service training for new social caseworkers if not previously certified within the previous four (4) years in the State of Colorado;
 - 2. Complete the pre-service training for new social caseworker supervisors;
 - 3. Complete all required transfer of learning exercises with the assistance of a supervisor, or supervisor's designee; and,
 - 4. Demonstrate competence through pre- and post-tests, trainer observation, and verification by the county department as outlined in the request for certification.
 - b. Upon certification as a social casework supervisor, the staff person receives dual certification as a hotline staff supervisor.

4. Re-certification requirements

a. To be re-certified as a social casework supervisor, the staff person must participate in forty (40) hours of in-service training each state fiscal year, with a minimum of sixteen (16) of those hours focused in the area of the social casework supervisor's primary job responsibilities. Qualifying in-service training includes, but is not limited to:

1. Leadership and management;
2. Data informed practice;
3. Worker safety;
4. Assessment;
5. Interviewing;
6. Family engagement;
7. Legal issues;
8. Indian Child Welfare Act;
9. Foster care, kinship care, and adoption;
10. Effects of child abuse/neglect on development;
11. Principles of strengths-based, family-focused, child-centered, and culturally responsive case planning and case management;
12. Sexual abuse issues;
13. Behavioral health issues;
14. Domestic violence issues;
15. Cultural disparity; and/or
16. Other innovative, emerging, promising, and/or best practices.

F. Case Aide/Life Skills worker

1. Minimum educational requirements

- a. This position has obtained a high school diploma or a General Equivalency Diploma (GED); and,
 - b. Has six (6) months of full-time public contact in human services or a related field.
2. Substitution for public contact shall include successful completion of a certificate program and/or college course equivalent to public contact in Human services or a related field.

G. Temporary Educational Waiver Process

If proven recruitment difficulty exists, county departments may request a temporary waiver of the educational requirements by submitting a request to the Colorado Department of Human Services, Division of Child Welfare, which includes the following information:

1. For Initial Hiring:

- a. Documentation of the recruiting efforts and the identified difficulties;
- b. Description of the specific services to be provided by the position, the title of the position, and the name of the candidate;
- c. Justification as to how the candidate meets all other qualifications for the position; and,
- d. A plan on how and when the candidate will meet the requirements contained in these rules.

A temporary educational waiver may be granted for up to two (2) years, with an option for the county department to request one (1) additional year. The progress on the plan outlined by the temporary waiver will be assessed every six (6) months by the Colorado Department of Human Services, Division of Child Welfare, and can be revoked or withdrawn at any time if the requirements are unable to be fulfilled within the identified timeframe.

2. For County Directors:

County directors who also provide direct supervision of child welfare services and who do not meet the minimum qualifications for the casework supervisor position must apply, and qualify, for a temporary educational waiver to provide these services.

H. Training Substitutions

If a newly hired person has previous experience and has successfully completed comparable child welfare training to the pre-service training for hotline workers, hotline worker supervisors, social caseworkers, or social casework supervisors, the county department may request a training substitution from the Colorado Department of Human Services, Division of Child Welfare Training unit. The following information must be submitted:

1. Documentation of previous child welfare training including a description of the training and documentation of training completion;
2. Documentation of previous child welfare experience;
3. Completion of state automated case management system navigation training if applicable
4. Completion of the Colorado Family Safety and Risk Assessment training, if applicable; and,
5. Completion of county-specific Transfer of Learning exercises designed to prepare the worker to perform required job functions

Certification will be awarded after requirements of Section 7.603.1, H, 1-5, have been satisfied.

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Tracking number: 2017-00107

Opinion of the Attorney General rendered in connection with the rules adopted by the

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

on 05/05/2017

12 CCR 2509-7

**COUNTY RESPONSIBILITIES, STAFF TRAINING AND QUALIFICATIONS, CLIENT RIGHTS,
CONFIDENTIALITY**

The above-referenced rules were submitted to this office on 05/11/2017 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.

May 24, 2017 08:38:57

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

State Board of Human Services (Volume 12; Special Projects)

CCR number

12 CCR 2512-2

Rule title

12 CCR 2512-2 RULE MANUAL VOLUME 12, SPECIAL PROJECTS 1 - eff 07/01/2017

Effective date

07/01/2017

(12 CCR 12.500)

12.530 ELIGIBILITY [Rev. eff. 7/1/17]

Applicants who meet all of the following criteria are eligible to receive program services:

1. The applicant has a traumatic brain injury; and,
2. The applicant lives within the State of Colorado and considers Colorado to be their place of residency; and,
3. The applicant agrees to subrogation when purchased services supports are available.

12.551 Grievance Process [Rev. eff. 7/1/17]

A “grievance” is an oral or written complaint or expression of dissatisfaction about any matter other than a decision that may be appealed. A grievance may address issues such as the quality of services provided, the person providing services, the timeliness of services, the accessibility of service locations, or the availability of staff.

1. Applicants and program participants shall have ninety (90) calendar days from the date of the incident to file a grievance expressing a complaint or dissatisfaction with any matter other than a decision that may be appealed.
2. The contractor shall accept oral and written grievances, and shall document oral grievances in writing.
3. The contractor shall give applicants and program participants reasonable assistance in filing a grievance and completing procedural steps in the grievance process, upon request.
4. The contractor shall ensure that the individuals who make decisions on grievances are individuals who are not a subject of the grievance and who were not involved in any previous level of review or decision-making regarding the grievance.
5. The contractor shall provide a reasonable opportunity for the individual making the grievance to present information, in person as well as in writing.
6. The contractor shall resolve each grievance and provide written notice within thirty (30) calendar days from the date the contractor receives the grievance. The notice shall include the contractor's proposed resolution to the grievance, the individual's right to further grieve the contractor's proposed resolution to the Colorado Traumatic Brain Injury Program Director or designee, and information on how to contact the Director or designee.
7. Applicants and Program participants shall have ninety (90) calendar days from the date of the contractor's notice to submit their grievance to the Colorado Traumatic Brain Injury Program Director or his/her designee.
8. The grievance process shall be an informal dispute resolution process. The decision of the Colorado Traumatic Brain Injury Program Director or designee shall be final.

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Tracking number: 2017-00106

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Board of Human Services (Volume 12; Special Projects)

on 05/05/2017

12 CCR 2512-2

RULE MANUAL VOLUME 12, SPECIAL PROJECTS

The above-referenced rules were submitted to this office on 05/09/2017 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.

May 24, 2017 08:38:31

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-26

Rule title

1 CCR 301-26 COLORADO RULES FOR THE OPERATION, MAINTENANCE AND INSPECTION OF SCHOOL TRANSPORTATION VEHICLES 1 - eff 05/10/2017

Effective date

05/10/2017



**DEPARTMENT OF EDUCATION
Colorado State Board of Education**

**COLORADO RULES FOR THE OPERATION, MAINTENANCE AND INSPECTION OF SCHOOL
TRANSPORTATION VEHICLES**

1 CCR 301-26

4204-R-1.00 Statement of Basis and Purpose

- 1.01 Colorado law provides for the State Board of Education to adopt and enforce regulations governing the safe operation of school buses used for the transportation of students pursuant to Sections 22-51-108 and 42-4-1904, C.R.S.
- 1.02 The purpose of these rules is to adopt and enforce regulations governing the reasonable and adequate standards of safety for the operation, maintenance and inspection of school transportation vehicles that promote the welfare of the students and afford reasonable protection to the public. These rules are designed to align with federal standards, reflect current industry practices, and incorporate recommendations from school district and service provider transportation professionals.
- 1.03 The Commissioner, or designee, may provide an exemption to the Rules for the Operation, Maintenance and Inspection of School Transportation Vehicles to the extent the Commissioner finds an exemption to be appropriate.
- 1.04 These rules shall become effective January 1, 2017 for all student transportation.

4204-R-2.00 Applicability of Rules

- 2.01 These rules and regulations apply to the operation, maintenance and inspection of all public school transportation vehicles (School Bus, Multifunction Bus, Motor Coach Bus and Small Vehicle as defined in 1 CCR 301-25-R-5.00) transporting students to and from school, from school to school, and/or to and from school related events in vehicles owned, leased or rented by the district or under agreement with the district.
- 2.02 These rules are not intended to include:
 - 2.02(a) Private motor vehicles used exclusively to carry members of the owner's household; or
 - 2.02(b) Transportation arrangements not authorized by the district including but not limited to; sharing of actual gasoline expense or participation in a car pool; or
 - 2.02(c) The operations of vehicles in bona fide emergency situations consistent with policies of the local board of education; or
 - 2.02(d) Student transportation under public transportation programs subject to the Federal Motor Carrier Safety Regulations, 49 CFR sections 390 to 399, available at <https://www.ecfr.gov/>.

- 2.03 These rules shall not preclude a school district or service provider from establishing a more rigid standard or policy when deemed necessary by the local board of education or service provider.

4204-R-3.00 Non-Compliance

- 3.01 CDE will perform periodic School Transportation Advisory Reviews (STAR) of school districts and service providers to evaluate and assist with compliance of these rules.

3.01(a) CDE will provide school districts and service providers written notification of the STAR findings.

3.01(b) Upon receipt of the written notification of STAR findings, school districts or service providers shall respond in writing to outline corrective actions if necessary.

- 3.02 CDE shall revoke or suspend the certificate for a school transportation annual inspector, school transportation annual inspector hands-on tester or inspection site under the following circumstances:

3.02(a) A school transportation annual inspector, school transportation annual inspector hands-on tester or inspection site does not meet the requirements outlined in these rules.

3.02(b) School transportation annual inspections or hands-on tests have not been properly conducted.

4204-R-4.00 School District and Service Provider Employment Responsibilities

- 4.01 School districts and service providers shall outline job responsibilities and develop job qualification standards for each school transportation vehicle operator and school transportation paraprofessionals, consistent with federal and state regulations. A copy of these requirements shall be provided to each school transportation vehicle operator and paraprofessional upon employment.

- 4.02 School districts and service providers shall maintain separate files for each school transportation vehicle operator, school transportation paraprofessional, and school transportation annual inspector with written documentation evidencing all listed requirements indicated in Rule 5.00, Rule 6.00 and Rule 7.00, as applicable. Training documentation shall include the trainer name, date of the training, description of the training, duration of each topic covered and the signature of all attendees.

4.02(a) If a school transportation vehicle operator, school transportation paraprofessional, or school transportation annual inspector works for more than one school district, each district shall maintain a file with documentation in accordance with this rule.

- 4.03 School districts and service providers shall ensure all employees required to possess a commercial driver's license (CDL) shall be in a US DOT approved substance abuse testing program.

- 4.04 School districts and service providers shall not permit a school transportation vehicle operator to transport students, while the operator's ability or alertness is so impaired, through fatigue, illness or any other cause, as to make it unsafe for the operator to transport students.
- 4.05 School districts and service providers shall have written emergency procedures and/or contingency plans to be followed in the event of a traffic accident, vehicle breakdown, unexpected school closing, unforeseen route change or relocation of a student stop in an emergency.
- 4.06 School district and service providers shall ensure that documentation outlining transportation related services and requirements, including required use of Child Safety Restraint Systems and medical and behavioral information as it relates to student transportation, is available to applicable school transportation vehicle operators and paraprofessionals prior to providing transportation services.

4204-R-5.00 School Transportation Vehicle Operator Requirements

- 5.01 School transportation vehicle route operators (transporting students to and from school or from school to school) driving a School Bus with the capacity of 16 or greater passengers (counting the driver) and school transportation vehicle operators, other than route operators, driving vehicles with the capacity of 16 or greater passengers (counting the driver), including a School Bus, Multifunction Bus and Motor Coach Bus, shall meet or exceed the following requirements:
 - 5.01(a) The operator shall possess a valid commercial driver's license (CDL) with the proper class and endorsements for size and type of vehicle(s) to be driven and the associated Medical Examination Report required pursuant to the Federal Motor Carrier Safety Regulations, 49 CFR section 391.43 (2015). Only the Federal Motor Carrier Safety Regulations adopted as of October 1, 2015 apply to this rule; later amendments do not apply. The federal regulations incorporated by reference in this rule are available for public inspection during regular business hours from the Colorado Department of Education, 201 E. Colfax Ave., Denver, Colorado 80209. In addition, these regulations are available at <https://www.ecfr.gov/>.
 - 5.01(b) The operator shall be a minimum of 18 years of age.
 - 5.01(c) The district or service provider shall obtain a motor vehicle record of each operator prior to transporting students and annually thereafter.
 - 5.01(d) The operator shall be given and/or have access to the CDE School Bus/Multifunction Bus/Motor Coach Bus Operator Guide prior to transporting students.
 - 5.01(e) The operator shall receive a minimum of six hours of in-service training annually which may include required training in 1 CCR 301-26-R-5.00. A portion of this annual in-service requirement may occur during the school year.
 - 5.01(f) The operator shall successfully pass a CDE School Bus/Multifunction Bus/Motor Coach Bus Operator written test for the current school year prior to transporting students and annually thereafter.

- 5.01(g) The operator shall successfully pass a driving performance test including a pre-trip inspection prior to transporting students and annually thereafter. This test shall be conducted in a vehicle, which is similar in type and size to the vehicle the applicant is assigned to operate. Districts have the option to re-test at their discretion.
- 5.01(h) The operator shall receive pre-service training on the type of vehicle(s) to be driven, the type of duties they may be required to perform and in student confidentiality requirements prior to transporting students.
- 5.01(i) The operator shall have written documentation evidencing that they have received first aid training, including cardiopulmonary resuscitation and universal precautions within 90 calendar days after initial employment. If the operator holds a current first aid, cardiopulmonary resuscitation certificate it will meet the requirements of this section. Operators shall receive first aid training and/or re-certification every two (2) years thereafter.
- 5.01(j) The operator shall receive training regarding the proper use and maintenance of Child Safety Restraint Systems (CSRS) and proper wheelchair securement, when the operator is engaged in transportation involving these systems and devices prior to transporting students.
- 5.02 School transportation vehicle route operators (transporting students to and from school or from school to school) driving vehicles with the capacity of 15 or fewer passengers (counting the driver), including Type A Multifunction Bus and Small Vehicle, shall meet or exceed the following requirements:
- 5.02(a) The operator shall possess a valid driver's license.
- 5.02(b) The operator shall be a minimum of 18 years of age.
- 5.02(c) The operator shall have a current physical examination (not to exceed two years) consistent with the requirements of the Federal Motor Carrier Safety Regulations, 49 CFR section 391.43 (2015). Only the Federal Motor Carrier Safety Regulations adopted as of October 1, 2015 apply to this rule; later amendments do not apply. The federal regulations incorporated by reference in this rule are available for public inspection during regular business hours from the Colorado Department of Education, 201 E. Colfax Ave., Denver, Colorado 80209. In addition, these regulations are available at <https://www.ecfr.gov/>.
- 5.02(d) The district or service provider shall obtain a motor vehicle record of each operator prior to transporting students and annually thereafter.
- 5.02(e) The operator shall be given and/or have access to the CDE Type A Multifunction Bus /Small Vehicle Route Driver Guide prior to transporting students.

- 5.02(f) The operator shall receive a minimum of six hours of in-service training annually which may include required training in 1 CCR 301-26-R-5.00. A portion of this annual in-service requirement may occur during the school year.
- 5.02(g) The operator shall successfully pass a CDE Type A Multifunction Bus/Small Vehicle Route Operator written test for the current school year prior to transporting students and annually thereafter.
- 5.02(h) The operator shall successfully pass a driving performance test including a pre-trip inspection prior to transporting students and annually thereafter. This test shall be conducted in a vehicle, which is similar in type and size to the vehicle the applicant is assigned to operate. Districts have the option to re-test at their discretion.
- 5.02(i) The operator shall receive pre-service training on the type of vehicle(s) to be driven, the type of duties they may be required to perform and in student confidentiality requirements prior to transporting students.
- 5.02(j) The operator shall have written documentation evidencing that they have received first aid training, including cardiopulmonary resuscitation and universal precautions within 90 calendar days after initial employment. If the operator holds a current first aid, cardiopulmonary resuscitation certificate it will meet the requirements of this section. Operators shall receive first aid training and/or re-certification every two (2) years thereafter.
- 5.02(k) The operator shall receive training regarding the proper use and maintenance of Child Safety Restraint Systems (CSRS) and proper wheelchair securement, when the operator is engaged in transportation involving these systems and devices prior to transporting students.
- 5.03 School transportation vehicle operators, other than route operators, driving vehicles with the capacity of 15 or fewer passengers (counting the driver), including Type A Multifunction Bus and Small Vehicle, shall meet or exceed the following requirements:
 - 5.03(a) The operator shall possess a valid driver's license.
 - 5.03(b) The operator shall be a minimum of 18 years of age.
 - 5.03(c) The district or service provider shall obtain a motor vehicle record of each operator prior to transporting students and annually thereafter.
 - 5.03(d) The operator shall be given and/or have access to the CDE Type A Multifunction Bus /Small Vehicle Operator Guide prior to transporting students.
 - 5.03(e) The operator shall successfully pass a Type A CDE Multifunction Bus/Small Vehicle Operator written test for the current school year prior to transporting students and annually thereafter.

- 5.03(f) The operator shall annually complete the CDE Multifunction/Small Vehicle Operators Medical Information Form (STU-17). Any yes annotations shall require a doctor's release.
- 5.03(g) The operator shall receive pre-service training on the type of vehicle(s) to be driven, the type of duties they may be required to perform and in student confidentiality requirements prior to transporting students.
- 5.03(h) The operator shall be given and/or have access to first aid information, including cardiopulmonary resuscitation and universal precautions.
- 5.03(i) The operator shall successfully pass a driving performance test including a pre-trip inspection prior to transporting students. This test shall be conducted in a vehicle, which is similar in type and size to the vehicle the applicant is assigned to operate. Districts have the option to re-test in subsequent years at their discretion.
- 5.03(j) Prior to driving a school transportation vehicle pursuant to 1 CCR 301-26-R-12.11, operators shall receive training on towing a trailer.
- 5.04 School transportation paraprofessional is a person assigned to assist a school transportation vehicle operator control behavior of students in the bus and/or ensure the safety of students getting on and off the school transportation vehicle.
 - 5.04(a) The school transportation paraprofessional shall receive pre-service training for the type of duties they may be required to perform prior to assisting with transporting students.
- 5.05 School transportation vehicle operators and school transportation paraprofessionals are required to be able to perform all essential functions including emergency evacuations when transporting students as determined by the school district or service provider job qualification standards.
 - 5.05(a) The employing school district or service provider has the authority to require at any time a medical evaluation of a school transportation vehicle operator or school transportation paraprofessional for any condition that could impair the employee's ability to operate a vehicle safely, assist student(s) as required by their position, and/or perform other required job duties, and may take appropriate action on the outcome of such evaluation.
 - 5.05(b) School transportation vehicle operators and school transportation paraprofessionals that have medical conditions which result in temporary loss of performance abilities shall provide return to work documentation from their physician, and any other requirements per district policy to the employing school district/service provide prior to returning to their assigned duties.

4204-R-6.00 School Transportation Annual Inspector Requirements

- 6.01 School transportation annual inspector is a person qualified to perform annual inspections on a school transportation vehicle to confirm the vehicle complies with CDE regulations.

- 6.02 School transportation annual inspectors shall meet or exceed the following requirements:
- 6.02(a) The school transportation annual inspector shall be in possession of a valid driver's license with the proper class and endorsements for the size and type of vehicle(s) to be inspected.
 - 6.02(b) The school transportation annual inspector shall provide to the school district or service provider a Brake Inspector Qualification Certificate meeting the requirements of the Federal Motor Carrier Safety Regulations, 49 CFR section 396.25 (2015). Only the Federal Motor Carrier Safety Regulations adopted as of October 1, 2015 apply to this rule; later amendments do not apply. The federal regulations incorporated by reference in this rule are available for public inspection during regular business hours from the Colorado Department of Education, 201 E. Colfax Ave., Denver, Colorado 80209. In addition, these regulations are available at <https://www.ecfr.gov/>.
 - 6.02(c) The school transportation annual inspector shall have at least two years verifiable experience in the maintenance of light, medium or heavy duty vehicles.
 - 6.02(d) The school transportation annual inspector shall successfully pass the CDE initial hands-on performance test.
 - 6.02(d)(1) A certified school transportation annual inspector hands-on tester must proctor the hands-on performance test.
 - 6.02(e) The school transportation annual inspector shall successfully pass the CDE annual inspector qualification written test initially, and every three years thereafter pass the CDE annual inspector recertification written test.
 - 6.02(e)(1) A representative of the district or service provider, other than a school transportation annual inspector candidate, shall grade the written test.
- 6.03 A school district or service provider with an Inspection Site Certificate shall submit a CDE Application for CDE Annual Inspector Qualification or Recertification Form (STU-20) to CDE verifying that the above requirements have been satisfied. CDE will issue an Annual Inspector Certificate.
- 6.04 If any of the above requirements become invalid, the annual inspector certificate is invalid until the requirement(s) is made valid.
- 6.05 If a school transportation annual inspector has an expired certificate, the certificate can be recertified as follows:
- 6.05(a) If the certificate has been expired less than six months, then the CDE Annual Inspector Recertification Written Test is required.
 - 6.05(b) If the certificate has been expired between six and 12 months, then the CDE Annual Inspector Qualification Written Test is required.

- 6.05(c) If the certificate has been expired for more than one year, then both the CDE Annual Inspector Qualification Written Test and the CDE hands-on performance test are required.

4204-R-7.00 Annual Inspector Hands-On Tester

- 7.01 School transportation annual inspector hands-on tester is a person qualified to proctor hands-on tests to annual inspector candidates.
- 7.02 School transportation annual inspector hands-on testers shall meet or exceed the following requirements:
- 7.02(a) The school transportation annual inspector hands-on tester shall have maintained a CDE Annual Inspector certificate for a minimum of two years.
- 7.02(b) The school transportation annual inspector hands-on tester shall have satisfactorily completed a four hour CDE school transportation annual inspector hands-on tester training.
- 7.02 (c) The school transportation annual inspector hands-on testers shall have completed a four hour brake training in the last three years or have maintained an ASE School Bus or Medium/Heavy Duty Truck or Transit Bus Brake Certification.
- 7.02(d) The school transportation annual inspector hands-on tester candidate shall submit a CDE Application for Certification or Recertification of CDE Annual Inspector Hands-On Tester Form (STU-30) verifying that the above criteria have been satisfied. CDE will issue an Annual Inspector Hands-On Tester Certificate.
- 7.02(e) The school transportation annual inspector hands-on tester shall conduct at least two hands-on tests every three years or attend a CDE school transportation annual inspector hands-on recertification training to recertify as a school transportation annual inspector hands-on tester.
- 7.03 If any of the above requirements become invalid, the hands-on tester certificate is invalid until the requirement(s) is made valid.

4204-R-8.00 Pre-trip/Post-trip Vehicle Inspections

- 8.01 Each school transportation vehicle shall have a daily pre-trip and post-trip inspection performed and documented by the school transportation vehicle operator or a district or service provider authorized transportation employee. A daily pre-trip inspection shall be completed prior to a vehicle being placed in service. A daily post-trip inspection shall be completed at the end of daily operation of each vehicle.
- 8.02 The pre-trip and post-trip inspection requirements for school transportation vehicles, other than small vehicles, shall include at a minimum all items listed on the CDE School Transportation Vehicle (School Bus/Multifunction Bus/Motor Coach Bus) – Pre-Trip and Post Trip Requirements Form (STU-9).

- 8.03 The pre-trip and post-trip inspection requirements for school transportation small vehicles shall include at a minimum all items listed on the CDE School Transportation Vehicle (Small Vehicle) – Pre-Trip and Post Trip Requirements Form (STU-8).
- 8.04 School districts and service providers shall have a procedure in place to verify that students are not left on an unattended school transportation vehicle.

4204-R-9.00 Inspection Site Certification

- 9.01 A CDE Inspection Site Certificate is required at each facility/location where annual inspections for school transportation vehicles are performed.
- 9.02 The inspection site shall meet or exceed the following criteria to acquire and maintain an inspection site certificate.
 - 9.02(a) The inspection site shall be large enough to accommodate the vehicle, equipment and tools necessary to perform the inspection.
 - 9.02(b) The inspection site shall have a floor surface or pad adequate to safely support the maximum weight of the largest vehicle to be inspected.
 - 9.02(c) The inspection site shall have adequate lighting and ventilation.
 - 9.02(d) The inspection site or inspector shall, at the time of inspection, have the equipment and tools necessary to properly complete the annual inspection.
 - 9.02(e) The inspection site or inspector shall have tools designed and calibrated to take accurate readings of appropriate measurements, such as brakes and tires.
- 9.03 The district or service provider shall submit a request for an inspection site certificate on the CDE Application for Inspecting Site Certification Form (STU-22) that the above criteria have been satisfied.
- 9.04 The district or service provider shall post the CDE Inspection Site Certificate at the inspection site.

4204-R-10.00 Annual Inspection

- 10.01 School districts and service providers shall ensure all school transportation vehicles and trailers pursuant to 1 CCR 301-26-R-12.11 have a CDE annual inspection conducted by a CDE certified annual inspector.
 - 10.01(a) Recently purchased school transportation vehicles shall successfully pass a CDE annual inspection prior to transporting students.
- 10.02 Annual inspection results shall be documented on the CDE Affidavit of Annual Inspection for School Transportation Vehicles Form (STU-25).

- 10.02(a) A copy of the current Affidavit is maintained inside the vehicle and a copy is placed in the vehicle file.
- 10.03 All annual inspection criteria of school transportation vehicles must meet or exceed manufacturer's specifications. The annual inspection shall be documented and shall include at a minimum all fields listed on the CDE Annual Inspection and Preventive Maintenance Requirements Form (STU-26).
- 10.04 All annual inspection criteria of trailers must meet or exceed manufacturer's specifications and shall include at a minimum all fields listed on the CDE Trailer Annual Inspection and Preventive Maintenance Requirements Form (STU-27).
- 10.05 During the annual inspection, all four wheels shall be pulled for full inspection of the foundation brake system. The three exceptions are:
- 10.05(a) School transportation vehicles with less than 4,000 miles since the previous annual inspection shall have two wheels (one front and one rear) pulled different than those pulled for the previous inspection.
- 10.05(b) School transportation vehicles equipped with a retarder meeting the specifications outlined in 1 CCR 301-25-R-33.00, shall have two wheels (one front and one rear) pulled which are different than those pulled for the previous inspection.
- 10.05(c) Trailers pursuant to 1 CCR 301-26-R-12.11 shall have 50 percent of the wheels pulled different than those pulled for the previous inspection.

4204-R-11.00 Maintenance and Repair

- 11.01 School districts and service providers must ensure all school transportation vehicles are systematically inspected, maintained and repaired to ensure that school transportation vehicles are in safe and proper operating condition.
- 11.02 School districts and service providers shall have a system to document preventative maintenance, reported defects and repairs made to school transportation vehicles.
- 11.03 School districts and service providers shall maintain separate files for each school transportation vehicle with documentation of all annual inspections, all preventative maintenance and all reported damage, defects or deficiencies and the corresponding repair and maintenance performed.
- 11.04 Any identified damage, defect or deficiency of a school transportation vehicle must be reported to the school district or service provider which:
- 11.04(a) Could affect the safety of operation of the school transportation vehicle, or
- 11.04(b) Could result in a mechanical breakdown of the school transportation vehicle, or

- 11.04(c) Results in noncompliance with Colorado Minimum Standards Governing School Transportation Vehicles (1 CCR 301-25) and/or manufacturer's specifications.
- 11.05 Documentation for reported defects must include all of the following:
- 11.05(a) The name of the school district or service provider.
 - 11.05(b) Date and time the report was submitted.
 - 11.05(c) All damage, defects or deficiencies of the school transportation vehicle.
 - 11.05(d) The name of the individual who prepared the report.
- 11.06 Following a reported damage, defect or deficiency of a school transportation vehicle, school districts and service providers or a representative agent must repair the reported damage, defects or deficiencies, or document that no repair is necessary, ensuring that the vehicle is in safe and proper operating condition prior to transporting students.
- 11.07 School districts and service providers shall not transport students in a school transportation vehicle which is not in safe and proper operating condition. A school transportation vehicle shall be designated as "out-of-service" by a school district or service provider, a school transportation annual inspector or the CDE School Transportation Unit.
- 11.07(a) Exemption - Any school transportation vehicle discovered to be in an unsafe condition while being operated on the highway, roadway or private road may be continued in operation only to the nearest place where repairs can safely be affected. Such operation shall be conducted only if it is less hazardous to the public than to permit the vehicle to remain on the highway, roadway or private road.
- 11.08 Following a school transportation vehicle being placed "out-of-service", a school district, service provider or a representative agent must make required repairs, ensuring that the vehicle is in safe and proper operating condition prior to transporting students. In the event of being placed "out-of-service" during an annual inspection, the school transportation vehicle must successfully pass a CDE annual inspection prior to transporting students.
- 11.09 The preventative maintenance inspection on air drum brake systems shall include, at a minimum, that the brake rod travel has been measured and documented. The applied pressure method shall be used.
- 11.09(a) The inspection-interval shall not exceed 4,000 miles for buses equipped with a manual slack adjuster air brake system.
 - 11.09(b) The inspection-interval shall not exceed 6,000 miles for buses equipped with an automatic slack adjuster air brake system.
- 11.10 The preventive maintenance inspection interval on air disc brake systems shall not exceed 6,000 miles and shall include, at a minimum; inspection and documentation of:

- 11.10(a) Inspect the pad thickness by checking the mechanical wear indicators.
- 11.10(b) Inspect the visible part of the rotors for cracks, excessive wear, damage, etc.
- 11.10(c) Inspect running clearance. If the caliper has no movement or appears to move greater than the distances indicated by the manufacturer, then a full wheel removal inspection will be necessary.
- 11.11 The preventive maintenance inspection interval for hydraulic brake systems shall not exceed 6,000 miles and shall include, at a minimum, inspection and documentation of:
 - 11.11(a) Proper parking brake operation.
 - 11.11(b) Proper brake fluid level and clarity.
 - 11.11(c) Adequate pedal reserve.
 - 11.11(d) Proper hydraulic/vacuum assist operation.
 - 11.11(e) Visual inspection for brake fluid leakage.
- 11.12 If brake adjustment or repair is needed, the work shall be completed by or supervised by a DOT or equivalent qualified brake inspector meeting the requirements of the Federal Motor Carrier Safety Regulations, 49 CFR section 396.25 (2015). Only the Federal Motor Carrier Safety Regulations adopted as of October 1, 2015 apply to this rule; later amendments do not apply. The federal regulations incorporated by reference in this rule are available for public inspection during regular business hours from the Colorado Department of Education, 201 E. Colfax Ave., Denver, Colorado 80209. In addition, these regulations are available at <https://www.ecfr.gov/>.

4204-R-12.00 Operation of a School Transportation Vehicle

- 12.01 A school transportation vehicle shall not be operated in a manner which is unsafe or likely to cause an accident or damage of the vehicle.
- 12.02 A school transportation vehicle shall not be placed in motion on a roadway, highway or private road with the passenger entry door/service door open.
- 12.03 A school transportation vehicle's headlights or daytime running headlights shall be activated while the vehicle is in operation.
- 12.04 A school transportation vehicle shall not be fueled while students are on board, except in instances when unloading the students would present a greater hazard or peril to their safety.
- 12.05 Use of tobacco products as defined in Section 18-13-121(5), C.R.S., use or possession of illegal controlled substances, use or possession of alcohol and use or possession of marijuana or cannabinoid product, except as otherwise allowed by law, aboard any school transportation vehicle shall be prohibited at all times.

- 12.06 A school transportation vehicle operator shall not consume food unless the vehicle is stopped at a safe location with the park/emergency brake set.
- 12.07 When a school transportation vehicle is equipped with a roof mounted strobe lamp, the use of the strobe lamp is permitted only when the vehicle presents a hazard to other motorists, such as loading or unloading students in inclement weather or to enhance visibility of the vehicle when barriers inhibit such visibility.
- 12.08 A school transportation vehicle operator may use the strobe, in addition to the four-way hazard lamps, to warn other motorists that the vehicle is not in motion or is being operated at a speed of twenty-five miles per hour or less.
- 12.09 The school transportation vehicle operator shall use extreme caution when backing. Before backing on a roadway, highway or private property, the horn or audible warning device shall be sounded and four-way hazard lamps actuated or there shall be a person outside the vehicle giving direction.
 - 12.09(a) Backing a school transportation vehicle when students are outside of the vehicle at a student stop is prohibited.
- 12.10 School transportation vehicles including Type A, B, C and D School Bus, Multifunction Bus and Motor Coach Bus shall not be operated with a trailer or other vehicle attached while students are being transported.
- 12.11 School transportation small vehicles, with the capacity of 15 or fewer passengers (counting the driver), may tow trailers while students are being transported to the extent that trailering is a necessary component of a district sponsored program.

4204-R-13.00 Authorized Passengers

- 13.01 Only district personnel, students enrolled in a district, law enforcement officials or individuals that have received prior authorization from the school district or service provider may be passengers on any school transportation vehicle.
- 13.02 The number of passengers transported on any school transportation vehicle shall not exceed the maximum seating capacity of the vehicle. Small vehicle capacity shall not exceed the number of safety belts as designed by the vehicle manufacturer.
- 13.03 Passengers shall not be permitted to stand in any school transportation vehicle while the vehicle is in motion. This does not preclude authorized persons (such as school transportation paraprofessionals) from completing their duties as required.
- 13.04 School districts and service providers shall consider the size of the passengers when determining the number of passengers that can safely occupy a school transportation vehicle seat.

4204-R-14.00 Safety Restraints

- 14.01 A school transportation vehicle operator shall have the safety belt fastened, worn correctly and properly adjusted prior to the school transportation vehicle being placed in motion.
- 14.02 All passengers in a school transportation vehicle under 10,000 lbs. GVWR shall have their safety belts fastened, worn correctly and properly adjusted prior to the school transportation vehicle being placed in motion.

4204-R-15.00 Transportation of Miscellaneous Items

- 15.01 A school transportation vehicle operator shall make a reasonable and prudent determination that all carry-on items are properly handled in order to minimize the danger to all others.
- 15.02 All baggage, articles, equipment or medical supplies not held by individual passengers shall be secured in a manner which assures unrestricted access to all exits by occupants, does not restrict the driver's ability to operate the bus and protects all occupants against injury resulting from falling or displacement of any baggage, article or equipment. Oxygen cylinders secured to a wheelchair shall be considered to be in compliance with this subsection, provided they do not impede access to any exit.
- 15.03 All chemicals and cleaning supplies carried on a school transportation vehicle must meet the following precautions:
 - 15.03(a) Container is non-breakable.
 - 15.03(b) Container is labeled with contents.
 - 15.03(c) Pressurized aerosols are prohibited.
 - 15.03(d) Container is secured in a bracket, or in a closed compartment in the driver's area or a compartment on the exterior of the bus.
 - 15.03(e) Containers and quantities of products must be no more than 32 ounces in size.
- 15.04 Interior-decorations shall not be located within the driver's area (which includes the space in front of the front barriers including the step-well, dash, walls and ceiling, the windshield, the entry door, the driver's side window, and all windows in front of the front barrier), the first two passenger windows on both sides of the vehicle and all windows on the rear of the vehicle. Other decorations within the passenger compartment shall not:
 - 15.04(a) Cover any required lettering.
 - 15.04(b) Impede the aisle or any emergency exit.
 - 15.04(c) Hang from the walls and/or ceiling.

4204-R-16.00 Maximum Driving Time for School Transportation Vehicle Operators

- 16.01 The school transportation vehicle operator, including small vehicle operators, shall not drive nor shall the school district or service provider permit or require an operator to drive:

- 16.01(a) In excess of 10 hours or after being on-duty 14 hours until completing 10 hours off-duty. This would include on-duty time for all employers. Ten hours off-duty may be consecutive or accumulated in two or more periods of off-duty time with one period having a minimum of 6 consecutive hours off-duty.
- 16.01(b) After being on-duty for more than 70 hours in any seven consecutive days.
- 16.02 In place of section 16.00 of these rules, the school district or service provider may comply with the Federal Motor Carrier Safety Regulations, 49 CFR section 391.43 (2015). Only the Federal Motor Carrier Safety Regulations adopted as of October 1, 2015 apply to this rule; later amendments do not apply. The federal regulations incorporated by reference in this rule are available for public inspection during regular business hours from the Colorado Department of Education, 201 E. Colfax Ave., Denver, Colorado 80209. In addition, these regulations are available at <https://www.ecfr.gov/>.
- 16.03 Definitions:
- 16.03(a) Adverse driving conditions - In case of emergency, an operator may complete the trip without being in violation if such trip reasonably could have been completed absent the emergency.
- 16.03(b) Day - Means any 24-consecutive hour period beginning at the time designated by the school district or service provider.
- 16.03(c) On-duty time - Includes all time worked for any and all employers, including all driving and non-driving duties.
- 16.03(d) Off-duty time - School transportation vehicle operators may consider waiting time at special events, meal stops and school related events as off-duty if the following criteria are met: (Compensated waiting time does not necessitate on-duty time.)
- 16.03(d)(1) The operator shall be relieved of all duty and responsibility for the care and custody of the vehicle, its accessories and students, and
- 16.03(d)(2) The operator shall be at liberty to pursue activities of his/her choice including leaving the premises on which the bus is located.
- 16.04 All school transportation vehicle operators shall document that they are in compliance with this section, hours of service.
- 16.04(a) An operator's daily log, or equivalent, shall be completed for the trip in the operator's own handwriting, when the trip requires a scheduled or unscheduled overnight stay away from the work reporting location.

4204-R-17.00 Route Planning – Student Loading and Discharge

- 17.01 School transportation small vehicles, Type A Multifunction Buses with 15 or fewer passenger capacity (counting the driver) and School Buses (Types A, B, C, and D) may be used to transport students to and from school. Multifunction Buses Type B, C and D and Motor Coach Buses shall not be used to transport students to and from school.
- 17.02 The location of student stops shall consider factors including:
 - 17.02(a) Ages of the students.
 - 17.02(b) Visibility.
 - 17.02(c) Lateral clearance.
 - 17.02(d) Student access.
 - 17.02(e) Control of other motorists.
 - 17.02(e)(1) Student stops for Type A Multifunction Buses with 15 or fewer passenger capacity (counting the driver) and school transportation small vehicles should be located off of the roadway whenever possible.
- 17.03 School transportation vehicle operators shall stop at least 10 feet away from students at each designated stop. The school transportation vehicle operator shall apply the parking brake and shift the vehicle into neutral or park prior to opening the service door of a bus or passenger door(s) of a small vehicle.
- 17.04 The school transportation vehicle operator shall stop as far to the right of the roadway, highway or private road as possible before discharging or loading passengers, allowing sufficient area to the right and front of the vehicle but close enough to the right to prevent traffic from passing on the right so students may clear the vehicle safely while in sight of the operator.
 - 17.04(a) Exception: The school transportation vehicle operator may block the lane of traffic when passengers being received or discharged are required to cross the roadway.
- 17.05 Student stops shall not be located on the side of any major thoroughfare whenever access to the destination of the passenger is possible by the use of a road or street which is adjacent to the major thoroughfare.
- 17.06 If students are required to cross a roadway, highway or private road on which a student stop is being performed, they are prohibited from crossing a roadway, highway or private road constructed or designed to permit three or more separate lanes of vehicular traffic in either direction or with a median separating multiple lanes of traffic. This does not include crossing the roadway, highway or private road with the assistance of a traffic controls signal or with the assistance of a crossing guard.

- 17.07 Four-way hazard lamps shall be used on private property such as parking lots.
- 17.08 Alternating flashing red warning signal lamps shall not be activated within 50 feet of an intersection if the intersection is controlled by a traffic control signal.
- 17.09 Routes shall be planned as to:
- 17.09(a) Eliminate, when practical, railroad crossings.
- 17.09(b) Have stops be a minimum of 200 feet apart since alternating flashing amber warning signal lamps must be activated a minimum of 200 feet in advance of the stop.
- 17.09(b)(1) Exception: Student stops located in areas where wildlife may create a high risk of threat to students' safety while they are waiting and/or walking to a student stop, may designate student stops less than 200 feet apart upon detailed written approval by the school district board of education and/or their designee. A copy of the written approval shall be kept in the school transportation office and route operators shall be given written notice of the exception and have it indicated on route sheets.
- 17.10 In determining the length of routes, districts must make an effort to minimize student ride times while considering student educational needs and the geographic boundaries, terrain, traffic congestion, and financial resources within the district. Local boards of education may establish a maximum student ride time.
- 17.11 Pursuant to Section 42-4-1903(2), C.R.S., school transportation vehicle operators are not required to actuate the alternating flashing red warning signal lamps on a school bus when the student stop is at a location where the local traffic regulatory authority has by prior written designation declared such actuation unnecessary and when discharging or loading passengers who require the assistance of a lift device and no passenger is required to cross the roadway. Further, Type A Multifunction Buses with 15 or fewer passenger capacity (counting the driver) and school transportation small vehicles do not have the functionality to control traffic. In these instances, the school transportation vehicle operator shall stop as far to the right off the roadway as possible to reduce obstruction to traffic, activate the four-way hazard warning lamps a minimum of 200 feet prior to the student stop, continue to display the four-way hazard warning lamps until the process of discharging or loading passengers has been completed, and deactivate the four-way hazard lamps before resuming motion. Students are prohibited from crossing any lanes of traffic to access the student stop or after disembarking.
- 17.12 School transportation vehicle operators shall not relocate a student stop without approval of the school district or service provider.
- 17.13 School transportation vehicle operators of School Buses, Multifunction Buses and Motor Coach Buses, whether transporting students or not, shall apply the following procedures during the process of approaching, stopping and crossing railroad tracks:
- 17.13(a) Activate the four-way hazard lamps not less than 200 feet from the railroad crossing to alert other motorists of the pending stop for the crossing.

- 17.13(b) Stop the bus within 50 feet but not less than 15 feet from the nearest rail.
- 17.13(c) When stopped, the bus should be as far to the right of the roadway as possible and should not form two lanes of traffic unless the highway is marked for four or more lanes of traffic.
- 17.13(d) Use a prearranged signal to alert students to the need for quiet aboard the bus when approaching railroad tracks. Turn off all noise making equipment (fans, heater, radio, etc.)
- 17.14 After quietness aboard the stopped bus has been achieved, bus operators shall open the service door and operator window. The bus operator shall listen and look in both directions along the track(s) for any approaching train(s) and for signals indicating the approach of a train.
 - 17.14(a) If the tracks are clear, the bus operator shall close the service door and may then proceed in a gear low enough to permit crossing the tracks without having to manually shift gears. The bus operator shall cancel the four-way hazard lamps after the bus has cleared the tracks.
 - 17.14(b) When two or more tracks are to be crossed, the bus operator shall not stop a second time unless the bus is completely clear of the first crossing and has at least 15 feet clearance in front and at least 15 feet clearance to the rear.
 - 17.14(c) Before crossing the tracks, the bus operator shall verify that there is enough space after the tracks for the bus plus 15 feet if it is necessary to stop after crossing the tracks.
- 17.15 School transportation vehicle operators of School Buses, Multifunction Buses and Motor Coach Buses are not required to stop at crossings only controlled by a red, amber, green traffic control signal when it is in the green position or when the crossing is controlled by a police officer or human flag person, or when the crossing is marked with an official “exempt” sign placed on the railroad crossing light post or cross bucks post.

4204-R-18.00 Emergency Evacuation Drills

- 18.01 Emergency evacuation drills shall be conducted with students by all school transportation vehicle operators and school transportation paraprofessionals at least twice during each school year.
 - 18.01(a) One drill shall be conducted in the fall and the second drill conducted in the spring.
 - 18.01(b) Substitute and Multifunction operators of 16 or greater capacity (counting the driver) vehicles shall be trained how to conduct the emergency evacuation drills.
- 18.02 Students on school related events shall receive emergency evacuation instruction prior to departure.

- 18.03 School district and service providers shall maintain records documenting that the required evacuation drills were conducted and/or evacuation instruction was given.



COLORADO
Department of Education
School Finance and Operations
Division

MEMO

TO: Colorado State Board of Education Members
FROM: Jennifer Okes, School Finance Director
RE: Emergency Rulemaking
DATE: May 10, 2017

Attached please find information to support the request for Emergency Rulemaking for the Rules for the Operation, Maintenance, and Inspection of School Transportation Vehicles (1 CCR 301-26).

Pursuant to Sections 22-51-108 and 42-4-1904, C.R.S., the State Board of Education has the authority to promulgate rules related to school transportation including reasonable and adequate standards of safety in the maintenance and operations of buses and pupil transportation that promote the welfare of the students and afford reasonable protection to the public.

Senate Bill 17-083, recommended by the Committee on Legal Services, reflects a review of recently adopted or amended state department rules and regulations. The Committee on Legal Services identified four technical issues with some of the rules in 1 CCR 301-26. As a result, the associated rules were not extended and will expire on May 15, 2017. Therefore, it is necessary for the State Board to approve the Emergency Rules at the May meeting, in order to address the technical corrections for these rules and maintain continuity of the existing rules. The following summarizes the technical issues and the proposed change:

- **Length of Bus Routes:** Pursuant to Section 22-51-108 C.R.S., the rules shall include reasonable and adequate standards of the safety in the length of bus routes. The proposed Emergency Rules require districts to make an effort to minimize student ride times while considering student educational needs and the geographic boundaries, terrain, traffic congestion, and financial resources within the district. Additionally, the proposed Emergency Rules allow local boards of education to establish a maximum student ride time, if desired.
- **References to the Code of Federal Regulations:** There are several references to the Code of Federal Regulations that are not properly incorporated pursuant to Section 24-4-103 (12.5)(a)(II), C.R.S. The proposed Emergency Rules makes the appropriate change to the references.
- **Reference to a School Bus Operator Guide:** In rule 18.01, under the heading "Emergency Evacuation Drills", there is a reference to a school bus operator guide. The guide should have been adopted as part of the rules or the rules should not require compliance with the guide. The proposed Emergency Rules eliminate reference to the guide.
- **Reasonable Size for Containers:** Rule 15.03(e) states that containers of chemicals and cleaning supplies must be kept to a reasonable size. The phrase "reasonable size" was found to be subjective and difficult for the regulated party to understand. The proposed Emergency Rules clarify that containers must be no more than 32 ounces in size.

A vote from board members is requested at the May board meeting to approve the Emergency Rules. The State Board will be requested to consider adoption of these rules on a permanent basis by approving the notice of rulemaking at the June board meeting.



CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
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MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

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COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00179

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Board of Education

on 05/10/2017

1 CCR 301-26

**COLORADO RULES FOR THE OPERATION, MAINTENANCE AND INSPECTION OF SCHOOL
TRANSPORTATION VEHICLES**

The above-referenced rules were submitted to this office on 05/12/2017 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.

May 24, 2017 10:07:24

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 06/01/2017

Department

Department of Revenue

Agency

Division of Motor Vehicles



COLORADO
Department of Revenue

Department of Motor Vehicle
1881 Pierce Street
Lakewood, CO 80214

Stakeholder Workshop Notification of Future Rule Promulgation

Concerning Rule 1 CCR 204-30 Rule 14 Vendor Contracts for the Bulk Electronic Transfer of Department Records

There will be a public workshop held for discussion of the above rule on:

Date: Monday, June 26, 2017

Time: 3:00-4:00 p.m.

**Location: 1881 Pierce Street
Boards/Commissions Conference Room 110
Lakewood, CO 80214**

Please enter through Entrance B. The Conference Room is to the left.

The following is the call-in information if you are unable to attend this workshop in person:

Dial In [1-646-749-3131](tel:1-646-749-3131)
Code 514-270-390

We look forward to seeing you at this workshop.



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 06/09/2017

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)



PUBLIC NOTICE

June 10, 2017

The Department of Health Care Policy and Financing (the Department) intends to make the following Medicaid supplemental payment changes:

Family Medicine Residency Supplemental Payment

Effective July 1, 2017, the Department proposes to submit a state plan amendment (SPA) to update existing payment amounts for the Family Medicine Residency Payment, the State University Teaching Hospital Payment, and the Pediatric Major Teaching Payment. Combined with federal matching funds, the sum of these three supplemental payments is equal to \$28,127,222 and remains unchanged from last year. The Rural Family Medicine Residency Development Payment will be increased by \$150,000 in State Fiscal Year 2017-18 resulting in a total payment, including federal matching funds, of \$3,180,766.

Public High Volume Medicaid and CICP Hospital Supplemental Payment

Effective July 1, 2017, the Department proposes to submit a state plan amendment (SPA) to allow calculation of certified uncompensated Medicaid costs for the Public High Volume Medicaid and CICP Hospital Supplemental Payment on a federal fiscal year basis. This will align this supplemental payment with all other supplemental Medicaid payments subject to the inpatient hospital services Upper Payment Limit, which is also calculated on a federal fiscal year basis. There is no net fiscal impact to this proposed change.

Emergency Medical Services (EMS) Supplemental Payment

Effective July 1, 2017, the Department proposes to submit a state plan amendment (SPA) creating a supplemental payment to reimburse uncompensated costs incurred in providing Emergency Medical Services (EMS) to Medicaid clients. Public-owned providers that do not currently receive supplemental payments for EMS services will be eligible for this payment. At this time, the Department estimates the annual supplemental payment will be \$9,000,000.

This payment will be funded by Certification of Public Expenditures and matching federal Medicaid funds. No state general funds will be used.

General Information



A link to this notice will be posted on the [Department's website](#) starting on June 10, 2017. Written comments may be addressed to:

Director, Health Programs Office
Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 06/09/2017

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)



COLORADO

Department of Health Care
Policy & Financing

PUBLIC NOTICE

June 10, 2017

The Department of Health Care Policy and Financing (the Department) intends to make the following Medicaid reimbursement rate changes:

Medicaid Fee-for-Service Reimbursement Rate Increases

The Department intends to submit State Plan Amendments to the Centers for Medicare and Medicaid Services (CMS) to increase Medicaid provider rates by 1.4% for certain services in the following benefit categories: physician and clinic services (excludes HB 16-1408 primary care codes); dental services; Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services; family planning services, inpatient hospital services; outpatient hospital services; laboratory and x-ray services; durable medical equipment, supplies, and prosthetics; mental health fee-for-service; non-physician practitioner services; tobacco cessation counseling for pregnant women; ambulatory surgery center services; dialysis center services; physical, occupational, and speech therapy, and audiology services; Screening, Brief Intervention, and Referral to Treatment (SBIRT) services; rehabilitation/behavioral health services; outpatient substance abuse services; case management services for substance abuse treatment; vision services; extended services for pregnant women; DIDD and CHRP home and community based services; private duty nursing; acute and long term home health services; psychiatric residential treatment facilities (PRTF), mental health and substance abuse rehabilitation services for children, and IDD targeted case management. Rates paid to certain managed care organizations may include corresponding increases, as the Department pays these rates based on fee-for-service expenditures.

These rate increases will be effective July 1, 2017. Upon CMS approval of the State Plan Amendments, an updated fee schedule reflecting these rate changes will be posted on the Department's website at <https://www.colorado.gov/hcpf/provider-rates-fee-schedule>.

Medicaid Targeted Fee-for-Service Reimbursement Rate Increases

The Department intends to submit State Plan Amendments to CMS to apply targeted Medicaid provider rate increases for the following services:

- Emergency transportation services

Our mission is to improve health care access and outcomes for the people we serve while demonstrating sound stewardship of financial resources.
www.colorado.gov/hcpf



- Brokered and non-brokered non-emergent medical transportation services
- Acute and long term home health services: RN, physical therapy, occupational therapy, and speech therapy
- Private duty nursing services provided by a Licensed Practical Nurse (LPN)

These targeted rate increases will be effective July 1, 2017. Upon CMS approval of the State Plan Amendments, an updated fee schedule reflecting these rate changes will be posted on the Department's website at <https://www.colorado.gov/hcpf/provider-rates-fee-schedule>.

Medicaid Reimbursement Rate Methodology Changes

The Department intends to submit State Plan Amendments to CMS to implement new reimbursement rate methodologies for:

- Vaccine stock
- Drugs administered in an office setting

These rate methodology changes will be effective July 1, 2017. Upon CMS approval of the State Plan Amendments, an updated fee schedule reflecting these rate changes will be posted on the Department's website at <https://www.colorado.gov/hcpf/provider-rates-fee-schedule>.

General Information

A link to this notice will be posted on the [Department's website](#) starting on June 10, 2017. Written comments may be addressed to:

Director, Health Programs Office
Colorado Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203



Calendar of Hearings

Hearing Date/Time	Agency	Location
07/12/2017 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman Rm 127
07/12/2017 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman Rm 127
07/12/2017 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman Rm 127
07/05/2017 02:00 PM	Division of Insurance	1560 Broadway, Ste 110 D, Denver CO 80202
07/05/2017 02:00 PM	Division of Insurance	1560 Broadway, Ste 110 D, Denver CO 80202
07/05/2017 02:00 PM	Division of Insurance	1560 Broadway, Ste 110 D, Denver CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
07/06/2017 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
08/17/2017 09:00 AM	Air Quality Control Commission	Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Sabin Conference Room, Denver, CO 80246
07/19/2017 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
07/10/2017 01:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, Suite 600, Denver, CO 80202
07/10/2017 01:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, Suite 600, Denver, CO 80202
07/10/2017 01:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, Suite 600, Denver, CO 80202
07/10/2017 01:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, Suite 600, Denver, CO 80202
07/10/2017 01:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, Suite 600, Denver, CO 80202
07/11/2017 10:00 AM	Secretary of State	Aspen Conference Room on the 3rd floor of the Secretary of States Office at 1700 Broadway, Denver, Colorado 80290
07/07/2017 10:00 AM	Income Maintenance (Volume 3)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
07/14/2017 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	303 East 17th Avenue, 11th Floor, Denver, CO 80203
07/07/2017 10:00 AM	Food Assistance Program (Volume 4B)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
07/07/2017 10:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
07/07/2017 10:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
07/07/2017 10:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
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